

**SPEAR WILDERMAN, P.C.**  
**By: James Katz, Esquire**  
**1040 North Kings Highway**  
**Suite 202**  
**Cherry Hill, NJ 08034**  
**(856) 482-8799**  
**Attorneys for Plaintiffs**

---

<b>RIVERSIDE COALITION OF</b>	:	<b>SUPERIOR COURT OF NEW JERSEY</b>
<b>BUSINESS PERSONS AND</b>	:	<b>BURLINGTON COUNTY</b>
<b>LANDLORDS, RUTH MARINO,</b>	:	<b>LAW DIVISION</b>
<b>AND JOHN DOE 1,</b>	:	
	:	
<b>Plaintiffs,</b>	:	<b>DOCKET NO.</b>
	:	
<b>v.</b>	:	
	:	
<b>TOWNSHIP OF RIVERSIDE,</b>	:	<b>VERIFIED COMPLAINT</b>
	:	
<b>Defendant.</b>	:	

---

**PRELIMINARY STATEMENT**

This matter arises upon a Verified Complaint filed by plaintiffs Riverside Coalition of Business Persons and Landlords, Ruth Marino, and John Doe 1, against the Township of Riverside (hereinafter “the Township”), seeking declaratory and injunctive relief, exclusively on state law grounds, to invalidate and preliminarily and permanently enjoin the Riverside Township Illegal Immigration Relief Act (hereinafter “the Riverside ordinance”) (copy attached hereto as Exhibit “A”), which represents an unprecedented attempt to ban immigrants from renting, residing, using property or being employed in the Township. The ordinance, without offering any definition of the term “illegal immigrant” or how that status is to be determined, makes it unlawful for any property owner to rent, lease, or allow their property to be used by an illegal immigrant or for a for-profit entity to aid or abet any illegal immigrant, including but not limited to, the hiring or attempted hiring

of illegal immigrants. This ordinance applies to conduct by businesses not only within the Township, but also to actions that aid or abet illegal immigrants *anywhere* within the United States. Violations of the ordinance result in fines of one thousand (\$1,000) to two thousand (\$2,000) dollars; a term of imprisonment or period of community service not exceeding ninety (90) days; denial of approval of a business permit or non-renewal of a business permit, or Township contracts or grants for a period of not less than five (5) years from the last offense.

The Riverside ordinance suffers from multiple infirmities, including the following:

a. The adoption of the Riverside ordinance is *ultra vires* under state law, as the Township, which may only exercise those powers conferred upon it by the New Jersey Legislature, lacks the power and authority to ban a class of housing occupants, deny an owner a substantial attribute of ownership and possession of real estate, or regulate the hiring decisions of all businesses in the Township based upon immigration status. Nor does the Township have authority or jurisdiction over business activities in other municipalities or states outside of New Jersey.

b. The ordinance violates the substantive due process guarantees of Article I, paragraph I of the New Jersey Constitution, by denying a property owner a substantial attribute of ownership and possession of real estate, and by selecting means wholly unrelated to any object sought to be advanced.

c. The ordinance is void for vagueness under Article I, paragraph I of the New Jersey Constitution. Since the Riverside ordinance, which includes penal consequences, does not define the term “illegal immigrant” or “aids and abets illegal immigrants or immigration,” or “use” of property, or nature of property subject to its leasehold restrictions, or promulgate any guidelines for its implementation, it fails to afford a person of ordinary intelligence fair warning of what conduct is

prohibited, or specific enough standards for its enforcement, and is violative of fundamental principles of due process.

d. The Riverside ordinance violates Article I, paragraph 1 of the New Jersey Constitution, by subjecting numerous non-citizens to deprivations of liberty and property without any process. Further, it places landlords, employers and business owners in the untenable position of being obligated, without any standards, to demand proof of status for every suspected illegal alien to avoid the risk of imprisonment, fines and loss of municipal businesses, or alternatively, to deny services to lawful residents as a precaution to avoid transgressing the Riverside ordinance, thereby risking violation of federal and state anti-discrimination laws.

e. Finally, the ordinance violates the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et seq.*

This ordinance has created dissension and upheaval in the Township and has caused loss of business to the employers and property owners subject to its penal provisions.

The Riverside ordinance, born from fear and nurtured by prejudice, is blatantly unlawful and unconstitutional. As demonstrated through this Verified Complaint, the plaintiffs are entitled to equitable relief, preliminarily and permanently enjoining the Riverside ordinance, and costs and attorneys' fees for filing this action.

\* \* \*

### **PARTIES**

1. The Riverside Coalition of Business Persons and Landlords (hereinafter "the Coalition") is an unincorporated association comprised of landlords and employers, all of whom either operate businesses, some of which employ persons in Riverside, or rent or lease property to

tenants in the Township of Riverside. Some members of the Coalition are required to obtain business permits to operate their business and all are subject to potential fines or imprisonment for violation of the terms of the Riverside ordinance.

2. Plaintiff Ruth Marino is a landlord who owns and leases multiple residential properties to tenants in Riverside, New Jersey.

3. It is hard, if not impossible, for plaintiffs Marino and the Coalition and its members to determine whether their tenants, employees, or customers are illegal immigrants under the ordinance. There is no definition of “illegal immigrant” under the ordinance, none of the landlords or employers have received any guidance or training from the Township regarding how to determine whether an individual is an “illegal immigrant,” and they have no expertise in applying immigration law or making immigration status determinations or determining the authenticity of immigration-related documents. Further, although landlords know that their tenants may be visited by guests, family members and service personnel, the landlords have no reasonable mechanism to determine whether they are providing leased premises to persons who are defined to be “illegal immigrants” under the Riverside ordinance, or whether anyone using those premises is an “illegal immigrant” under the ordinance.

4. Plaintiff John Doe 1 (hereinafter “plaintiff Doe”) is a Latino immigrant who has resided as a tenant with his family in a multi-family home in Riverside for several years. Plaintiff Doe is extremely concerned about having a place to live in Riverside as a result of passage of the Riverside ordinance. Immediately after its adoption, in a letter dated August 7, 2006, plaintiff Doe’s landlord wrote to his tenants as follows:

On July 27, 2006, the Riverside Township Committee passed Ordinance 2006-16 which makes it illegal to rent or lease property to

an illegal alien. At this time I am requesting that all of my tenants supply me with documentation that you have legal status in this country and you are permitted by law to rent my property. Please supply me with documentation by September 1, 2006.

Plaintiff Doe is concerned that as a result of this ordinance, he and his family will be unable to remain in their current residence and unable to find rental property anywhere in Riverside. Plaintiff Doe seeks to prosecute this action under a pseudonym, because he fears retaliation from his landlord, the police, townspeople, and others, particularly in light of the virulent anti-immigration sentiments in the Riverside community which have been engendered by passage of this ordinance. (See sample of newspaper articles attached hereto as Exhibit "D").

5. The Township is a municipal corporation created under New Jersey law, with its principal place of business located at 1 West Scott Street, in Burlington County, Riverside, New Jersey. It is approximately 1.54 square miles in area, with a population of approximately 8,007 people.

6. At all relevant times, Riverside acted through its duly authorized agents, Charles F. Hilton, Sr. Mayor; and Township Council members, James Ott; George Conard; Thomas Coleman; and Marcus Carroll.

7. At all times alleged herein, Riverside's officials, employees and agents were acting under color of State law.

### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over the Township of Riverside, as it is located in Burlington County, New Jersey. Venue is proper in this County, as all of the events which give rise to this action occurred within Burlington County.

### **THE RIVERSIDE ORDINANCE**

9. On or about July 26, 2006, Riverside enacted Ordinance 2006-16 entitled “Riverside Township Illegal Immigration Relief Act.” This Act was subsequently amended on or about August 23, 2006 (a copy of Act and amendment attached hereto as Exhibit “A”).

10. The intent of the Riverside ordinance is to regulate immigration in Riverside and the United States in the absence of either state or constitutional authority, and independent of the federal government and federal law.

11. Upon information and belief, prior to adoption of the ordinance, Riverside never conducted any written studies of any criminal, physical, or employment problems confronting the Township to determine if Riverside had any actual problems caused by unlawful immigration or what measures were necessary to rectify those problems.

12. To date, no other municipality in New Jersey has adopted an ordinance restricting use or rental of any property or employment based upon immigration status, or conditioning municipal permits, grants or contracts upon a business’ actions concerning immigrants.

13. The Riverside ordinance and its amendment consists of eight sections: Section I, Title; Section 2, Findings and Declaration of Purpose;, Section 3, Definitions; Section 4, Business Permits, Contracts or Grants; Section 5, Renting to Illegal Aliens; Section 6, Penalties and Enforcement; Section 7, Severability; Section 8, Repealer provision. Under its terms, the ordinance takes effect upon its final adoption and publication in accordance with law.

14. Under its “Findings” section, the Riverside ordinance, without any evidence, conclusorily states that illegal immigration contributes to a negative impact on Riverside streets and housing; negatively impacts its neighborhood; subjects classrooms to overcrowding; places fiscal hardships on its schools; leads to higher crime rates; adds demands in all aspects of public safety,

jeopardizes the public safety of legal residents; and diminishes the overall quality of life in Riverside Township.

15. There is no evidence, and the Township has cited none, which indicates that illegal immigration has increased public school overcrowding, or contributed to an increase in crime rate. According to the 2005 Uniform Crime Report issued by the New Jersey State Police, the crime rate in Riverside has declined between 2004 and 2005, and there were fewer reported violent and non-violent crimes in Riverside in 2005 than there were reported in 1998.

16. Neither the Riverside ordinance nor any other law defines the term “illegal immigrant” nor does the ordinance specify what documents are necessary to prove who constitutes an “illegal immigrant.”

17. As a result, plaintiffs Marino and the Coalition and its members may inadvertently consider and classify individuals as “illegal,” many of whom the federal government allows to reside or work in the United States, including some United States citizens and lawful permanent residents. Similarly, plaintiff Doe and other individual immigrants may be erroneously denied housing; employment; access to education; goods and services; and entry to hospitals, religious institutions, social service agencies, or private homes because of an erroneous determination under the ordinance.

18. Under Section 4 of the ordinance, any for-profit entity, including such entity’s parent company or subsidiaries, which aids and abets “illegal immigrants,” shall be denied approval of a business permit, the renewal of a business permit, Township contracts or grants for a period of not less than five years since its last offense. Under this section, aiding and abetting shall include but not be limited to, the hiring or attempted hiring of “illegal immigrants,” and funding or aiding any establishment of a day labor center that does not verify legal work status.

19. The ordinance does not define what constitutes an act that “aids and abets,” or “illegal immigrants” or “illegal immigration.” Further, the ordinance states that any act that “aids and abets illegal immigrants within the United States, not just within the Township” of Riverside, is a violation of the ordinance.

20. Under Section 5 of the Riverside ordinance, “illegal immigrants” are prohibited from leasing or renting property and any property owner or renter/tenant/lessee in control of property who knowingly allows an “illegal immigrant” to use, rent, or lease their property violates the ordinance. The effect of this all-encompassing provision is to impair existing contractual leases and arrangements between commercial and private property owners and their users, and landlords and tenants such as plaintiff Doe. Further, the Riverside ordinance does not define the term “to use their property” or the scope of property subject to its leasehold restrictions, nor does it enumerate what activities are encompassed within the scope of “use of property.” Under this latter provision, even a non-profit entity, such as a school, hospital or social services agency, which knowingly allows an illegal immigrant on its premises, is in violation of this ordinance.

21. This ordinance provides no procedure by which plaintiff Doe and other individuals may challenge erroneous deprivations of housing, employment and other rights and benefits under the ordinance.

22. Riverside has adopted a Business Licensing Ordinance, codified at Chapter 127 of its Municipal Code, a revenue raising measure, pursuant to which, certain designated businesses, upon payment of an initial fee of seventy-five (\$75) dollars and an annual renewal fee of twenty-five (\$25) dollars, are entitled to a license to operate a business within the Township (copy of ordinance, as provided by the Township, is attached hereto as Exhibit “B”). To obtain this license, there is no



requirement other than completion of an application and payment of the requisite fee. Under the terms of the Riverside Immigration Ordinance, a business may be denied a license and thus prevented from operating anywhere in Riverside Township for up to five years, even though it complies with all lawful aspects of the Township's current business licensing ordinance.

23. Any person or entity that violates the Riverside ordinance faces a fine of up to two thousand (\$2,000) dollars (with a minimum fine of \$1,000 for any violation of Section 5), and imprisonment, or a period of community service, not to exceed ninety (90) days. In addition, for profit entities that violate Section 4 are subject to denial or loss of a business permit, contracts, or grants from the Township for a period of not less than five years.

24. Plaintiffs Marino and the Coalition and its members are harmed by this ordinance, as they are subjected to the prospect of imprisonment, fines, and a denial or loss of business permits, Township contracts or grants for at least five (5) years. Further, plaintiffs Marino and the Coalition and its members are harmed because they are losing revenue and business because of this ordinance, and compliance with this ordinance may cause them to violate federally-imposed obligations regarding verification of employment obligations, or impair its existing contracts.

25. Plaintiff Doe and other individual immigrants are harmed by this ordinance because they will be denied the right to live, work, and transact business in Riverside. The effect of this ordinance is to make it virtually impossible for anyone who is considered or perceived to be an "illegal immigrant" to live or conduct any sort of business in Riverside. Plaintiff Doe and others are further harmed because the ordinance fails to provide a procedure by which they may challenge erroneous determinations and deprivations thereunder. Further, plaintiff Doe and other individual immigrants are subject to unlawful discrimination based upon race, national origin, color, and

ancestry, including foreign born appearance and foreign accent, under the ordinance.

26. In enacting this ordinance, the Township also intends to eliminate from its classrooms and schools, children of “illegal immigrants,” even though such children, if residing in the Township of Riverside, are entitled to public education in Riverside schools as a matter of law.

27. On September 25, 2006, counsel for plaintiffs Marino and the Coalition sent a letter to Mayor Hilton and the Township Council, citing several of the legal problems with the Riverside ordinance and urging the Township to rescind it. (Copy of letter attached hereto as Exhibit “C”). To date, the Township has refused to rescind the ordinance.

### **IMMIGRATION LAW**

28. In order to put the Riverside ordinance in its factual context, it is important to provide an overview of immigration law. The power to regulate immigration is unequivocally an exclusively federal power. Neither the State of New Jersey nor Riverside Township have any involvement in the regulation of immigration.

29. In accordance with its exclusive power over matters of immigration, the United States Congress has adopted, pursuant to the Immigration and Nationality Act (the “INA”), 8 U.S.C. §1101 *et seq.*, a comprehensive system of laws, regulations, procedures, and created 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, and a system of civil and criminal penalties for those violating that law, including those who employ persons not authorized to work or who provide assistance in violation of the INA.

30. Federal law contains no single multi-purpose classification that is the equivalent of the undefined term “illegal immigrant” created by the Riverside ordinance. Indeed, the federal

government permits certain categories of non-citizens, and certain individual non-citizens, to remain in the United States, even though such non-citizens may not presently have valid immigrant (permanent) or non-immigrant (temporary) status or may be removable under the INA. In addition, the federal government has authorized certain persons lacking such status to work in the United States.

31. As part of the federal immigration scheme, Congress has adopted in the Immigration Reform and Control Act (“IRCA”), 8 U.S.C. §1324, a comprehensive set of rules governing the employment of non-citizens. IRCA imposes specific obligations on employers to verify employment authorization; specifies the documents which may be used to satisfy the verification requirements and prohibits employers from requiring additional documents; authorizes sanctions for those who violate these provisions; and prohibits discrimination against non-citizens authorized to work. This includes a criminal and civil scheme applicable to those employers who assist individuals who are not lawfully in the United States.

32. IRCA also includes a safe harbor provision protecting employers who have complied in good faith with the employment verification procedures. Such employers have an affirmative defense to liability under IRCA’s employer sanctions scheme. *See* 8 U.S.C. § 1324a(3)(b). In addition, once an employee has satisfied IRCA’s verification requirements, employers are barred from seeking additional documentation. *See* 8 U.S.C. § 1324b(a)(6). Local municipalities play no role in this process.

**THE RIVERSIDE ORDINANCE'S UNWORKABLE  
REGULATORY SCHEME**

33. Neither the Riverside ordinance nor any other law defines the term “illegal immigrant” nor does the ordinance enumerate how “illegal immigration” status is to be determined.

34. Neither Riverside, nor its officials, employees or agents, municipal court judge, property owners or businesses is authorized to conduct the proceedings required under the Constitution and federal law to determine whether an individual has lawfully entered or remains in the United States. Riverside officials, employees, agents, municipal court judge, property owners or businesses also lack the authority to make discretionary decisions regarding an individual’s ability to stay or work in the United States. Designated federal officials are the only persons authorized to undertake such proceedings and make such determinations.

35. The Riverside ordinance does not set forth any procedure for determining whether an individual is an “illegal immigrant” or any process by which an individual can challenge a determination that he or she is an “illegal immigrant” under the ordinance.

36. Upon information and belief, Township officials, employees and agents, who are required to implement the ordinance, have no expertise or experience in applying immigration law, making immigration status determinations, or determining the authenticity of immigration-related documentation. They have not been trained as federal immigration officials and cannot accurately implement the ordinance’s provisions. In implementing and enforcing the ordinance, these persons may demand documentation under circumstances prohibited by federal law.

37. Plaintiffs Marino and the Coalition and its members will be required to implement the Riverside ordinance but have no expertise or experience in applying immigration law, making immigration status conclusions, or determining the authenticity of immigration-related

documentation. They have not been trained as federal immigration officials; the Riverside ordinance provides them absolutely no guidance as to how such determinations should be made, and they cannot possibly implement the Riverside ordinance's provisions. In abiding by the ordinance, they may be compelled to demand documentation under circumstances prohibited by federal law. Yet, under the terms of the Riverside ordinance, if they violate the ordinance, they are subject to fines and imprisonment.

38. Enforcement of the Riverside ordinance will deprive plaintiffs and countless other members of the Riverside community of their constitutionally and statutorily protected rights and subjects plaintiff Doe and numerous others to deprivation of liberty and property without any process to challenge such adverse determinations.

39. Unless an injunction issues from this Court preventing the enforcement of the Riverside ordinance, plaintiffs will suffer irreparable harm for which there is no adequate remedy at law.

**FIRST CAUSE OF ACTION - THE RIVERSIDE ORDINANCE  
IS ULTRA VIRES UNDER STATE LAW**

40. Plaintiffs incorporate by reference the allegations of paragraphs 1-39 above as if set forth herein in their entirety.

41. Under New Jersey law, municipal corporations may exercise only those powers granted and conferred by the New Jersey Legislature.

42. Even where general police powers have been granted to a municipal corporation, under New Jersey law, they may only be exercised in those areas where a municipal corporation has been authorized to act in matters of local concern and then only by reasonable means substantially connected with the objectives sought to be advanced.

43. The Township of Riverside lacks the power under New Jersey law to ban a class of housing occupants based upon immigration status, to deny a property owner a substantial attribute of ownership and possession of real estate, to bar a landlord from leasing property based upon the renter's immigration status, and to regulate the hiring decisions of employers within the Township or to impair existing contracts between a tenant, licensee, lessee, or user and the property owner.

44. The Township of Riverside has no more authority to restrict real estate rentals based upon an occupant's citizenship status than it has to limit such rentals based upon income, marital status, or biological relationships.

45. Enactment of the Riverside ordinance is *ultra vires*, as the Township of Riverside lacks the power to regulate the nature of the occupancy of residential properties within the Township, or to impair existing contracts between a tenant, licensee, lessee, or user and property owner under either its general police power or municipal land use regulatory power.

46. Enactment of the Riverside ordinance is *ultra vires*, as the Township lacks the authority under New Jersey law, to regulate rentals to, use of property of, or employment of persons based upon their immigration or citizenship status.

47. The Riverside ordinance is *ultra vires*, as although the municipality has the authority to enact a business licensing ordinance as a revenue raising measure, and indeed has enacted such an ordinance (copy attached as Exhibit "B" hereto), it lacks authority under New Jersey law, to use that revenue raising licensing ordinance to regulate the employment or hiring decisions of regulated businesses.

48. The Riverside ordinance is *ultra vires*, as the municipality lacks the authority to regulate the actions of businesses which occur outside the State of New Jersey or outside of the

Township.

49. The Riverside ordinance is *ultra vires* as it is preempted by state law. It imposes upon landlords requirements to evict tenants based upon grounds which are inconsistent with N.J.S.A. 2A:18-61.1, the New Jersey Anti-Eviction Act, which exclusively governs the eviction of tenants and has been held to prevent municipalities from establishing independent reasons for the eviction of tenants. Further, it denies contracts to the lowest responsible bidder, in violation of the Local Public Contracts Law, N.J.S.A. 40A:11-1 to 56, the state statute which establishes a comprehensive procedure for the award of certain local public contracts.

50. As a result of the foregoing, plaintiffs are entitled to declaratory and injunctive relief.

**SECOND CAUSE OF ACTION - THE RIVERSIDE ORDINANCE  
VIOLATES THE SUBSTANTIVE DUE PROCESS PROVISIONS OF  
ARTICLE 1, PARAGRAPH 1 OF THE NEW JERSEY CONSTITUTION**

51. Plaintiffs incorporate by reference the allegations of paragraphs 1-50 above as if set forth herein in their entirety.

52. Article I, paragraph 1 of the New Jersey Constitution provides that “all persons are by nature free and independent and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness.”

53. Plaintiffs Marino and the Coalition and its members have a constitutionally protected right to hire employees and to lease their property to tenants, licensees, lessees, or users of their choice, and Riverside Township has no power to regulate the nature of the hiring of or occupancy or use of residential properties based upon citizenship status under its general police powers. Riverside Township may not deny an owner a substantial attribute of ownership and possession of its real

estate to prevent the hiring of, rental or use of property based upon the occupant's citizenship or immigration status.

54. As a result of the foregoing, plaintiffs are entitled to declaratory and injunctive relief.

**THIRD CAUSE OF ACTION - THE RIVERSIDE  
ORDINANCE VIOLATES ARTICLE 1, PARAGRAPH 1  
OF THE NEW JERSEY CONSTITUTION AS  
IT IS VOID FOR VAGUENESS**

55. Plaintiffs incorporate by reference the allegations of paragraphs 1-54 above as if set forth herein in their entirety.

56. Article 1, paragraph 1 of the New Jersey Constitution guarantees to all persons the right of acquiring, possessing, and protecting property.

57. The Riverside ordinance is void for vagueness under Article 1, paragraph 1 of the New Jersey Constitution, because it fails to afford a person of ordinary intelligence warning of what conduct is prohibited or a specific enough standard for its enforcement.

58. Neither the Riverside ordinance nor any other law defines the term "illegal immigrant." Therefore, plaintiffs will have to guess as to what constitutes "illegal immigration" status.

59. The Riverside ordinance denies issuance or renewal of business permits and the ability to contract with or receive grants from Riverside and creates fines and imprisonment for anyone who "aids or abets illegal immigrants" or allows an illegal immigrant "to use, rent or lease their property."

60. The scope of the Riverside ordinance is inexplicable and limitless. It fails to specify the precise conduct that constitutes aiding or abetting. The ordinance lists certain activities that are included within the definition of "aids or abets," but then explicitly provides that the definition of



“aids or abets” is not limited to those activities. Further, the ordinance offers utterly no guidance as to what constitutes “use” of property, or extent of property encompassed by its leasehold restriction, or the appropriate scope for such a potentially boundless proscription.

61. The Riverside ordinance is so vague that plaintiffs and those interacting with the plaintiffs will be unable to comply with or apply it in a consistent manner.

62. Neither the plaintiffs nor a person of reasonable intelligence can determine what conduct is or is not regulated by the Riverside ordinance.

63. The vague, ambiguous and overbroad language and application of the Riverside ordinance violates plaintiffs’ due process rights under Article I, paragraph 1 of the New Jersey Constitution.

64. As a result of the foregoing, plaintiffs are entitled to declaratory and injunctive relief.

**FOURTH CAUSE OF ACTION - THE RIVERSIDE ORDINANCE  
VIOLATES THE NEW JERSEY LAW AGAINST DISCRIMINATION**

65. Plaintiffs incorporate by reference the allegations of paragraphs 1-64 above as if set forth herein in their entirety.

66. The New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et. seq.*, (hereinafter “NJLAD”), prohibits discrimination in employment and access to housing based upon national origin and ancestry.

67. Because neither the Riverside ordinance nor any other law defines the term “illegal immigrant” and plaintiffs Marino and the Coalition and its members are required to implement the Riverside ordinance without any expertise or experience in applying immigration laws and making immigration status decisions, and the ordinance provides them no guidance, the Riverside ordinance encourages plaintiffs Marino and the Coalition and its members and other landlords and businesses

to deprive housing and employment to anyone appearing to be foreign born in order to avoid violation of the ordinance.

68. The effect of the Riverside ordinance is to subject plaintiff Doe and other individual immigrants to unlawful discrimination based upon race, color, national origin, and ancestry, including foreign born appearance or foreign accent, resulting in the unlawful denial of housing and employment opportunities to residents in violation of the NJLAD.

69. As a result of Riverside's violation of the NJLAD by enacting the ordinance, plaintiffs are entitled to declaratory and injunctive relief.

**FIFTH CAUSE OF ACTION - THE RIVERSIDE ORDINANCE  
VIOLATES PROCEDURAL DUE PROCESS UNDER  
ARTICLE I, PARAGRAPH 1 OF THE NEW JERSEY CONSTITUTION**

70. Plaintiffs incorporate by reference the allegations of paragraphs 1-70 above as if set forth herein in their entirety.

71. Article I, paragraph 1 of the New Jersey Constitution guarantees to all persons that they cannot be deprived of property without due process of law. This due process guarantee applies to all persons in the United States, including those who are presently in violation of the immigration laws. The provision of notice and an opportunity to be heard to contest an adverse determination are essential features of due process.

72. The Riverside ordinance seeks to deprive those deemed "illegal immigrants" of multiple protected liberty and property interests, including their interests in real property and in contracting for and continuing in employment.

73. The Riverside ordinance fails to provide any advance notice to plaintiff Doe and others that Riverside Township officials, landlords, employers, and others may determine to be

“illegal immigrants,” nor does it provide such persons with any established procedure or opportunity to contest such a determination, either before or after the determination is made.

74. The ordinance deprives persons who are deemed “illegal immigrants,” such as plaintiff Doe and current and future tenants, customers, and employees, with whom plaintiffs Marino and the Coalition and its members have a clear reciprocal relationship, of recognized liberty and property interests without due process of law, and is therefore invalid under Article I, paragraph 1 of the New Jersey Constitution.

75. As a result of the foregoing, plaintiffs are entitled to declaratory and injunctive relief.

**WHEREFORE**, plaintiffs respectfully request the following relief from this Court:

A. Enter an Order in favor of the plaintiffs and against the defendant declaring the Riverside ordinance void because it is *ultra vires*, as Riverside lacks the power to adopt it and it is preempted under state law; and finding that the ordinance is unduly vague, violative of substantive and procedural due process under Article 1, paragraph 1 of the New Jersey Constitution, and the New Jersey Law Against Discrimination.

B. Enter an Order preliminarily and permanently enjoining the Township of Riverside and its agents, employees and officials from implementing or enforcing the Riverside ordinance;

C. Enter an Order granting damages against the Township for violating plaintiffs’ rights under New Jersey law, the New Jersey Constitution, and the New Jersey Law Against Discrimination;

D. Enter an Order awarding plaintiffs costs incurred in this litigation, including attorneys’ fees, pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-2; and

E. Provide such other relief as this Court deems just and proper.

Respectfully submitted,

---

James Katz, Esquire  
SPEAR WILDERMAN, P.C.  
1040 North Kings Highway, Suite 202  
Cherry Hill, NJ 08034  
Tel. (856) 482-8799  
Fax (856) 482-0343  
Cooperating Attorney on Behalf of ACLU-NJ  
Foundation and American Civil Liberties Union  
Foundation Immigrants' Rights Project

and

Andrew Viola, Esquire  
Michael Albano, Esquire  
RAGONESE, ALBANO & VIOLA  
735 North Black Horse Pike  
Runnemede, NJ 08078  
Tel. (856) 939-2404  
Fax (856) 939-0717

and

Lillian Llambelis, Esquire  
Foster Maer, Esquire  
Jackson Chin, Esquire  
PUERTO RICAN LEGAL DEFENSE AND  
EDUCATION FUND  
99 Hudson Street, 14<sup>th</sup> Floor  
New York, NY 10013  
Tel. (212) 219-3360  
Fax (212) 431-4276

and

Elliot Minberg, Esquire  
PEOPLE FOR THE AMERICAN WAY FOUNDATION  
2000 M Street, N.W.  
Suite 400  
Washington, D.C. 20006  
Tel. (202) 467-2392  
Fax (202) 293-2672

and

Edward Barocas, Esquire  
ACLU of New Jersey  
89 Market Street, 7<sup>th</sup> Floor  
Newark, NJ 07102  
Tel. (973) 642-2086  
Fax (973) 642-6523

and

Lee Gelernt, Esquire  
Omar C. Jadwat, Esquire  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
Immigrants' Rights Project  
125 Broad Street, 18<sup>th</sup> Floor  
New York, NY 10004  
Tel. (212) 549-2620  
Fax (212) 549-2654

and

Lucas Guttentag, Esquire  
Jennifer C. Chang, Esquire  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
Immigrants' Rights Project  
39 Drumm Street  
San Francisco, CA 94111  
Tel. (415) 343-0770  
Fax (415) 395-0950  
Attorneys for Plaintiffs

Dated: October 18, 2006

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4., plaintiffs hereby name James Katz, Esquire as its trial counsel in this matter.

---

James Katz, Esquire  
SPEAR WILDERMAN, P.C.  
1040 North Kings Highway, Suite 202  
Cherry Hill, NJ 08034  
(856) 482-8799  
Cooperating Attorney on Behalf of ACLU-NJ  
Foundation and American Civil Liberties Union  
Foundation Immigrants' Rights Project

Dated: October 18, 2006

**CERTIFICATION PURSUANT TO R. 4:5-1**

I hereby certify that based upon the information currently in my possession, the matter in controversy is not subject to any other action pending in this Court or pending arbitration proceeding and at this time, no other action or arbitration proceeding is contemplated. I am aware that an action has been filed in the United States District Court for the District of New Jersey, captioned *Assembly of God Church of Riverside, New Jersey, et al. v. Township of Riverside*, challenging the Riverside ordinance on exclusively federal grounds. At this time, I know of no other persons who should be joined in this action.

---

James Katz, Esquire  
SPEAR WILDERMAN, P.C.  
1040 North Kings Highway, Suite 202  
Cherry Hill, NJ 08034  
(856) 482-8799  
Cooperating Attorney on Behalf of ACLU-NJ  
Foundation and American Civil Liberties Union  
Foundation Immigrants' Rights Project

Dated: October 18, 2006