



NYCLU

NEW YORK CIVIL LIBERTIES UNION Nassau County Chapter

33 Front Street, Ste 205, Hempstead, NY 11550 (516) 741-8520 ▪ Fax: (516) 741-8534

Email: nassau@nyclu.org ▪ Website: www.nyclu.org/regions/nassau ▪ Myspace.com/nassaunyclu

DIRECTOR

Tara Keenan-Thomson, Ph.D.

BOARD OF DIRECTORS

E. Christopher Murray, Esq.*

President

Roy Klein, Esq.

1st Vice President

Vincent Wright

2nd Vice President

Muriel Neufeld

3rd Vice President

Rabbi Stephen W. Goodman

Recording Secretary

Kelly A. Weaver-Pelaez

Treasurer

Donald Shaffer, Esq.*

Legal Director

Barbara Bernstein*

James S. Bernstein, M.D.

Melvin C. Brenner

Bruce Castellano

Omar Chaudhry, Esq.

Parveen C. Chopra, Ph.D.

Diana Coleman

Michael D'Innocenzo

Jaime Eckl, Esq.

Marilyn Goldstein

Susan Gottehrer

Terrence Kelleher

Linda Leaf

Andrea Libresco, Ed.D.

Marianne Libretto

Martha Offerman

Donald Parker

Edward Reilly

Brian Thomson, Ph.D.

Herbert Williams

ADVISORY COMMITTEE

Salvatore Ambrosino, Ph.D.

Evelyn Bishop

Dorothy Blumner

Stuart Blumner

Frederick K. Brewington, Esq.

Bruce Clark, Esq.

Judith Clark

Leon Friedman, Esq.

Phoebe Goodman

John DeWitt Gregory

Gerald P. Halpern, Esq.

Susan Isaacs

Jerold Jacobson, Esq.

Hon. Jonathan Kaiman

Rev. Mark Lukens

Wayne N. Outten, Esq.

Greta Rainsford, M.D.

Doris Shaffer

Marvin Zevin, Esq.

* State Board Memb

Town of Oyster Bay Anti-Solicitation Ordinance May 26, 2009 Tara Keenan-Thomson

Supervisor Venditto and members of the Oyster Bay Town Board, good evening. My name is Tara Keenan-Thomson and I am the director of the Nassau County Chapter of the New York Civil Liberties Union. Since 1951, the NYCLU has been the state's leading advocate on behalf of New Yorkers' civil rights and civil liberties. I speak on behalf of the NYCLU's 48,000 members statewide, the county's 3,500 members and as a Town of Oyster Bay resident.

I speak today in strong opposition to the proposal to amend Chapter 205 of the Town Code.

The proposal seeks to outlaw the constitutionally-protected activities of day laborers seeking employment along town roadways and sidewalks, criminalizing free speech, one of America's most fundamental and prized liberties.

The concept of free speech has underpinned our republic since its inception. From the moment the original immigrants to this land moored their ships along this coast, individuals have sought to make their opinions and ideas known. At times they have done this through the printing press by publishing what seemed to be nothing other than "common sense." At other times they've done this through throwing tea parties to protest an overreaching king. And still at other times they've dragged themselves off the ships and to the roadways and sidewalks of New York to seek work and relief from an Irish famine. Since the foundation of this nation, all of these actions have qualified as free speech.

Yet today we are here to discuss an ordinance that seeks to ban the speech that our relatives--yours and mine--used to pull themselves out of famine, to help them put their lives back together after war, and to allow them to feed their families in the face of economic collapse. We are all well aware, and as it states in the ordinance's legislative intent, solicitation of employment is a form of expression entitled to the same constitutional protections as traditional speech, and that streets and sidewalks are quintessential public forums.

The authors of this bill describe it as intended to protect the "safety and security" of the town's residents. Yet the legislation clearly has a much more divisive motivation: It seeks to prevent day laborers from looking for work in Oyster Bay. It criminalizes day laborers, who are often Latino, for doing nothing more than trying to support their families. It has rightfully been dubbed an attempt to criminalize "Standing While Latino."



NYCLU

NEW YORK CIVIL LIBERTIES UNION

Nassau County Chapter

33 Front Street, Ste 205, Hempstead, NY 11550 (516) 741-8520 ▪ Fax: (516) 741-8534

Email: nassau@nyclu.org

Website: www.nyclu.org/regions/nassau

Myspace.com/nassaunyclu

One must raise the question whether this ordinance, if passed, will be equally enforced against all solicitors. Will Girl Scouts selling cookies be subject to fines? How about my neighbor's daughter who sets up a lemonade stand to save up for Hannah Montana tickets? What about the local VFW? If another horrific tragedy like Hurricane Katrina hit, are you prepared under this ordinance to fine those soliciting donations for the survivors? It is clear that this ordinance will be enforced only against our town's most recent wave of immigrants.

And while public safety is no doubt an important consideration, we do not believe that the town's purpose for this legislation is compelling. The town cannot merely invoke an interest in traffic safety without providing concrete evidence of the harm that it intends to alleviate. The town has yet to provide any evidence to support its position that banning day laborers from roadways and sidewalks improves public safety. In addition, Town Board members have never explained why current road safety laws—such as New York State's Vehicle and Traffic Laws—are inadequate. The absence of such evidence suggests that other motivations are driving this debate and support for this ordinance. These other motivations, unfortunately, appear to be based on anti-Latino and anti-immigrant sentiments.

If the town passes this overbroad amendment, it then opens itself up to costly litigation that it is almost certain to lose. Supervisor Venditto has already acknowledged publicly that similar ordinances have been found unconstitutional in federal court decisions in Arizona, California, Pennsylvania and Virginia—all of which overturned similar anti-solicitation laws. A court is likely to similarly find this ordinance is an impermissible and unconstitutional content-based restriction on First Amendment-protected speech. Supervisor Venditto and members of the Oyster Bay Town Board, I urge you to ask who here in this community wants to fork over more taxes to cover the town's legal expenses for this kind of ill-considered legislation?

The introduction of this ordinance marks a sad day for Oyster Bay and for Nassau County. For the most part, our county has steered clear of the wasteful and unjust "Standing While Latino" laws which our sister county has unfortunately adopted and which has made Suffolk infamous in communities around the nation for its intolerant anti-immigrant sentiment. Until now, cooler heads have prevailed here – lawmakers have used reason and compassion to honestly weigh the arguments and have looked for workable solutions.

So we ask, on what side of this national debate does Oyster Bay want to see itself in the pages of history? When the next chapter of America's immigrant story is told, where will your names fall? In the same section about the successors of the anti-Irish anti-Catholic Know-Nothings, today's virulently anti-immigrant and anti-Constitution Minutemen? Or will your names be reserved for the chapter that outlines the way communities came together to find common solutions that balance essential liberties with safety and security? As Thomas Paine, one of our founding heroes once said, "I offer nothing more than simple facts, plain arguments, and common sense . . ."

Thank you for your time.