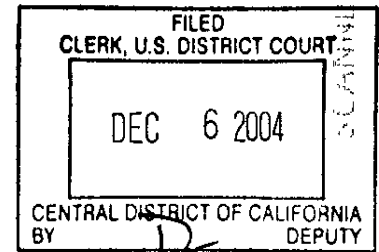


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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION

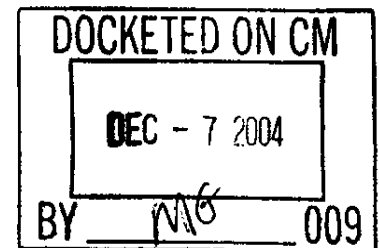
COMITE DE JORNALEROS DE
 REDONDO BEACH, an unincorporated
 association; NATIONAL DAY
 LABORER ORGANIZING NETWORK,
 an unincorporated organization,
 Plaintiffs,

vs.

CITY OF REDONDO BEACH
 Defendants.

No. CV04-9396 CBM

**TEMPORARY RESTRAINING
 ORDER AND ORDER TO SHOW
 CAUSE RE PRELIMINARY
 INJUNCTION**



The matter before the Court is Plaintiffs' Ex Parte Application for
 Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction,
 filed on November 18, 2004. Pursuant to a stipulation between the parties, a
 hearing on the TRO occurred on December 6, 2004, the Honorable Consuelo B.
 Marshall presiding.

Upon consideration of the papers submitted, the Court GRANTS the
 Temporary Restraining Order and issues an Order to Show Cause Re Preliminary
 Injunction. The Court finds that there are serious questions as to whether Section
 3-7.1601 of the Redondo Beach Municipal is constitutional on its face and as
 applied to day laborers under the First Amendment. Specifically, the Court finds

17

1 that there are serious questions as to whether the ordinance is content-neutral,
 2 whether it is narrowly tailored to a legitimate government interest, and whether it
 3 leaves open ample alternative channels for communication. *See Ward v. Rock*
 4 *Against Racism*, 491 U.S. 781, 791, 105 L. Ed. 2d 661, 109 S. Ct. 2746 (1989).
 5 While Defendant argues that *ACORN v. City of Phoenix*, 798 F.2d 1260 (9th Cir.
 6 1986) controls this case, the Court finds that the facts contemplated by the Ninth
 7 Circuit in *ACORN* were very different from the facts here and that subsequent
 8 Supreme Court authority raises serious questions as to whether the Redondo Beach
 9 ordinance is a valid time, place and manner restriction on speech.

10 In addition, the Court finds that there is a possibility of irreparable harm and
 11 that the balance of hardships tilts sharply in Plaintiff's favor. *See S.O.C., Inc. v.*
 12 *County of Clark*, 152 F.3d 1136, 1148 (9th Cir. 1998) ("The loss of First
 13 Amendment freedoms, for even minimal periods of time, unquestionably
 14 constitutes irreparable injury."). Furthermore, the hardship that day laborers face
 15 due to possible arrests, fines, and loss of livelihood outweighs the potential
 16 disruption of traffic flow and quality of life issues asserted by the City of Redondo
 17 Beach. *See Newman Dec.* ¶10-12.

18 Based on the foregoing, DEFENDANT CITY OF REDONDO BEACH is
 19 ORDERED TO SHOW CAUSE at 9 a.m. on **December 13, 2004** as to why it, its
 20 agents, servants, employees, and those in active concern or participation with them,
 21 should not be restrained and enjoined pending trial of this action from undertaking
 22 any steps to enforce Section 3-7.1601 of Redondo Beach Municipal Code and its
 23 prohibitions, including but not limited to the following:

24 (a) issuing citations or making arrests for alleged violations of Section 3-
 25 7.1601 of Redondo Beach Municipal Code;

26 (b) issuing warnings, barring contact between day laborers and employers or
 27 otherwise intimidating, threatening, or discouraging day laborers' solicitation of
 28 work while in public rights-of-way; or

(c) prosecuting or perusing penalties for persons arrested and/or accused of violating Section 3-7.1601.

Any briefs in response to this Order to Show Cause shall be filed and served by overnight delivery on opposing counsel no later than **December 9, 2004 at 12 p.m.**

Furthermore, PENDING HEARING on the above Order to Show Cause, DEFENDANT CITY OF REDONDO BEACH, its agents, servants, employees, and all those in active concert or participation with it, ARE RESTRAINED AND ENJOINED FROM undertaking any steps to enforce Section 3-7.1601 of Redondo Beach Municipal Code and its prohibitions, including but not limited to the following:

(a) issuing citations or making arrests for alleged violations of Section 3-7.1601 of Redondo Beach Municipal Code;

(b) issuing warnings, barring contact between day laborers and employers or otherwise intimidating, threatening, or discouraging day laborers' solicitation of work while in public rights-of-way; or

(c) prosecuting or perusing penalties for persons arrested and/or accused of violating Section 3-7.1601.

At the hearing on December 13, 2004, the parties should be prepared to address whether any bond or security should be required pursuant to Federal Rule of Civil Procedure 65(c).

IT IS SO ORDERED.

DATE: December 6, 2004


CONSUELO B. MARSHALL
UNITED STATES DISTRICT JUDGE