

# Farmers Branch considers retooling ban on renting to illegal immigrants

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Farmers Branch is considering a new way to stop rentals of housing to illegal immigrants, one that places the enforcement burden on the city and federal governments rather than landlords.

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The proposed ordinance is intended to address legal concerns raised by opponents of Ordinance 2903, which the city's voters approved overwhelmingly in May but which has been held up by challenges in federal court.

"I believe the new ordinance offers a constitutionally valid approach to assure that any resident of Farmers Branch is here legally," said Mayor Pro Tem Tim O'Hare, the driving force behind the city's crackdown on illegal immigrants.

The plan, which the City Council will consider Tuesday, also differs from 2903 in that it would apply to the estimated 1,600 rental houses in the city, as well as the 3,000 apartment units.

News of the proposal infuriated immigrant advocates and apartment industry leaders, who called it "hateful" and predicted more lawsuits.

"I guess I'm a little shocked that they would come back with another attempt to regulate our industry when they're right in the middle of a fairly significant lawsuit," said Gerry Henigsmann, executive vice president of the Apartment Association of Greater Dallas.

Hispanic activist Carlos Quintanilla said the plan could backfire. "That's going to mobilize huge numbers of people," he said.

The ordinance would require all adults of any ethnicity to apply for a city license before they could lease a house or apartment in the city. To obtain the license, they would have to state whether they are U.S. citizens or aliens in the country legally.



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The Clipper Pointe Apartments in Addison have recently advertised to residents of Farmers Branch. The ordinance passed in Farmers Branch prohibits apartment complexes from renting to illegal immigrants.

Anyone submitting the form and paying a \$5 fee would immediately receive an occupancy license and be allowed to move in.

But the information would be checked against a federal database. If federal authorities couldn't confirm that a renter was here legally, he or she would have 60 days to prove legal residency. Failure to do so would lead to revocation of the occupancy license. And violations by tenants or landlords could bring fines of up to \$500 per day.

The ordinance would take effect when U.S. District Judge Sam Lindsay issues his final judgment in what is known as the Villas case. That lawsuit, brought by apartment management and tenants, contends that Ordinance 2903 is unconstitutional and that it would force apartment management to make judgments about renters' immigration status. The suit also contends that the ordinance defined who is here legally differently than federal law does.

City Manager Gary Greer said the new proposal rectifies some of the concerns.

"I feel that they've come up with a good plan that kind of deals with the issues that we've had and the challenges we've had with the current ordinance," he said.

But he, too, expects a large turnout for the council meeting and has cleared the agenda of everything else.

Mr. Greer said council members got their first look at the ordinance individually Thursday and wouldn't discuss it until Tuesday's public meeting. The proposed ordinance, unlike 2903, would not go to voters.

"We think this ordinance captures the spirit of the ordinance that the voters approved while addressing the legal concerns that Judge Lindsay raised," said Michael Jung of Strasburger & Price, the law firm representing the city in the legal challenges against 2903.

Mr. Jung drafted the new ordinance and expects challenges to it, too. "We are anxious to obtain a final legal ruling as to what Farmers Branch can do with respect to illegal immigration," he said.

Mayor Bob Phelps said he didn't know enough about the proposal to say much. He opposed Ordinance 2903, not because of the intent but because of the legal costs of fighting for it.

"I still hate to see us spend a bunch of money on attorneys," he said.

William A. Brewer III of the Bickel & Brewer Storefront, a representative of the plaintiffs in the Villas case, said that ordinances similar to the Farmers Branch proposal have been struck down by the courts and that he expects it to suffer the same fate.

But he said he wasn't surprised city officials would consider a reworked ordinance.

"The appetite these folks have for using the taxpayers' money to figure out ways to make the community unfriendly to a significant portion of the people is disturbing," he said.

Lisa Graybill, legal director for the American Civil Liberties Union of Texas, said she wanted to review the measure before commenting. Marisol Perez, staff attorney for the Mexican American Legal Defense and Educational Fund, couldn't be reached.

Mr. Henigsmann of the apartment association said such an ordinance could cost the city's landlords business.

"If a resident was to come in and find out he isn't going to be able to lease an apartment until he goes down and jumps through all these hoops, they're simply not going to do it," he said. "They're going to go to Carrollton or somewhere else – and I'm not talking about illegal immigrants; I'm talking about a typical renter."

Mr. Quintanilla called the proposal crazy. "It goes to show the desperation that exists in Farmers Branch – the last stand to diminish the minority population in Farmers Branch," he said.

City Council member Ben Robinson said most Farmers Branch voters are frustrated at the federal government's failure to control U.S. borders and showed at the polls in May that they want the city to act.

Council members Tim Scott and David Koch, strong supporters of the efforts to make illegal immigrants unwelcome, did not immediately return calls.

Resident Tom Bohmier said his phone started ringing Thursday after word got around the city.

"I bet you there will be some dancing in the streets tonight," he said.

## PROPOSAL AT A GLANCE

Farmers Branch is considering a new ordinance to bar illegal immigrants from renting homes or apartments in the city. The City Council will take up the proposal at 6:30 p.m. Tuesday at City Hall, 13000 William Dodson Parkway. Key provisions:

- Any adult wishing to rent a house or apartment in Farmers Branch would have to apply for a license.
- On the application form, a prospective tenant would have to say whether he or she is a U.S. citizen. The form would note that it is a federal crime to lie about citizenship to obtain a federal or state benefit.
- Non-U.S. citizens would be asked to supply an identification number, such as a resident alien card number. Declaring that they were unaware of such a number would be sufficient.
- Anyone who completed the form and paid \$5 per prospective adult occupant would immediately receive an occupancy license and be allowed to move in.
- A city building inspector would then verify with the federal government whether a non-U.S. citizen applicant was in the country legally.
- Anyone identified as being in the U.S. illegally would have 60 days to prove otherwise.
- Enforcement would be uniform, with no differences based on "race, ethnicity, religion or national origin."
- Tenants or landlords who violated the ordinance could face fines of \$500 per day.