

ORDINANCE 2006-40

Illegal Immigration Relief Act Implementation Amendment

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HAZLETON AS FOLLOWS:

To clarify the intent of the City of Hazleton with respect to the implementation of Ordinance 2006-18 (the City of Hazleton Illegal Immigration Relief Act Ordinance), Ordinance 2006-18 is hereby amended by adding the following:

SECTION 7. IMPLEMENTATION AND PROCESS

- A. *Prospective Application Only. The default presumption with respect to Ordinances of the City of Hazleton—that such Ordinances shall apply only prospectively—shall pertain to the Illegal Immigration Relief Act Ordinance. The Illegal Immigration Relief Act Ordinance shall be applied only to employment contracts, agreements to perform service or work, and agreements to provide a certain product in exchange for valuable consideration that are entered into or are renewed after the date that the Illegal Immigration Relief Act Ordinance becomes effective and any judicial injunction prohibiting its implementation is removed. The Illegal Immigration Relief Act Ordinance shall be applied only to contracts to let, lease, or rent dwelling units that are entered into or are renewed after the date that the Illegal Immigration Relief Act Ordinance becomes effective and any judicial injunction prohibiting its implementation is removed. The renewal of a month-to-month lease or other type of tenancy which automatically renews absent notice by either party will not be considered as entering into a new contract to let, lease or rent a dwelling unit.*

- B. *Condition of Lease. Consistent with the obligations of a rental unit owner described in Section 5.A., a tenant may not enter into a contract for the rental or leasing of a dwelling unit unless the tenant is either a U.S. citizen or an alien lawfully present in the United States according to the terms of United States Code Title 8, Section 1101 et seq. A tenant who is neither a U.S. citizen nor an alien lawfully present in the United States who enters into such a contract shall be deemed to have breached a condition of the lease under 68 P.S. Section 250.501. A tenant who is not a U.S. citizen who subsequent to the beginning of his tenancy becomes unlawfully present in the United States shall be deemed to have breached a condition of the lease under 68 P.S. Section 250.501.*

- C. *Corrections of Violations—Employment of Unlawful Workers. The correction of a violation with respect to the employment of an unlawful worker shall include any of the following actions:*

- (1) *The business entity terminates the unlawful worker's employment.*
- (2) *The business entity, after acquiring additional information from the worker, requests a secondary or additional verification by the federal government of the worker's authorization, pursuant to the procedures of the Basic Pilot Program. While this verification is pending, the three business day period described in Section 4.B.(4) shall be tolled.*
- (3) *The business entity attempts to terminate the unlawful worker's employment and such termination is challenged in a court of the Commonwealth of Pennsylvania. While the business entity pursues the termination of the unlawful worker's employment in such forum, the three business day period described in Section 4.B.(4) shall be tolled.*

D. Corrections of Violations—Harboring Illegal Aliens. The correction of a violation with respect to the harboring of an illegal alien in a dwelling unit shall include any of the following actions:

- (1) *A notice to quit, in writing, issued and served by the dwelling unit owner, as landlord, to the tenant declaring a forfeiture of the lease for breach of the lease condition describe in Section 7.B.*
- (2) *The dwelling unit owner, after acquiring additional information from the alien, requests the City of Hazleton to obtain a secondary or additional verification by the federal government that the alien is lawfully present in the United States, under the procedures designated by the federal government, pursuant to United States Code Title 8, Subsection 1373(c). While this second verification is pending, the five business day period described in Section 5.B.(4) shall be tolled.*
- (3) *The commencement of an action for the recovery of possession of real property in accordance with Pennsylvania law by the landlord against the illegal alien. If such action is contested by the tenant in court, the dwelling unit owner shall be deemed to have complied with this Ordinance while the dwelling unit owner is pursuing the action in court. While this process is pending, the five business day period described in Section 5.B.(4) shall be tolled.*

E. Procedure if Verification is Delayed. If the federal government notifies the City of Hazleton that it is unable to verify whether a tenant is lawfully present in the United States or whether an employee is authorized to work in the United States, the City of Hazleton shall take no further action on the complaint until a verification from the federal government concerning

the status of the individual is received. At no point shall any City official attempt to make an independent determination of any alien's legal status, without verification from the federal government, pursuant to United States Code Title 8, Subsection 1373(c).

- F. Venue for Judicial Process. Any business entity or rental unit owner subject to a complaint and subsequent enforcement under this ordinance, or any employee of such a business entity or tenant of such a rental unit owner, may challenge the enforcement of this Ordinance with respect to such entity or individual in the Magisterial District Court for the City of Hazleton, subject to the right of appeal to the Luzerne County Court of Common Pleas. Such an entity or individual may alternatively challenge the enforcement of this Ordinance with respect to such entity or individual in any other court of competent jurisdiction in accordance with applicable law, subject to all rights of appeal.*

- G. Deference to Federal Determinations of Status. The determination of whether a tenant of a dwelling is lawfully present in the United States, and the determination of whether a worker is an unauthorized alien shall be made by the federal government, pursuant to United States Code Title 8, Subsection 1373(c). A determination of such status of an individual by the federal government shall create a rebuttable presumption as to that individual's status in any judicial proceedings brought pursuant to this ordinance. The Court may take judicial notice of any verification of the individual previously provided by the federal government and may request the federal government to provide automated or testimonial verification pursuant to United States Code Title 8, Subsection 1373(c).*

ORDAINED AND ENACTED by Council this _____ day of December, 2006.

First Reading
(December 13, 2006)

Presented Graham
Seconded Yannuzzi
Gabos Y
Graham Y
Mundie Y
Nilles Y
Yannuzzi Y

Second Reading
(December 28, 2006)

Presented _____
Seconded _____
Gabos _____
Graham _____
Mundie _____
Nilles _____
Yannuzzi _____

Third Reading
(December 28, 2006)

Presented _____
Seconded _____
Gabos _____
Graham _____
Mundie _____
Nilles _____
Yannuzzi _____