

Fremont wrestles with immigration

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FREMONT, Neb. — Starting May 4, employers in Fremont will have to verify whether their newly hired workers are legal residents.

But those seeking to rent a house or an apartment won't have to obtain an occupancy license until after the 8th U.S. Circuit Court of Appeals rules on Fremont's controversial ordinance aimed at illegal immigration.

The Fremont City Council voted unanimously Tuesday to begin enforcing the employment provisions of the law, even as it appeals a federal court decision on the housing requirements. The ordinance, approved by voters in a special election in June 2010, prohibits the harboring or hiring of illegal immigrants.

It requires employers to use the federal E-Verify system to confirm that their new workers are in the country legally.

And it requires renters to obtain a license from the city. The information provided for the license would be used to verify their immigration status. If they are not legally in the United States, their permission to rent housing in Fremont can be revoked.

In a ruling last week, U.S. District Judge Laurie Smith Camp upheld the employment provisions of the ordinance and the occupancy license requirement.

But she threw out the provision allowing people to be evicted if they are not legal residents.

She said that would conflict with federal housing law and would make it more difficult for federal authorities to enforce immigration laws.

Camp said it would essentially push illegal immigrants into other communities, where it would be harder to find them.

ACLU Nebraska said Tuesday that it plans to appeal at least the portion of Camp's ruling that upheld the requirement for occupancy licenses. The group asked the Fremont City Council not to enforce the ordinance until the 8th Circuit Court has ruled.

The council went into closed session for an hour before it emerged to vote on a resolution calling for its own court appeal and a delay in the housing rules.

Mayor Scott Getzschman reported that during the closed session, the council consulted by telephone with Kris Kobach, a Kansas lawyer in the forefront of a national effort to establish local authority to enforce immigration laws. Kobach helped draft Fremont's ordinance and has represented the city in court challenges.

“The key thing here is that this is an important issue to many members of the community and to most businesses as well,” Getzschman said. “The E-Verify provision was upheld 100 percent, and that's a section of the ordinance we can begin implementing almost immediately.”

Council Chairwoman Jennifer Bixby said Kobach advised the council to hold off on enforcing the housing provisions while the city appeals Camp's ruling.

Had the council not approved the delay, the housing provisions would have taken effect Monday.

Several people who were active in the effort to pass the ordinance attended Tuesday's meeting. They included Bob Warner, Jerry Hart and Carl Schaffner.

Schaffner objected to the council's discussing the ordinance in closed session. He urged the council to uphold the will of the voters, who approved the measure.

“This entire process has been open to the public, except when you folks have decided to take it out of the public's hands,” he said, referring to previous council decisions to vote down the ordinance and delay its enforcement.

Warner is the former council member who originally proposed the ordinance in 2008. After the full council rejected it, he helped organize the petition drive that put the proposal on the ballot.

He scoffed at council members' concerns that it might be difficult for Fremont businesses to quickly comply with the new ordinance.

He warned Fremont officials to beware of the situation that now faces Schuyler, Neb., and Colfax County, which on Monday announced an agreement with the U.S. Justice Department to provide bilingual poll workers and Spanish-language election materials because of the large proportion of Hispanic voters in the county.

“They say 65 percent of Schuyler residents can't speak English. That's terrible,” Warner said.

Amy Miller, an ACLU attorney, said the organization is mulling whether to challenge Camp's decision upholding the E-Verify requirement. A decision will be made next week, she said.

In a letter to the council, Miller said that enforcing the housing requirements before a final appellate court decision would confuse the public, increase the city's costs and deepen tensions.

“This important debate has been moved to the courtroom, and we encourage the city to leave it there until a final answer is issued by a higher court.”

Getzschman said the city had set aside \$1.07 million over two years for expenses related to the immigration ordinance. The city expects to spend \$425,000 to \$450,000 per year on software, computers, training and additional staff to implement the employment provisions.

Kristen Ostrom, a Fremont resident who helped lead the unsuccessful effort to defeat the ordinance in 2010, said the council made the right decision to delay the housing provisions. She now works with the ACLU.

“The ordinance is unconstitutional and un-American,” she said. “We're going to continue to fight it on behalf of Fremont landlords, tenants and employers.”

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