



MALDEF

MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND

May 11, 2006

NAME/TITLE
ORGANIZATION
ADDRESS
ADDRESS

Dear NAME:

On behalf of the Mexican American Legal Defense and Educational Fund (MALDEF), I write in strong opposition to the proposed City of San Bernardino Illegal Immigration Relief Act Ordinance. The proposal already threatens to pit neighbor against neighbor, unleash unprecedented and frivolous lawsuits, and promote housing, public accommodations, educational, and other discrimination. Moreover, it intrudes on an area of law that belongs solely to the federal government. Civil enforcement of federal immigration law is not the role of landlords, local business owners, or City Councils, but rather of federal authorities. Consequently, attempts at local immigration enforcement are vulnerable to constitutional attack and invite litigation.

Authority over immigration regulation exists exclusively with the federal government, and California Courts have already struck down state schemes to deter unlawful migration. *See DeCanas v. Bica*, 424 U.S. 351 (1976); *LULAC v. Wilson*, 908 F.Supp. 755, 768 (C.D. Cal. 1995). Further, policies that affect the treatment of individuals based on their perceived immigration status are particularly vulnerable to constitutional attack. *See Plyer v. Doe*, 457 U.S. 202, 225 (1982). As a result, states must work carefully to avoid infringement on federal authority when defining policies that impact immigrants.

The proposed Illegal Immigration Relief Act Ordinance shows no careful consideration of the constitutional provisions restricting local immigration regulation. If enacted, the ordinance would effectively turn landlords and business owners into Immigration and Customs Enforcement (ICE) agents. To avoid liability under the proposed ordinance and under civil rights laws, landlords will have to verify the immigration status of every potential tenant. Under the nonexclusive and expansive definition of aiding and abetting, businesses would also have to verify the status of every person they engage professionally, whether it is a customer, employee, handyman, or vendor. Alarming, however, the

relevant sections provide no guidance on how to verify immigration status. These provisions run far afoul of what is constitutionally permitted.

Rather than invite disharmony by approving such blatantly unworkable and unlawful proposals, the San Bernardino City Council should join other local legislative bodies, including the Cities of Los Angeles, Pasadena and Maywood, to endorse fair, bipartisan comprehensive immigration reform at the federal level. We all agree that the current immigration system is broken and is in need of repair, and federal reform can best ensure that all stakeholders' interests are accommodated. In considering any local policy concerning immigration, we urge the City Council to reject divisive rhetoric and recognize immigrants' powerful positive role in America's labor market and consumer economy.

Should you have questions on immigration reform or the constitutional validity of local immigration policy, please feel free to contact MALDEF at 213-629-2512 or write us at 634 South Spring St., 11th Floor, Los Angeles, CA 90014.

Sincerely,

Matthew Strieker
Staff Attorney