

Federal judge strikes down Farmers Branch immigrant rental ban

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A federal judge ruled Wednesday that Farmers Branch's attempt to ban illegal immigrants from renting apartments is unconstitutional.

"The court concludes that only the federal government may determine whether an individual is legally in the United States," U.S. District Judge Sam Lindsay wrote in a 35-page decision.

Michael Jung, a Dallas attorney representing the city, said he does not yet know whether Farmers Branch will appeal. But he said the city will eventually try to implement another version of the rental ban that he believes will satisfy Lindsay's constitutional concerns.

Farmers Branch's attempts to boot illegal immigrants out of the city's apartments turned the Dallas suburb into an epicenter of the nation's immigration debate with rowdy protests, angry meetings and hotly contested city elections.

Although voters supported the ordinance by a 2-to-1 ratio, many city leaders said they were not surprised by Wednesday's ruling.

"We are disappointed but not surprised," Jung said.

The ordinance Lindsay struck down would have required apartment managers to demand signed declarations of U.S. citizenship or immigration papers.

Fearing that Lindsay would strike down this ordinance, the City Council passed a new one in January that would require prospective renters to give copies of their immigration or citizenship papers to a city building inspector, who would then have them checked by a federal immigration agency.

The council approved the new ordinance with language saying it will go into effect 15 days after Lindsay ruled on the older version of the rental ban.

City undeterred

Jung said he believes that the new ordinance will be constitutional because it asks the federal government, not the landlord or city, to decide who is in the U.S. legally.

Farmers Branch asked Lindsay to review the constitutionality of the new ordinance, but in a toughly worded decision, also issued Wednesday, the judge rejected the request. "The court does not act as legal counsel or litigants or prospective litigants to a lawsuit," Lindsay wrote.

Mayor Tim O'Hare could not be reached for comment, but he has said that he expected to lose in Lindsay's court and win on appeal.

"We told everyone this will be a long, drawn-out process ... but we thought it was worth it," O'Hare said at a candidates' forum in April.

Councilman David Koch said he was disappointed by the ruling. But he said he believes that the city should not give up, because voters overwhelmingly approved the earlier ordinance in a 2007 referendum, and they elected candidates who support it in 2007 and 2008 council elections.

"We're going to continue to move forward. We're not going to be deterred by these decisions," Koch said.

Challenges ahead

Bill Brewer, a Dallas attorney who represented Farmers Branch apartment owners for free in the case, said he will also challenge the new ordinance if the city tries to implement it. And he will seek attorneys' fees for the case he just won.

"You would hope that at some point the folks in Farmers Branch would sit back and say, 'How many lawyers told us we would be successful in these strategies?' And not one lawyer, and not one strategy, has ever been successful," Brewer said.

Lindsay combined Brewer's case with similar suits against the city's rental ban by the American Civil Liberties Union and the Mexican American Legal Defense and Education Fund.

George Martinez, a Southern Methodist University law professor, said Lindsay's ruling clearly shows that Farmers Branch has no case.

"It's well-established that it's unconstitutional for local governments to attempt to regulate immigration. That's a matter for the federal government," Martinez said. "They will lose on appeal as well. In fact, they must be very careful about that. They might even get sanctioned for a frivolous appeal at this point. The law is well-established."