

## THE UNKNOWN FUTURE OF IMMIGRATION LAWS FOR LANDLORDS

With more rumors than facts going around regarding illegal immigration, I regularly get questioned whether landlords have an obligation to verify an applications legal status before renting to them. The answer, for now, is no. However, that answer may change in the coming years. In June, the United States Supreme Court reversed the prohibition of the enforcement of a Pennsylvania town ordinance requiring landlords to use E-verify to ensure they were not renting to illegal immigrants. In other words, the Supreme Court overruled lower court's rulings that such a law was unconstitutional, and remanded the case for further analysis.

In 2006, the town of Hazleton, PA passed a law making it illegal to rent a house or apartment to an illegal immigrant. The law created a \$250 per day fine for knowingly or with reckless disregard, renting to an illegal immigrant. Further, the ordinance allowed the town to suspend an individual's rental license. The law was passed in Hazleton after an influx of 10,000 legal and illegal immigrants moved into the town within a decade, when only 30,000 had previously lived there. It was believed that crime, gang and drug rates in the town significantly increased as a result of the immigrants.

In addition to creating the landlord sanction bill, the town of Hazleton passed the employer's sanction bill, similar in nature to Arizona's law. While many may believe these laws are exclusive to Arizona and Hazleton, similar laws have been passed in numerous additional states in an attempt to combat immigration on a state level.

After the Hazleton law was passed, numerous groups jointly filed suit in federal court seeking to enjoin its enforcement. The district court granted an injunction and found the law was preempted by federal law. The Third Circuit Court of Appeals also blocked the law on appeal. On appeal, however, the United States Supreme Court struck the previous rulings and stated that the lower court's had to reanalyze their rulings based upon the Supreme Court's ruling in *Chamber of Commerce v. Whiting*. It was in *Whiting*, that the Arizona employer sanction law was held legal on the basis that it was not a violation of federal law for states to impose sanctions against employers who knowingly hire illegal immigrants. The highest court stated that it was legal for Arizona to use its business licensing laws to prohibit the hiring of illegal immigrants, and to require the use of E-verify which was voluntary on a national level.

While the Supreme Court did not unequivocally say that the Hazleton statute was legal, legal scholars largely believe that the holding does signify an opinion of the court that states are free to use their licensing powers to prohibit landlords from renting to illegal immigrants. If this is the case, landlords can expect similar legislation to be proposed in Arizona in the coming years. Regardless of your political opinion on the immigration issue, it is clear that this will likely result in additional costs and liabilities for landlords.