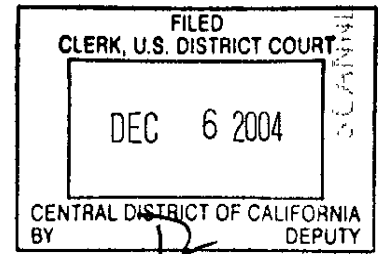


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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 WESTERN DIVISION
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12 COMITE DE JORNALEROS DE
13 REDONDO BEACH, an unincorporated
14 association; NATIONAL DAY
LABORER ORGANIZING NETWORK,
an unincorporated organization,

15 Plaintiffs,

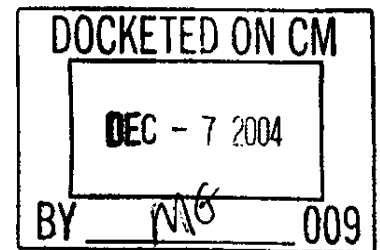
16 vs.

17 CITY OF REDONDO BEACH

18 Defendants.
19

No. CV04-9396 CBM

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



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

25 Upon consideration of the papers submitted, the Court GRANTS the
26 Temporary Restraining Order and issues an Order to Show Cause Re Preliminary
27 Injunction. The Court finds that there are serious questions as to whether Section
28 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

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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

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

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

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

12 (a) issuing citations or making arrests for alleged violations of Section 3-
13 7.1601 of Redondo Beach Municipal Code;

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

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

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

22 **IT IS SO ORDERED.**

23 **DATE:** December 6, 2004

24 
25 **CONSUELO B. MARSHALL**

26 **UNITED STATES DISTRICT JUDGE**