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| <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. BURL-L-2965-06</b>    |
|                                | : |                                     |
| <b>v.</b>                      | : |                                     |
|                                | : | <b>FIRST AMENDED</b>                |
| <b>TOWNSHIP OF RIVERSIDE,</b>  | : | <b>VERIFIED COMPLAINT</b>           |
|                                | : |                                     |
| <b>Defendant.</b>              | : |                                     |

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**PRELIMINARY STATEMENT**

This matter arises upon a First Amended 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” or “Riverside”), seeking declaratory and injunctive relief, exclusively on state law grounds, to invalidate and preliminarily and permanently enjoin Ordinance 2006-26, the “Riverside Township Illegal Immigration Relief Act Ordinance” (hereinafter “the Revised Riverside Immigration Ordinance”) (copy attached hereto as Exhibit “A”). The Ordinance represents the third attempt by Riverside to ban immigrants from renting, residing, or being employed in the Township. Without offering any credible definition of the term “illegal alien” or any established procedure as to how that status is to be determined by Township officials, the Ordinance makes it unlawful for any property owner to rent, lease, or permit the occupancy of any

property by an “illegal alien” or for any entity to recruit, hire, dispatch, instruct or continue to employ any person who is an unlawful worker in the Township. Violations of the Ordinance result in the immediate suspension of a business and/or rental license without a hearing, and a dwelling unit owner faces 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; and loss of any Township contracts or grants.

The Revised Riverside Immigration Ordinance suffers from multiple infirmities, including, but not limited to, the following:

a. The 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 employee immigration status.

b. The Ordinance is unlawful as it is preempted under state law, because it interferes with the New Jersey Anti-Eviction Act, N.J.S.A. 2A:18-16.1, *et seq.*, the state statute enacted to exclusively govern eviction of tenants; the Local Public Contracts Law, N.J.S.A. 40A:11-1 to 56, the state law which establishes a comprehensive procedure for the award of certain local public contracts; the New Jersey Licensing statutes, N.J.S.A. 40:52-1 *et seq.*, and New Jersey Child Labor Laws, N.J.S.A. 34:2-21.1, *et seq.*, which governs the employment of child labor in New Jersey.

c. 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.

d. 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 alien;” enumerate what immigrant identity information must be supplied by businesses and landlords subject to the Ordinance; explicate what businesses or property owners must do to correct any alleged violations under the Ordinance to avoid sanctions; and/or does not promulgate 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.

e. The Ordinance violates Article I, paragraph 1 of the New Jersey Constitution, by subjecting numerous non-citizens to deprivations of liberty and property without any established procedure, and subjecting landlords and businesses to the immediate loss of rental licenses and business permits respectively, and income, without the benefit of any established procedure in advance of or subsequent to the imposition of such sanctions. 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 Revised Riverside Immigration Ordinance, thereby risking violation of federal and state anti-discrimination laws.

f. The Ordinance violates the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et seq.*, and the equal protection provisions of Article I, paragraph I of the New Jersey Constitution, as it permits complaints based in part upon national origin, ethnicity, or race.

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

The Revised Riverside Immigration Ordinance, born from fear and nurtured by prejudice, is blatantly unlawful and unconstitutional. As alleged through this Verified Amended Complaint and as will be shown through this action, the plaintiffs are entitled to equitable relief, preliminarily and permanently enjoining the Revised Riverside Immigration 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. Some members of the Coalition are required to obtain business permits to operate their business or rental licenses to lease property, and all are subject to loss of income, 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 or employees are "illegal aliens" under the Ordinance. There is no definition of "illegal aliens" 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 alien," and they have no expertise in applying immigration law, making

immigration status determinations or determining the authenticity of immigration-related documents.

4. Plaintiff John Doe 1 (hereinafter “plaintiff Doe”) is a Latino immigrant who resided as a tenant with his family in a multi-family home in Riverside for several years. Plaintiff Doe is extremely concerned about being able to maintain a place to live in Riverside as a result of the passage of the Riverside Ordinance. Immediately after its adoption, in a letter dated August 7, 2006, plaintiff Doe’s former 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 if this Ordinance is enforced, 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 “K”).

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. Currently, Riverside’s Mayor is George Conard, and Township Council

members are Thomas Coleman; Marcus Carroll; Lorraine Hatcher; and Thomas Polino, who have refused to rescind the Revised Riverside Immigration Ordinance despite its numerous legal infirmities.

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 the Township 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.

### **PRIOR PROCEDURE**

9. On or about July 26, 2006, Riverside enacted Ordinance 2006-16, entitled "Riverside Township Illegal Immigration Relief Act" (copy attached as Exhibit "B" hereto) (hereinafter referred to as "Initial Riverside Immigration Ordinance"). This Act was subsequently amended on or about August 23, 2006 by Ordinance 2006-18 (a copy of amendment attached hereto as Exhibit "C") (hereinafter referred to as "Amended Riverside Immigration Ordinance").

10. On September 25, 2006, counsel for plaintiffs Marino and the Coalition sent a letter to then Mayor Hilton and the Township Council, citing several of the legal problems with Riverside's Initial and Amended Immigration Ordinance and urging the Township to rescind it (copy of letter attached hereto as Exhibit "D").

11. When the Township refused, on or about October 18, 2006, plaintiffs filed a five-count Verified Complaint, Order to Show Cause, brief in support thereof, and brief in support of plaintiff John Doe to prosecute this action under a pseudonym. Plaintiffs sought declaratory and

injunctive relief to invalidate and preliminarily and permanently enjoin the Initial and Amended Riverside Immigration Ordinances, which represented an unprecedented attempt by the Township to ban immigrants from renting, residing, using property, or being employed in the Township. The matter was assigned to the Honorable John Sweeney, A.J.S.C.

12. In lieu of executing plaintiffs' Order to Show Cause, on October 25, 2006, Judge Sweeney, A.J.S.C., entered a Consent Order, agreed to by counsel, which provided that the Township would not enforce the Initial Riverside Immigration Ordinance or any amendment thereto, without first affording plaintiffs' counsel at least twenty-four days written notice that the Township intended to enforce the Ordinance or any replacement thereto (Exhibit "E").

13. On the same day that this Order was signed, the Township introduced for its first reading, and on November 22, 2006, the Township enacted the Revised Riverside Immigration Ordinance, designated as Ordinance 2006-26 (copy attached hereto as Exhibit "A"). The Ordinance was based upon a similar ordinance which was enacted in Hazleton, Pennsylvania. The Hazleton ordinance, which has subsequently been further amended, is presently subject to a temporary restraining order and the subject of ongoing litigation in the United States District Court for the Middle District of Pennsylvania, captioned as *Lozano v. City of Hazleton*, Civil Action No. 3:06-cv-01586 (Hon. James M. Munley).

14. The Revised Riverside Immigration Ordinance is similar to other anti-immigrant local ordinances enacted around the country which have been drafted, strongly advocated for and "shopped" by an anti-immigration organization in Washington, D.C. Analogous ordinances have been enacted in Hazleton, Pennsylvania; Escondido, California; Valley Park, Missouri; Farmers Branch, Texas; and Cherokee County, Georgia. The United States District Court for the Southern

District of California granted a temporary restraining order enjoining the Escondido Ordinance, 465 F.Supp. 2d 1043 (S.D. Cal. 2006), and subsequently entered a permanent injunction against the Escondido Ordinance with the agreement of the parties (Exhibit “F”). The United States District Court for the Middle District of Pennsylvania granted plaintiffs’ motion to temporarily restrain a similar ordinance in the City of Hazleton. *See e.g., Lozano v. City of Hazleton*, 2006 U.S. Dist. LEXIS 79301 (M.D. Pa. October 31, 2006). The state court in Missouri granted a temporary restraining order enjoining enforcement of the City of Valley Park Ordinance, and recently granted plaintiffs’ motion for judgment on the pleadings to enjoin that ordinance (Exhibit “G”). The parties in Cherokee County stipulated that the Ordinance would not be enforced pending completion of that litigation (Exhibit “L”).

15. On November 18, 2006, the defendant in this case removed this matter to the United States District Court for the District of New Jersey, claiming that plaintiffs’ Complaint raised a substantial question of federal law. On November 21, 2006, plaintiffs’ counsel wrote to defendant’s counsel and stressed that there is no basis for removal and requested that the defendant voluntarily remand the matter to state court. The Township refused.

16. On February 23, 2007, after oral argument, the Honorable Renee Bumb remanded this matter to this Court (copy of the remand decision is attached hereto as Exhibit “H”). Since the defendant has refused to rescind the Revised Riverside Immigration Ordinance, plaintiffs have no choice but to proceed with the instant action.

### **THE REVISED RIVERSIDE IMMIGRATION ORDINANCE**

17. The intent of the Revised Riverside Immigration Ordinance, like its two prior

versions, is to regulate immigrants in Riverside despite the absence of either state law or constitutional authority permitting such regulation. The current version of the Ordinance suffers from the same constitutional and statutory defects as its predecessors.

18. Upon information and belief, prior to adoption of the Revised Riverside Immigration Ordinance, the Township 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. The Township has not conducted any studies since then and has no empirical evidence of the number of “illegal aliens” currently living or residing in Riverside.

19. Plaintiffs are unaware of any other municipality in New Jersey which has adopted an ordinance restricting use or rental of property or employment based upon immigration status, or conditioning municipal permits, grants or contracts upon a business’ actions concerning immigrants.

20. 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 in Riverside. According to the 2005 Uniform Crime Report issued by the New Jersey State Police, the crime rate in Riverside declined between 2004 and 2005, and fewer violent and non-violent crimes were reported in Riverside in 2005 than reported in 1998.

21. The Township adopted the Revised Riverside Immigration Ordinance to, *inter alia*, prevent the employment of “unlawful workers,” as that term is defined in §166-3A(6) from working in the Township, even on a temporary basis. To effect this goal, the Revised Riverside Immigration Ordinance, under §166-4, renders it unlawful for any “business entity” (as that term is defined in the Ordinance) to recruit, hire for employment, continue to employ, or permit, dispatch or instruct

(collectively “hire”) any “unlawful workers.” Additionally, business entities when applying for or seeking renewal of a business license, or seeking a grant or contract to engage in any type of work in the Township, must sign an affidavit, “affirming that they do not knowingly utilize the services or hire any person who is an unlawful worker,” and attest to their compliance with the Revised Riverside Immigration Ordinance when they apply for a business permit to operate in Riverside. This requirement applies regardless of where the individual is employed.

22. The Revised Riverside Immigration Ordinance sets forth enforcement mechanisms for the employment sections of the Ordinance. Any Riverside official, business entity or resident may make a complaint to the Riverside Code Enforcement Officer or Township Police (collectively referred to as the “Code Office”).

23. To be considered a “valid complaint,” it must be submitted in a signed writing, and include an allegation that describes the alleged violator(s), the actions constituting the violation, and the date and location where the actions occurred.

24. Upon receipt of a “valid complaint” regarding an alleged “unlawful worker,” the Code Office must request, within seven business days, “identity information” from the business entity regarding the worker. The type of “identity information” to be requested or what must be supplied is not defined anywhere in the Revised Riverside Immigration Ordinance.

25. Upon receipt of the “identity information,” the Code Office is directed to submit the data required by the Federal government to the Bureau of Immigration and Customs Enforcement (“ICE”) to verify the immigration status of the worker. Upon verification of the identity information, the Code Officer must provide the business entity with written confirmation of the immigration status.

26. If within three business days of receipt of a request from the Code Office the business entity fails to provide the requested identity information, the Code Office is required to immediately suspend the business permit, grant or contract of the business entity. The license, grant or contract is suspended without hearing or notice. Under the terms of the Revised Riverside Immigration Ordinance, the business license, grant or contract must be suspended even if there has been no finding that an “unlawful worker” has been hired.

27. If the business entity is notified by the Code Office that a violation of the Revised Riverside Immigration Ordinance has occurred, the entity must “correct” the violation within three business days.

28. If the business entity does not correct the violation within three business days, the Code Office is required to suspend the business license of the entity. Once again, this suspension occurs without notice or hearing. The Revised Riverside Immigration Ordinance never defines what a business entity must do to “correct” the violation.

29. Absent a business license, those entities subject to the Township’s business licensing ordinance cannot operate their business within the Township.

30. The Code Office is directed not to suspend the business license of an entity if the business entity previously had used the Basic Pilot Program to verify the worker’s status. The Basic Pilot Program is a voluntary, experimental program created by Congress to permit employers to electronically verify workers’ employment eligibility with the U.S. Dept. of Homeland Security and the Social Security Administration.

31. A suspended business license is restored to a business entity within seven business days after a legal representative of the entity submits a sworn affidavit stating that the violation has

ended. The affidavit must include a description of the specific action taken by the entity to end the violation and the name, address and other “adequate identifying information” of the unlawful worker.

32. If two or more unlawful workers are verified by the Code Office, then - to reinstate its business permit – the business entity must submit, in addition to the sworn affidavit, documentation acceptable to Riverside, confirming that the entity has enrolled and will participate in the Basic Pilot Program for the duration of the validity of the business permit.

33. For a second or subsequent violation, the Code Office is required to suspend the entity’s business license for thirty (30) days. For a third or subsequent violation, the Code Office shall suspend the business license of a business entity for a period of one (1) year. Once again, these sanctions are issued without notice or hearing.

34. The Revised Riverside Immigration Ordinance provides that the discharge by a business entity of any employee who is not an unlawful worker is an “unfair business practice” if, at the time of the discharge, the entity was not participating in the Basic Pilot Program and the entity was employing an unlawful worker. The Revised Riverside Immigration Ordinance fails to describe the nature of this cause of action, where suit may be filed, or the available remedies.

35. The Revised Riverside Immigration Ordinance provides no opportunity for a business entity to challenge or toll a suspension mandated under §166-4B3, 5, or 8 of the Ordinance, nor does it establish a procedure to review the determination of the Code Office prior to or after the suspension of a business license.

36. Under §166-4B4, the Township must terminate any grant or contract with a business entity which is determined to have violated the Ordinance. Nothing in this Ordinance establishes

the procedure which the Township must follow prior to imposition of this sanction. Further, the termination of a Township contract because of violation of this Ordinance, in the discretion of the Township, may constitute “prior negative experience” in consideration of the award of future contracts under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*

37. As a condition of the award of any Township contract or grant to a business entity where the value of employment, labor, or personal services exceeds the bid threshold established under the Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*, the business entity must enroll in the Basic Pilot Program.

38. Pursuant to N.J.S.A. 40:52-1, Riverside has adopted a Business Licensing Ordinance, codified as Chapter 127 of its Municipal Code. Pursuant to this measure, 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 operate a business within the Township (copy of ordinance, as provided by the Township, is attached hereto as Exhibit “I”). 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 Revised Riverside Immigration Ordinance, a business may be denied a license or have its license suspended for up to a year, and thus prevented from operating anywhere in the Township, even though the entity complies with all lawful aspects of the Township’s current business licensing ordinance, as established under state law.

39. Section 166-5 of the Revised Riverside Immigration Ordinance mandates a scheme similar to the employment provisions for persons and business entities that rent a dwelling unit in Riverside (hereinafter “Landlord”).

40. The Revised Riverside Immigration Ordinance renders it unlawful for any Landlord

to “harbor” an “illegal alien.” Under §166-5 of the Ordinance, “harboring” is defined as when a Landlord lets, leases, or rents a dwelling unit to an “illegal alien,” knowingly or in reckless disregard of the fact that the alien has come to, entered or remains in the United States in violation of law. Harboring also includes permitting the occupancy of a dwelling unit by an illegal alien, either knowingly or in reckless disregard of the fact that the alien has come to, entered or remained in the United States in violation of law.

41. Any Riverside official, business entity or resident may make a complaint to the Code Office concerning the harboring provision of the Ordinance. To be considered a “valid complaint,” it must be submitted in a signed writing, and include an allegation that describes the alleged violator(s), the actions constituting the violation, and the date and location where the actions occurred.

42. The Revised Riverside Immigration Ordinance contains the identical provision defining an invalid complaint for both the employment and harboring sections, stating:

A complaint which alleges a violation solely or primarily on the basis of national origin, ethnicity, or race shall be deemed invalid and shall not be enforced [§§166-4B2 and 166-5B2].

Under the terms of this Ordinance, a complaint based in part of race, ethnicity, or national origin is valid.

43. Upon receipt of a “valid complaint” regarding an alleged “illegal alien,” the Code Office is directed to submit the data required by the Federal government to ICE to verify the immigration status of the suspected individual.

44. Although §166-5B3 of the Ordinance provides that the Code Office shall submit “identity data” required by the federal government to verify immigration status” of a tenant, unlike

the employment provisions of the Ordinance, where the Code Office has seven business days to request identity information from the business entity, *see* §166-4B3, there is no provision under §166-5B3 authorizing the Code Office to request the “identity information” from a Landlord. Further, even if such a requirement is read into the Ordinance, the type of “identity information” to be requested or what must be supplied by the Landlord is not defined anywhere in the Revised Riverside Immigration Ordinance.

45. Section 166-5A3 of the Revised Riverside Immigration Ordinance provides that a Landlord is deemed in violation of the Ordinance for each business day that the Landlord fails to provide such “identity information” about a tenant or occupant, beginning three days after the Landlord receives written notice from the Code Office to provide such identity information.

46. Upon verification of the identity information from ICE, the Code Office must provide the Landlord with written confirmation of the suspected “illegal aliens” immigration status.

47. After Riverside has verified the immigration status of an “illegal alien,” if a Landlord fails to “correct” a violation of the Revised Riverside Immigration Ordinance within seven business days, the Code Office is required to deny or suspend the Landlord’s rental license pursuant to §166-5B4.

48. The Revised Riverside Immigration Ordinance never defines what a Landlord must do to “correct” a violation of the Ordinance. However, under the terms of the Ordinance, if occupation of the premises by an identified “illegal alien” constitutes a violation, the only way to end that violation is for the Landlord to immediately evict the tenant.

49. Pursuant to N.J.S.A. 46:8-28 *et seq.*, the Township has enacted Ordinance No. 2001-6A and an amendment thereto, which requires the registration and licensing of all rental property

within the Township, including providing a comprehensive procedural scheme which must be adhered to prior to the revocation or suspension of a rental license (copy attached as “Exhibit “J” hereto). The Revised Riverside Immigration Ordinance provides for suspension of a rental license in complete derogation of Ordinance No. 2001-6A and without notice or hearing.

50. In the absence of a rental license, a Landlord is prohibited from collecting rent, payment, fee or other compensation from any tenant or occupant of the dwelling unit, even from those whose lawful immigration status is undisputed.

51. Under the Revised Riverside Immigration Ordinance, a separate violation is deemed committed for each adult “illegal alien” residing in any dwelling unit, beginning one business day after receipt of a notice of violation from the Code Office.

52. A suspended rental license may be restored to a Landlord within seven business days after the Landlord submits a sworn affidavit stating that the violation has ended. The affidavit must include a description of the specific action taken by the entity to end the violation and the name, address, and other “adequate identifying information” of the “illegal alien.”

53. A Landlord that violates the Revised Immigration Ordinance is subject to the imposition of a fine of between one thousand (\$1,000) dollars and two thousand (\$2,000) dollars for each adult “illegal alien” harbored in the dwelling unit; a term of imprisonment and/or a period of community service not to exceed 90 days, and suspension of the rental license until the violation is corrected.

54. The Revised Riverside Immigration Ordinance provides no prior opportunity or procedure for a Landlord to challenge or toll the suspension of a rental license provided under §166-5B4 of the Ordinance, nor does it establish a procedure to review the determination of the Code

Office prior to or after the suspension of a rental license.

55. Neither the Revised Riverside Immigration Ordinance nor any other law defines the term “illegal alien” for purposes of determining whether an individual cannot live and work in the United States nor does the Ordinance specify what documents are necessary to prove or disprove an allegation that a particular individual is an “illegal alien.”

56. As a result, plaintiffs Marino and the Coalition and its members cannot take appropriate measures to comply with the Ordinance’s prohibition on housing or employing such individuals. Moreover, business owners and landlords, including plaintiffs Marino and the Coalition and its members, may inadvertently consider and classify individuals as illegal, many of whom the federal government might allow to live and 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 and employment because of an erroneous determination under this Ordinance.

57. 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, rental license, Township contracts or grants. Further, plaintiffs Marino and the Coalition and its members are harmed because they are losing revenue and business because of this Ordinance, face the loss or suspension of a business or rental license without notice or established procedure to challenge this sanction, and compliance with this Ordinance may cause them to violate federally-imposed obligations regarding verification of employment, or impair their existing contracts with tenants.

58. 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 alien” to live or conduct any sort of business in Riverside, even if actually allowed to remain in the United States by the federal government. 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.

### **IMMIGRATION LAW**

59. In order to put the Revised Riverside Immigration 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 have any involvement in the regulation of immigration.

60. 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 an individual may enter, remain, 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.

61. Federal law contains no single multi-purpose classification that is the equivalent of the undefined term “illegal alien” created by the Revised Riverside Immigration 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 and/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.

62. As part of the federal immigration scheme, Congress adopted 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.

63. 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 except under specific circumstances. *See* 8 U.S.C. § 1324b(a)(6). Local municipalities play no role in this verification process.

**THE REVISED RIVERSIDE IMMIGRATION ORDINANCE’S  
UNWORKABLE REGULATORY SCHEME**

64. Neither the Revised Riverside Immigration Ordinance nor any other law defines the term “illegal alien” for all purposes, nor has the Township developed written policies and procedures for implementation of this Ordinance.

65. The Revised Riverside Immigration Ordinance does not set forth any procedure for landlords or employers to definitively determine whether an individual is an “illegal alien” or any process by which an individual can challenge a determination that he or she is an “illegal alien” under the Ordinance.

66. Upon information and belief, the Township has not entered into any agreement with any federal agency establishing the procedure to be utilized by the Township, or otherwise been granted the authority to use or access any federal government immigration verification system for purposes of verifying the immigration status of employees and renters pursuant to §§ 166-4B3 and 166-5B3 of the Revised Riverside Immigration Ordinance.

67. The Revised Riverside Immigration Ordinance classifies as “illegal” many individuals whom the Federal government allows to reside or work in the United States. Under Federal law, various categories of persons can receive Federal permission to work, and implicitly to stay and reside in the United States, even though they may be violating immigration laws. *See, e.g.,* 8 C.F.R. §274a.12(a)(11-13)(c)(8-11, 14, 18-20, 22, 24) (listing categories of persons who can receive federal permission to work, and implicitly to stay, in the United States even though they may be violating the immigration laws). For example, such persons may have pending applications to adjust to a lawful status pursuant to the Violence Against Women Act, 8 U.S.C. §1255(m), or under 8 U.S.C. 1255(i). Similarly, certain persons released from detention to legal mandates and

restrictions imposed by the Supreme Court, though subject to an order of removal, are permitted to stay and work in the U.S. In addition, persons who are applying for or have been granted “temporary protected status” are permitted to stay and work in the United States if they meet certain requirements, notwithstanding the fact that they are otherwise removable. Federal officials may also exercise discretion not to deport persons who are otherwise removable. *See* 8 C.F.R §212.5(f).

68. The Department of Housing and Urban Development, the federal agency in charge of housing, expressly permits persons lacking eligible immigration status to live with persons who are recipients of federal housing subsidies. *See* 24 C.F.R §5.508(e) (providing that “[i]f one or more members of a family elect not to contend that they have eligible immigration status, and other members of the family establish their citizenship or eligible immigration status, the family may be eligible for assistance . . . despite the fact that no declaration or documentation of eligible status is submitted for one or more members of the family”); *see also* 24 C.F.R §5.520 (providing for prorated subsidies based on the number of persons in the household eligible for benefits). Thus, persons who may not be lawfully present are explicitly permitted to reside in housing partially subsidized by the federal government.

69. Riverside has failed to recognize that the federal government only decides whether it wishes to remove someone from the country through the formal procedures enumerated in the Immigration and Nationality Act (“INA”), 8 U.S.C. §§1101 *et. seq.*, and associated regulations, which include substantial procedural safeguards, including the availability of administrative appeal and judicial review. *See generally* 8 U.S.C. §1229a (removal proceedings); 8 U.S.C. Parts 240, 1240 (“Proceedings to Determine Removability of Aliens in the United States”). It is the federal government’s burden to prove, in these adversarial proceedings, that the individual is an alien and

removable. But that is only the first step of this procedure. Even aliens who lack immigration status at the outset of a removal proceeding may obtain temporary or permanent permission to remain in the United States during the course of the proceeding; individuals who may obtain relief from removal include spouses and other relatives of U.S. citizens and lawful permanent residents, victims of domestic violence, and individuals seeking protection from persecution or torture. *See e.g.*, 8 U.S.C. §1154 (procedure for granting immigrants status to certain relatives of U.S. citizens and lawful permanent residents); 8 U.S.C §1229b (cancellation of removal for certain relatives of U.S. citizens and lawful permanent residents); 8 U.S.C. §1229b(b)(2) (cancellation for certain battered spouses and children); 8 U.S.C. §1231(b)(3) (restricting removal of individuals subject to persecution); 8 U.S.C. §§208.16-18 (deferral of removal under Convention Against Torture).

70. The Revised Riverside Immigration Ordinance mandates that businesses enroll in the Federal Basic Pilot Program under certain circumstances. *See* §166-4B7(b) and 166-4B8D. However, as enacted by Congress, the Basic Pilot Program was meant as a voluntary, experimental program.

71. The Federal government currently does not have any system in place to permit Riverside – or any other municipality – to obtain immigration status information about individuals who use, occupy, lease, or rent a dwelling unit. Upon information and belief, Riverside has not executed a Memorandum of Understanding with the Federal government, or otherwise been granted authority to use or access any Federal government immigration verification system for purposes of verifying the immigration status of renters and occupants of dwelling units. Upon information and belief, the Federal government has not granted any municipality in the country authority to use or access any verification system for the purposes that are contemplated by the Revised Riverside

Immigration Ordinance.

72. Plaintiffs Marino and the Coalition and its members will be required to implement the Revised Riverside Immigration 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 and the Ordinance provides them absolutely no guidance as to how such determinations should be made. In abiding by the ordinance, they may be compelled to demand documentation under circumstances prohibited by federal law. Yet, under the terms of the Revised Riverside Immigration Ordinance, if they violate the Ordinance, they are subject to loss of business or rental licenses and imprisonment.

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

74. Unless this Court issues an injunction preventing enforcement of the Revised Riverside Immigration Ordinance, plaintiffs will suffer irreparable harm for which there is no adequate remedy at law.

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

75. Plaintiffs incorporate by reference the allegations of paragraphs 1-74 above as if set forth herein in their entirety.

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

77. 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.

78. 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; 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.

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

80. Enactment of the Revised Riverside Immigration Ordinance is *ultra vires*, as the Township lacks the power to regulate the nature of the occupancy of residential properties within Riverside, 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.

81. Enactment of the Revised Riverside Immigration 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.

82. The Revised Riverside Immigration Ordinance is *ultra vires*, as although the municipality has the authority to enact a business licensing ordinance and to fix fees related thereto, and has enacted such an ordinance (copy attached as Exhibit "I" hereto), it lacks authority under

New Jersey law, to use that licensing ordinance to regulate the employment or hiring decisions of regulated businesses.

83. The Revised Riverside Immigration 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.

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

**SECOND CAUSE OF ACTION - THE REVISED RIVERSIDE IMMIGRATION  
ORDINANCE IS PREEMPTED BY STATE LAW**

85. Plaintiffs incorporate by reference the allegations of paragraphs 1-84 above, as if set forth herein in their entirety.

86. The Revised Riverside Immigration Ordinance is *ultra vires* as it is preempted by state law in numerous ways.

87. The New Jersey Anti-Eviction Act, N.J.S.A. 2A:18-61.1, governs the eviction of tenants, establishing the procedure to be followed and the exclusive grounds for removal of tenants. N.J.S.A. 2A:18-61.2 enumerates the explicit procedure, notice provisions, and time requirements which the landlord must follow prior to the removal of a tenant for any reason. The New Jersey Courts have long recognized that the Anti-Eviction Act was enacted to prevent municipalities from establishing independent reasons for the eviction of tenants and to establish a uniform procedure for their removal.

88. The Revised Riverside Immigration Ordinance imposes upon landlords requirements to evict tenants based upon grounds and a procedure which is inconsistent with the New Jersey Anti-Eviction Act.

89. The provisions of the Revised Riverside Immigration Ordinance which enumerate

independent grounds for the removal of tenants based upon a tenant's immigration status and require landlords to remove tenants in a manner contrary to the provisions of the New Jersey Anti-Eviction Act are *ultra vires* and preempted by state law.

90. New Jersey has a long tradition of requiring open and free competitive bidding for public contracts. To that end, the New Jersey Legislature has enacted the Local Public Contracts Law, N.J.S.A. 40A:11-1 to 56 (the "LPCL"), which is a comprehensive statutory framework governing public contracts, and which requires contracts to be awarded to the "lowest responsible bidder." N.J.S.A. 40A:11-6.1.

91. To ensure that bidding is fair and free from fraud, courts in New Jersey have curtailed the discretion of local authorities by insisting upon strict compliance with the LPCL.

92. The LPCL was enacted to ensure uniformity and a comprehensive approach to the award of public contracts, and to prevent local government units from substituting their own peculiarities or requirements which are not set forth in the LPCL.

93. The LPCL would be undermined if each municipality in New Jersey could impose its own unique requirements upon prospective bidders and/or grantees of public contracts.

94. By requiring each business entity who seeks a public contract to sign an affidavit in advance that they do not knowingly utilize the services or hire any person who is an unlawful worker; requiring all prospective contractors under the LPCL to enroll in the Basic Pilot Program; and to terminate a contract of the lowest responsible bidder without notice or hearing because a business entity violates any portion of the Revised Riverside Immigration Ordinance, the Ordinance imposes requirements which are inconsistent with and beyond those mandated by the LPCL.

95. The requirements imposed by the Revised Riverside Immigration Ordinance upon

entities bidding on and/or granted public contracts are *ultra vires*, as they are contrary to and preempted by the New Jersey Local Public Contracts Law.

96. N.J.S.A. 40:52-1 establishes the right of municipalities to enact and enforce ordinances to license certain businesses. N.J.S.A. 40:52-2 authorizes a governing body to fix fees for such licenses, to impose penalties for violation of ordinances providing for licenses, and to revoke any licenses “for sufficient cause after notice and hearing.”

97. Pursuant to those provisions, Riverside has adopted a Business Licensing Ordinance, which permits those businesses subject to its provisions, upon payment of certain designated fees, to obtain a license to operate a business within the Township.

98. By permitting a business license to be suspended and/or revoked without notice and hearing, and to authorize such a suspension even though the business entity has paid all of its fees and complied with the Township’s current Business Licensing Ordinance, the Revised Riverside Immigration Ordinance is contrary to and preempted by the New Jersey Licensing statute.

99. The provisions of the Revised Riverside Immigration Ordinance are also preempted by New Jersey’s Child Labor Laws, N.J.S.A. 34:2-21.1 *et. seq.*, which is a comprehensive state statute governing the employment of child labor.

100. N.J.S.A. 34:2-21.18 delegates to the New Jersey Department of Labor and Industries and its inspectors and agents, acting under the Commissioner of Labor, the exclusive responsibility to enforce the provisions of New Jersey’s child labor laws, to issue complaints to entities violating its provisions, and to prosecute violators. Further, N.J.S.A. 34:2-21.19 establishes the penalties for anyone who employs a minor in violation of the Act.

101. Under §166-3A6 of the Revised Riverside Immigration Ordinance, an “unlawful

worker” includes a person “who does not have the legal right or authorization to work . . . including but not limited to a minor disqualified by nonage . . .”

102. Under the terms of the Revised Riverside Immigration Ordinance, any person may file a complaint, the Code Office is empowered to enforce provisions pertaining to the employment of a minor disqualified by nonage, and the only penalty for such a violation is the suspension of a business license, grant or contract.

103. The provisions of the Revised Riverside Immigration Ordinance which define an “unlawful worker” are *ultra vires* and preempted by New Jersey’s Child Labor laws.

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

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

105. Plaintiffs incorporate by reference the allegations of paragraphs 1-104 above as if set forth herein in their entirety.

106. 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.”

107. 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 immigration or 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.

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

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

109. Plaintiffs incorporate by reference the allegations of paragraphs 1-108 above as if set forth herein in their entirety.

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

111. The Revised Riverside Immigration 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.

112. Neither the Revised Riverside Immigration Ordinance nor any other law defines the term "illegal alien" for the purposes established under the Ordinance. Therefore, plaintiffs will have to guess as to what constitutes an "illegal alien" or what is meant by someone who is not "lawfully present" in the United States.

113. In addition, the Revised Riverside Immigration Ordinance does not define the type of "identity information" which is to be requested by the Code Office from a business entity or a landlord, or what must be supplied in response to a complaint. The Ordinance never defines what a business entity or property owner must do to correct a violation thereunder.

114. The Revised Riverside Immigration 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.

115. Neither the plaintiffs nor a person of reasonable intelligence can determine what conduct is or is not regulated by the Ordinance.

116. The vague, ambiguous and overbroad language and application of the Revised Riverside Immigration Ordinance violates plaintiffs' due process rights under Article I, paragraph 1 of the New Jersey Constitution.

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

**FIFTH CAUSE OF ACTION - THE REVISED RIVERSIDE IMMIGRATION  
ORDINANCE VIOLATES THE NEW JERSEY LAW  
AGAINST DISCRIMINATION AND THE EQUAL PROTECTION  
PROVISIONS OF ARTICLE I, PARAGRAPH 1 OF THE NEW JERSEY  
CONSTITUTION**

118. Plaintiffs incorporate by reference the allegations of paragraphs 1-117 above as if set forth herein in their entirety.

119. 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 race, national origin and ancestry.

120. Because neither the Revised Riverside Immigration Ordinance nor any other law defines the term "illegal alien" as that term is utilized in the Ordinance, and plaintiffs Marino and the Coalition and its members are required to implement it without any expertise or experience in applying immigration laws and making immigration status decisions, and the Ordinance provides them no guidance, the Revised Riverside Immigration 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.

121. One effect of the Revised Riverside Immigration 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.

122. Under the Revised Riverside Immigration Ordinance, enforcement may be initiated by a complaint made to the Code Office submitted by any Riverside official, business entity or resident. To constitute a “valid complaint,” the complaint must be in a signed writing, and must include an allegation which describes the alleged violator(s) as well as the actions constituting the violation, and the date and location where such actions occurred.

123. The Revised Riverside Immigration Ordinance contains one provision defining an invalid complaint.

A complaint which alleges a violation solely or primarily on the basis of national origin, ethnicity, or race shall be deemed invalid and shall not be enforced. [*See* §§166-4B2 and 166-5B2].

124. Under the Revised Riverside Immigration Ordinance, a complaint based in part upon national origin, ethnicity or race is considered valid. Since national origin, ethnicity and race may be the basis of a valid complaint, they can serve to trigger an investigation and the resultant punitive procedures set forth in Sections 166-4 and 5 of the Ordinance.

125. The Revised Riverside Immigration Ordinance uses race, ethnicity, and national origin as an overt classification in Riverside’s enforcement of the employment and housing provisions in its Ordinance in direct violation of the NJLAD.

126. Although Article I, paragraph I of the New Jersey Constitution does not contain the express terms “equal protection of the laws,” the New Jersey courts have long recognized the expansive language of Article I, paragraph I, as guaranteeing those fundamental constitutional

rights.

127. The Revised Riverside Immigration Ordinance’s use of race, ethnicity, and national origin as an overt classification in Riverside’s enforcement of the employment and housing provisions in its Ordinance, violates the equal protection provisions of Article I, paragraph I of the New Jersey Constitution.

128. Unless the Revised Riverside Immigration Ordinance is permanently enjoined and declared invalid, the rights of plaintiffs to be free from unlawful discrimination under the NJLAD and the provisions of the New Jersey Constitution will be violated.

129. As a result of Riverside’s violation of the NJLAD and the equal protection provisions of Article I, paragraph I of the New Jersey Constitution by enacting the Revised Riverside Immigration Ordinance, plaintiffs are entitled to declaratory and injunctive relief.

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

130. Plaintiffs incorporate by reference the allegations of paragraphs 1-129 above as if set forth herein in their entirety.

131. 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.

132. The Revised Riverside Immigration Ordinance seeks to deprive those deemed “illegal aliens” of multiple protected liberty and property interests, including their interests in real property

and in contracting for and continuing in employment.

133. The Revised Riverside Immigration Ordinance fails to provide any advance notice to plaintiff Doe and others that Riverside Township officials, landlords, employers, and others may determine them to be “illegal aliens,” 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.

134. The Ordinance deprives persons who are deemed “illegal aliens,” 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.

135. The Revised Riverside Immigration Ordinance fails to afford Landlords, including Landlord plaintiffs and members of the Coalition who are Landlords, adequate due process rights. The Revised Riverside Immigration Ordinance harms Landlord plaintiffs and members of the Coalition who are Landlords by imposing significant sanctions without due process, including:

- (a) the immediate denial or suspension of a rental license for the dwelling unit;
- (b) a prohibition on the collection of rent or other compensation from any tenant or occupant in the dwelling unit, for the period of the license suspension;
- (c) imposition of a fine of not less than one thousand (\$1,000) dollars or more than two thousand (\$2,000) dollars for each separate violation;
- (d) a term of imprisonment and/or community service not exceeding 90 days.

136. The Revised Riverside Immigration Ordinance does not afford Landlords any process

by which the Landlord may challenge, in advance of the imposition of the penalties for “harboring”:  
(a) its lack of knowledge about the unlawful status of any individual leasing, renting or occupying the Landlord’s dwelling unit; (b) that the Landlord did not recklessly disregard facts relating to such individual’s unlawful status; or (c) that the individual’s presence is not violative of any law or removal order.

137. The Revised Riverside Immigration Ordinance does not afford Landlords, including Landlord plaintiffs and members of the Coalition who are Landlords, adequate process in advance or subsequent to the imposition of the penalties thereunder.

138. The Revised Riverside Immigration Ordinance fails to afford employers, including members of the Coalition who are employers, adequate due process rights. The Revised Riverside Immigration Ordinance harms employers and members of the Coalition who are employers, by imposing significant sanctions without notice or hearing, including the immediate denial or suspension of a business license, grant or contract with the Township, and a prohibition of operating their business in the Township for the period of the license suspension.

139. The Revised Riverside Immigration Ordinance violates the due process rights of employers and employers who are members of the Coalition because sanctions can be levied even though there has been no finding that an “illegal alien” has been hired. The business license of a business entity may be suspended for failure to provide requested identity information following receipt of a request from the Code Office. Such a suspension is mandatory under §166-4B3 of the Ordinance, and is not dependent upon any finding that an unlawful worker has been hired.

140. The Revised Riverside Immigration Ordinance fails to afford employers, including members of the Coalition who are employers, any process to challenge sanctions, such as the

suspension of a business license, either before or after the sanction has been imposed.

141. Even if a process is established for plaintiffs to challenge any penalties imposed pursuant to the Revised Riverside Immigration Ordinance, such a process is illusory, because state or municipal courts lack the authority to make the type of immigration status decisions necessary to adjudicate the lawfulness of conduct under the Ordinance.

142. As a result of the blatant denial of procedural due process under Article I, paragraph 1 of the New Jersey Constitution, 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 Revised Riverside Immigration 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 the equal protection and substantive and procedural due process provisions 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 Revised Riverside Immigration Ordinance;

C. 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

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

Respectfully submitted,

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Attorneys for Plaintiffs

Dated: April 11, 2007

**DESIGNATION OF TRIAL COUNSEL**

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

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Foundation Immigrants' Rights Project

Dated: April 11, 2007

**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.

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Dated: April 11, 2007