

IN THE CIRCUIT COURT FOR THE COUNTY OF ST. LOUIS  
STATE OF MISSOURI

Jacqueline Gray, )  
)  
Plaintiff, )  
)  
v. )  
)  
City of Valley Park, Missouri, )  
)  
Defendant. )  
)  
Serve at: City Clerk's Office )  
320 Benton Street )  
Valley Park, MO 63088 )  
**HOLD SERVICE** )

Division:

Cause No.

18

07CC-001103

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CIRCUIT COURT  
ST. LOUIS, MISSOURI

Petition for Declaratory and Injunctive Relief

Plaintiff Jacqueline Gray, for her cause of action against  
Defendant City of Valley Park, Missouri, states as follows:

**Preliminary Statement**

Plaintiff owns real property in the City of Valley Park,  
which she leases to tenants. This action, brought pursuant to  
the Declaratory Judgment Act, Mo.R.Stat. § 527.010, *et seq.*,  
seeks to obtain a determination of Plaintiff's "rights, status,  
and other legal relations" with respect to Valley Park  
Ordinance No. 1721, as amended by Valley Park Ordinance

Nos. 1723 and 1725, and Valley Park Ordinance No. 1722, as amended by Ordinance 1724. The challenged ordinances purport to regulate immigration within the City of Valley Park. Plaintiff seeks declaratory and injunctive relief.

### **Parties**

1. Plaintiff Jacqueline Gray is an adult citizen and resident of the State of Missouri.
2. Defendant City of Valley Park is a City of the fourth class located in St. Louis County, Missouri.

### **Jurisdiction and Venue**

3. This Court has jurisdiction of this action pursuant to Art. 5, § 14 of the Missouri Constitution.
4. Venue is proper in this Court pursuant to Mo.R.Stat. § 508.010.2(1).

### **Factual Allegations**

5. Plaintiff is a resident of St. Louis County who presently owns rental units in Valley Park.
6. Plaintiff owned rental units in Valley Park at the time Valley Park Ordinance No. 1721, as amended by Valley Park Ordinance Nos. 1723 and 1725, and Valley Park

Ordinance No. 1722, as amended by Ordinance No. 1724 were enacted.

7. Plaintiff's ability to rent her Valley Park rental units in the future and the marketability of her rental units should she determine to sell them are hampered and interfered with by Valley Park Ordinance No. 1721, as amended by Valley Park Ordinance Nos. 1723 and 1725.

8. Plaintiff is a "business entity" as that term is defined in Valley Park Ordinance No. 1722, as amended by Ordinance 1724.

9. Plaintiff has legally protected interests in the unconstitutional acts of the City of Valley Park.

### **Background**

10. On July 17, 2006, the City of Valley Park, Missouri passed Ordinance No. 1708, entitled "An Ordinance Relating to Illegal Immigration Within the City of Valley Park, Mo.," which ordinance sought to regulate federal immigration matters. *See Exhibit A.*

11. On September 22, 2006, Plaintiff Gray and others<sup>1</sup> filed suit in the Circuit Court of St. Louis alleging Ordinance No. 1708 violated Missouri state law as well as federal law.

12. On September 25, 2006, Circuit Court Judge Barbara W. Wallace entered a Temporary Restraining Order in regards to Ordinance No. 1708.

13. On September 26, 2006, the City of Valley Park, Missouri enacted Ordinance No. 1715, entitled “An Ordinance Repealing Sections One, Two, Three[,] and Four of Ordinance No. 1708 Relating to Illegal Immigration Within the City of Valley Park, MO, and Enacting a New Ordinance in Lieu Thereof Relating to the Employment of and Harboring of Illegal Aliens Within the City of Valley Park, MO,” which ordinance sought to regulate federal immigration matters. See Exhibit B.

14. On September 27, 2006, Circuit Court Judge Barbara W. Wallace entered a Temporary Restraining Order in regards to Ordinance No. 1715.

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<sup>1</sup> In addition to plaintiff, Stephanie Reynolds, Florence Streeter and the Metropolitan St. Louis Equal Housing Opportunity Council were named plaintiffs in this suit. The case was captioned *Reynolds, et al., v. City of Valley Park, et al.*, and docketed in this Court as cause no. 06-CC-3802 in Division no. 13.

15. On October 14, 2006, the City of Valley Park, Missouri enacted Ordinance No. 1716, making it retroactive to October 4, 2006, entitled “An Ordinance Appointing Kris Kobach As Special Counsel For Reynolds, et al., vs. Valley Park, Mo, et. al.,” for the purpose of defending the City of Valley Park in federal court. See Exhibit C.

16. On February 14, 2007, the City of Valley Park, Missouri enacted Ordinance No. 1721 entitled “An Ordinance Repealing Section 510.020 Subsection 103.6.1 Of The Property Maintenance Code Relating To Inspections And Occupancy Permits And Enacting A New Ordinance In Lieu Thereof Relating To The Same Subject Matter,” which seeks to regulate immigration matters, specifically, the rental of dwellings to aliens unlawfully in the United States. See Exhibit D.

17. On February 14, 2007, the City of Valley Park, Missouri enacted Ordinance No. 1722, entitled “An Ordinance Repealing Ordinance No. 1715 Relating to Illegal Immigration Within the City of Valley Park, MO, and Enacting a New Ordinance in Lieu Thereof Relating to the Employment of Illegal Aliens Within the City of Valley Park, Mo.” which seeks

to regulate immigration matters, specifically, the employment of illegal aliens. *See Exhibit E.*

18. On February 14, 2007, the City of Valley Park, Missouri enacted Ordinance No. 1723, entitled “An Ordinance Amending Bill 1866, Proposed Ordinance 1721, Pertaining to the Property Maintenance Code Relating to Inspections and Occupancy Permits by Clarifying Section Two and Section Three Thereof,” which Ordinance amended portions of an earlier Ordinance which seeks to regulate immigration matters, specifically, the rental of dwellings to aliens unlawfully in the United States. *See Exhibit F.*

19. On February 14, 2007, the City of Valley Park, Missouri enacted Ordinance No. 1724, entitled “An Ordinance Amending Bill 1867, Proposed Ordinance 1722, Pertaining to the Employment of Illegal Aliens by Adding Language to Section Seven Thereof Clarifying the Effective Date,” which Ordinance amended portions of Ordinance 1722 which seeks to regulate immigration matters, specifically, the employment of Illegal Aliens. *See Exhibit G.*

20. On February 27, 2007, the City of Valley Park, Missouri enacted ordinance No. 1725, entitled “An Ordinance Amending Ordinance 1723 Pertaining to the Effective Dates of the Property Maintenance Code Providing that the Enforcement of Ordinance 1721 Shall Become Effective Immediately,” which ordinance amended Ordinance 1723 to make, which in turn had amended Ordinance 1721, to make the provision of Ordinance 1721 effective and enforceable immediately. See Exhibit H.

21. On March 12, 2007, Circuit Court Judge Barbara W. Wallace ordered that the temporary restraining orders enjoining enforcement of Ordinance No. 1708 and Ordinance No. 1715 be made permanent. See Exhibit I.

### **Federal Regulation of Immigration**

22. The power to regulate immigration is an exclusively Federal power that derives from the Constitution's grant to the Federal government of the power to “establish a uniform Rule of Naturalization,” U.S. Const. art. I, § 8, cl. 4., and to “regulate Commerce with foreign Nations.” *Id.*, cl. 3.

23. Pursuant to its exclusive power over matters of immigration, the Federal government has established a comprehensive system of laws, regulations, procedures, and administrative agencies that determine, subject to judicial review, whether and under what conditions a given individual may enter, stay in, and work in the United States.

24. In addition to provisions that directly regulate immigrants' entry and behavior, the Federal immigration laws also include provisions directed at other classes of individuals, such as those who employ or assist immigrants. Thus, the comprehensive Federal immigration scheme includes sanctions, documentation, and anti-discrimination provisions directly applicable to employers, as well as a criminal and civil scheme applicable to those who assist individuals who are not lawfully in the United States.

25. The laws, procedures, and policies created by the Federal government regulate immigration and confer rights in a careful balance reflecting the national interest.



### **Cause of Action**

26. Valley Park Ordinance No. 1721, as amended by Valley Park Ordinance No. 1723 and 1725 (hereinafter “Ordinance 1721”) is void and unenforceable because:

a. It violates the Supremacy Clause of the Constitution of the United States. U.S. Const. art VI, cl. 2. The power to regulate immigration vests exclusively in the federal government. Ordinance 1721 encroaches on the federal government’s exclusive power to regulate immigration, legislates in a field that is completely occupied by the federal government, and conflicts with federal laws, regulations, policies, and objectives;

b. It conflicts with and violates the Fair Housing Act, 42 U.S.C. § 3601, *et seq.* The Fair Housing Act prohibits housing practices based on, *inter alia.*, race, color, and national origin, including refusing to rent based on the race, color, or national origin of a prospective tenant. 42 U.S.C. §3604. By delaying the occupancy of any person whose lawful presence in the United States cannot be proven instantly,

Ordinance 1721 places landlords in the untenable position of choosing between violating the Fair Housing Act or leaving their rental units unoccupied for the indefinite period during which a prospective tenant attempts to satisfy the City of Valley Park that she is lawfully present in the United States;

c. It is preempted by the Fair Housing Act. In the manner described, *supra.*, Ordinance 1721 stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress in enacting the Fair Housing Act; and

d. It provides Plaintiff insufficient procedural due process, in violation of the Fourteenth Amendment to the Constitution of the United States, in that Plaintiff cannot fully comply with Ordinance 1721 without violating other laws, including the Fair Housing Act.

27. Valley Park Ordinance No. 1722, as amended by Ordinance No. 1724 (hereinafter “Ordinance 1722”) is void and unenforceable because:

a. Its penalty provision exceeds that authorized by Mo.R.Stat. § 79.470;

b. It is not meaningfully different from Valley Park Ordinance No. 1715, which was declared void and permanently enjoined by the Honorable Barbara W. Wallace on March 12, 2007, so the City of Valley Park is estopped from enforcing the law under the principles of *res judicata* and collateral estoppel;

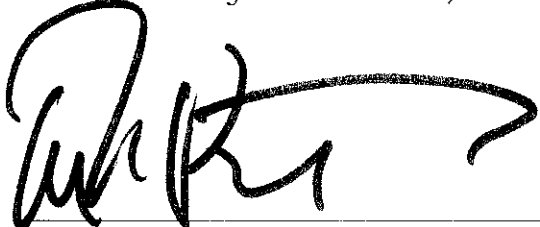
c. It violates the Supremacy Clause of the Constitution of the United States. U.S. Const. art VI, cl. 2. The power to regulate immigration vests exclusively in the federal government. Valley Park Ordinance 1722 encroaches on the federal government's exclusive power to regulate immigration, legislates in a field that is completely occupied by the federal government, and conflicts with federal laws, regulations, policies, and objectives; and

d. It conflicts with, violates, and is preempted by the Immigration Reform and Control Act of 1986.

WHEREFORE, plaintiff prays this Court grant a declaratory judgment in plaintiff's favor against defendant that the challenged ordinances are void; grant temporary and permanent injunctive relief enjoining defendant from enforcing

the challenged ordinances; award plaintiff the costs of this action, including reasonable attorneys' fees; and grant such other or further relief as is just and proper.

Respectfully submitted,

By: 

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