



# Judicial Watch

*Because no one is above the law!*

**VIA E-MAIL AND U.S. MAIL**

July 25, 2006

Mayor Sidney A. Katz  
City of Gaithersburg  
31 South Summit Avenue  
Gaithersburg, MD 20877

**Re: Proposed Day Laborer Facility**

Dear Mayor Katz:

Judicial Watch, Inc. is a non-profit, educational organization that seeks to promote accountability in government and fidelity to the rule of law. We understand that the City of Gaithersburg is considering the establishment of a day laborer facility using taxpayer resources. We also understand that operation of the proposed facility would require the City of Gaithersburg to lease property and to contract with a third party to operate the facility, and that Montgomery County would provide additional taxpayer resources, in the form of a grant, to fund the facility's operations.

It cannot be reasonably disputed that the users of the proposed day laborer facility will include undocumented workers. Studies conducted around the nation and locally have confirmed that day laborers are predominantly persons not legally present or authorized to work in the United States. For example, a recent UCLA/University of Illinois survey of 2,260 day laborers at 264 hiring sites in 20 states, including Maryland, concluded that 75 percent of day laborers are undocumented. *See* Abel Valenzuela Jr., et. al., "On the Corner: Day Labor in the United States" (January 2006) (copy attached). Moreover, a 2003 study in nearby Fairfax County, Virginia, also confirmed that at least 72 percent of day laborers in Fairfax County lacked documentation. *See* Dep't of Systems Management for Human Service, "An Account of Day Laborers in Fairfax County" (June 2004) (copy attached). We are not aware of any reason to believe that day laborers in Gaithersburg would be dissimilar to those in these other jurisdictions or that the statistics cited in these studies would not be true of a facility operated in the City of Gaithersburg. It thus appears very likely that the proposed facility will be used by undocumented workers and employers of undocumented workers for illegal activities, namely the employment of undocumented workers.

Mayor Sidney A. Katz  
July 25, 2006  
Page 2

As you undoubtedly know, it is unlawful for employers to hire undocumented workers in the United States. Federal law expressly prohibits the recruiting or hiring of an alien if it is known that the alien is not authorized to work in the United States. 8 U.S.C. §1324a(a)(1)(A). In addition, it is unlawful to hire any individual for employment in the United States without complying with federal employment eligibility verification requirements. 8 U.S.C. § 1324a(a)(1)(B)(I). It also is unlawful to aid or abet the commission of an offense against the United States. 8 U.S.C. § 2.

Moreover, federal immigration laws make it unlawful to “encourage or induce an alien come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law.” 8 U.S.C. § 1324(a)(1)(A)(iv). It also is unlawful to aid or abet the commission of such acts. 8 U.S.C. § 1324(a)(1)(A)(v)(II). Facilitating the illegal employment of undocumented aliens may be deemed encouraging or inducing an alien to come to, enter, or reside in the United States, or at a minimum, the aiding and abetting such conduct. *See, e.g., United States v. Oloyede*, 982 F.2d 133 (4<sup>th</sup> Cir. 1992).

It is our understanding that the proposal being considered by the City contains no provision that would require day laborers using the facility to be screened for immigration status. Nor are we aware of any provision that would require employers using the facility to be informed about the requirements of federal employment and immigration laws or that would require such employers to agree to comply with federal employment and immigration laws.

While the intentions behind the proposed facility may be well-meaning, we are concerned that operation of the proposed facility may violate federal employment and immigration laws and/or aid, abet, or otherwise facilitate and encourage the violation of such laws. The facility may very well violate Maryland law as well. We remain hopeful, however, that taxpayer resources will not be misused to operate a day laborer facility in an unlawful manner.

Thank you for your attention to this matter.

Sincerely,

JUDICIAL WATCH, INC.



Paul J. Orfanedes  
Director of Litigation

Mayor Sidney A. Katz  
July 25, 2006  
Page 3

cc: Members of the City Council  
David Humpton, City Manager