THE POLITICS OF LATINO BELONGING: LAW, SCALE, & IDENTITY IN MUNICIPAL ANTI-IMMIGRANT ORDINANCES IN THE UNITED STATES

by

Arianna Martinez

A Dissertation Submitted to the
Graduate School – New Brunswick
Rutgers The State University of New Jersey
In partial fulfillment of the requirements for the degree of Doctor of Philosophy
Graduate Program - Interdisciplinary
Urban Planning and Geography
written under the direction of Briavel Holcomb
and approved by

__________________________
__________________________
__________________________
__________________________

New Brunswick, New Jersey
October 2011
ABSTRACT OF THE DISSERTATION

THE POLITICS OF LATINO BELONGING: LAW, SCALE, AND IDENTITY IN MUNICIPAL ANTI-IMMIGRANT ORDINANCES IN THE UNITED STATES

By ARIANNA MARTINEZ

Dissertation Director: Briavel Holcomb

Since 2006 approximately 60 municipalities across the United States have either proposed and/or enacted a city ordinance known as the Illegal Immigration Relief Act (IIRA). This policy trend is the focus of my dissertation. The IIRA penalizes employers and landlords who hire or rent to unauthorized-immigrants. Ordinance proponents admit the objective is to drive-out “illegal aliens.” Ultimately, the Illegal Immigration Relief Act mainly targets Caribbean, Central American, South American and Mexican immigrant communities, criminalizing their survival, by annihilating access to the public and private spaces necessary to survive. The IIRA is one powerful local policy mechanism used to territorialize space, segregate communities, and create boundaries of belonging.

Though the discussion of local immigration policy is relatively new, the role of municipal governments and planners in enacting policies to manage and manipulate how and where minority groups live, work and play has a long historical precedent. This paper
investigates the agents and forces that initiated the IIRA, the evolution of the IIRA, as well as the legal, political, economic, spatial, and demographic outcomes of the Illegal Immigration Relief Act. During 2010, I conducted fieldwork in three cities: Hazleton, Pennsylvania; Riverside, New Jersey; and Fremont, Nebraska. These cities are regionally diverse, have distinct histories, economies, and demographics. They have in common that each city enacted the IIRA between 2006 and 2010. The implications of my research findings are important given the anti-immigrant political climate in the United States and the increasing implementation of local and state anti-immigrant policies.
ACKNOWLEDGMENTS:

I am blessed with a long list of people to thank.

First, thank you to my committee. They made this project possible by emailing me relevant literature and asking me the right questions. Bria: you took me under your advisor-wing not knowing me at all, your intellectual and personal generosity helped me make it to the end. Bob: I never felt more at home at Bloustein than I did in your Social Theory course, I’m grateful for all your guidance. Clara Irazábal, James DeFilippis, Kathy Newman, Leo Vasquez and Roger Balm: I could not have imagined a better combination of professors and mentors to keep me engaged in my work and believing scholarship can have real-world impact and meaning. Lynn Astorga: Lost count of the number of graduate student bureaucratic emergencies I have had, but you were always there for me like a superhero swooping in, fixing it, and looking cool doing it.

Next, thank you to my academic kindred spirits. This journey would not have been the same without you. Aftab Erfan, Alexis Hickman, Anna Livia Brand, Carolina Sarmiento, and Vera Zambonelli: I have been searching for this community for forever. Now that I have it, I plan to cherish and nourish it. Let’s put together panels and scribble big ideas on small napkins until our hair is full of grey and our laughs are deep and raspy. Joe Costanzo: You are the perfect combination of skinny-dipping in the Pacific Ocean and rocking my intellectual world. You are outside-the-box and I am so glad we met there. Miguelina Rodriguez, Elizabeth Nisbet, Katie Himmelfarb, Natasha Tursi, and Rich Nisa: I’ve appreciated all the conversation, feedback, academic empathy, and good-old-
fashioned-friendship. Patricia Voltolini: How grateful I am for street vending, it brought us together. Even though you are all the way in Italy I feel our deep connection and you routing for me, like I route for you! Justin Steil: Spring 2010 I thought to myself, “fine I’ll team up with this tall white dude and let him drive me around Nebraska.” Best decision of my life! One year later, you are a dear-friend and a partner-in-research/crime.

To my beloved friends, you are all writers, artists, educators, and activists. This is no coincidence. I need people around who inspire me. Thank you for the inspiration Annie Chester, Allegra Mira, Camila Serna, Cara Levine, Dot Penz, Jaime Shern, Jonathan Chavez, Justin Torres, Karen Miller, Karen Zraick, Kristin Poor, Lynley Ford, Molly Stinchfield, Owen Taylor, Tammy Logan, Ting Ting Cheng, and Tuesday Smilie.

To my beloved family, you set your expectations up high. I tried to jump to reach them. Papa: Thank you for raising me to be an agitator and a storyteller! Mommie and Sharon: Thank you for raising me to be the artist rather than the audience and a feminist! Grandma/Grandpa, Ada, Aunt Laura, Uncle George, Tia Clemencia: thank you for your love and encouragement. Also a shout-out to the Colletti family for making me feel so welcomed at Sunday-dinners and celebrations.

Finally, this document is dedicated to my sister and my partner.

Pauloma: My soul mate and my heroine. Once we shared a bunk bed, now we share a city and a worldview. You fight for the causes I only write about, you challenge me, and keep me grounded. I am proud of you and defined by you. I love you.
Ryan: I am getting someone to skywrite this above Abingdon Square, “Thank you Ryan!”
You have taught me about commitment, dedication, patience, and resilience. You walked
Zorro, made delicious meals, gave me nicknames and ideas, read drafts, took me to the
movies, listened to me, laughed at me, and loved me. It is so simple and so full of magic.
Our life together is what I always hoped for – silver stallions, islands, and small triumphs.

*Going to love you till the seas run dry…*
# Table of Contents

Abstract  
iv

Acknowledgements  
v

Table of Contents  
vii

List of Tables  
viii

List of Figures  
ix

Chapter 1  
Introduction  
1

Chapter 2  
Restrictions v. Rights  
17

Chapter 3  
Hazleton  
52

Chapter 4  
Riverside  
92

Chapter 5  
Fremont  
116

Chapter 6  
On the Future of the IIRA and Latino Belonging  
173

Appendix A  
Interview Questions  
209

Appendix B  
Maps of Hazleton  
211

Appendix C  
Maps of Riverside  
218

Appendix D  
Maps of Fremont  
224

Appendix E  
Frequently used Acronyms  
234

Bibliography  
235

Curriculum Vitae  
246
List of Tables

Table 1: Census data – Hazleton PA 61
Table 2: Census data – Riverside NJ 101
Table 3: Dodge County Census 1920-2010 128
Table 4: Census data – Fremont NE 135
**List of Figures**

<table>
<thead>
<tr>
<th>Figure</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Cartoon by John Cole, <em>Times Tribune</em>, September 2010</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>Google Map of Municipalities that proposed IIRAs</td>
<td>5</td>
</tr>
<tr>
<td>3</td>
<td>Matrix of IIRA policy trajectories</td>
<td>7</td>
</tr>
<tr>
<td>4</td>
<td>Photograph of Hazleton housing</td>
<td>58</td>
</tr>
<tr>
<td>5</td>
<td>Photograph of FunFest</td>
<td>62</td>
</tr>
<tr>
<td>6</td>
<td>Photograph of Latino grocery store and Hazleton Historical Society</td>
<td>82</td>
</tr>
<tr>
<td>7</td>
<td>Photograph of Latino businesses</td>
<td>83</td>
</tr>
<tr>
<td>8</td>
<td>Photograph of Brazilian business</td>
<td>100</td>
</tr>
<tr>
<td>9</td>
<td>Photograph of Golden Triangle property awaiting redevelopment</td>
<td>108</td>
</tr>
<tr>
<td>10</td>
<td>Photograph of Brazilian business</td>
<td>112</td>
</tr>
<tr>
<td>11</td>
<td>Photograph of Fremont NE</td>
<td>116</td>
</tr>
<tr>
<td>12</td>
<td>Photograph of Fremont NE</td>
<td>129</td>
</tr>
<tr>
<td>13</td>
<td>Photograph of Fremont Beef</td>
<td>130</td>
</tr>
<tr>
<td>14</td>
<td>Photograph of Hormel</td>
<td>130</td>
</tr>
<tr>
<td>15</td>
<td>Photograph of downtown Fremont</td>
<td>132</td>
</tr>
<tr>
<td>16</td>
<td>Photograph of Latino business</td>
<td>136</td>
</tr>
<tr>
<td>17</td>
<td>Photograph of Latino business</td>
<td>136</td>
</tr>
<tr>
<td>18</td>
<td>Photograph of St. Patrick’s Catholic Church</td>
<td>157</td>
</tr>
<tr>
<td>19</td>
<td>Photograph of downtown and Fremont Tribune</td>
<td>158</td>
</tr>
</tbody>
</table>
CHAPTER ONE: INTRODUCTION

This cartoon first appeared in the *Scranton Times* in September 2010 in response to the Third Circuit Court of Appeals’ ruling against Hazleton Pennsylvania’s Illegal Immigration Relief Act (IIRA). This cartoon places the stereotypical migrant crossing the U.S./Mexico border alongside the ex-mayor of Hazleton and provocatively suggests that they have both violated federal immigration law and plan to do it again *sinverguenza* - without shame or regard for consequences. The migrant violates federal law by crossing into the United States without a work permit, visa, or authorization of any kind. The ex-
Mayor of Hazleton violates federal law by enacting local laws that overreach local power. In some ways this cartoon encapsulates the current stalemate of U.S. immigration policy. Interestingly, the cartoonist chose to portray these two men as non-threatening, though IIRA proponents portray “illegal aliens” as a threat to their public safety and quality of life, while opponents of this law portray Lou Barletta (and other champions of the IIRA) as a threat to civil rights, immigrant integration and inclusionary communities.

The Illegal Immigration Relief Act (IIRA) emerged as a local policy trend in 2006 and quickly became popular for its hard-line tactics against unauthorized immigrants. This dissertation will discuss the conditions that led to the creation and replicating of the Illegal Immigration Relief Act 2006-2010 and then analyze the impacts the IIRA has had on three municipalities that enacted it. I argue that the IIRA is part of a long trajectory of anti-immigrant municipal scale restrictions, but that if implemented it would have implications for understandings of citizenship, race, and the nation-state.

According to law professor Rigel Oliveri, the Illegal Immigration Relief Act was enacted as part of Hazleton’s “zoning and code enforcement ordinances” (Oliveri 2009, 61). The Illegal Immigration Relief Act is unique because it would localize immigration policy and criminalize unauthorized immigrants, employers, and landlords simultaneously. The IIRA fines or penalizes people who employ or rent apartments to unauthorized immigrants, therefore discouraging the immigrant population from continuing to live or work within the city limits. In addition to the housing and employment restrictions some versions of the IIRA have included anti-day laborer and English-only provisions. If in the
future the U.S. Supreme Court reverses the Third Circuit court’s decision and instead rules that the IIRA is constitutional and municipalities like Hazleton can then implement and enforce it, the IIRA would be arguably the most exclusionary local law to date.

A resident of San Bernardino, California proposed the first Illegal Immigration Relief Act in April 2006. The San Bernardino city council voted (4-3) against the IIRA and though proponents attempted to collect signatures to push for a public referendum a judge blocked it and the ordinance was dropped. Joseph Turner, who originated the IIRA was a prominent member of Save Our State.¹ The Save Our State organization was named for the original title of Proposition 187 and continues to be an active anti-immigrant organization in California. Proposition 187 was enacted by public referendum in 1994, but was never implemented because the Ninth Circuit Court of Appeals ruled Proposition 187 unconstitutional. Had it been implemented it would have denied public services including health care and education (among other things) to unauthorized immigrants. In many ways Proposition 187 was a foreshadowing of the local and state immigration policies to come.

¹ From Save Our State’s mission: “To educate California’s native born, legal US citizens, and naturalized US citizens, about the effects that illegal immigration and increased legal immigration may have on their quality of life; economy; ability to control their government and its’ expenditures; and their rights and options as an affected class of persons. To advocate for California’s native born legal US citizens in the areas of education; business and employment practices; security and safety; access to, and control of government and services; and inclusion in public policy and process. To advocate for state and national sovereignty amidst the pressures of evolving world or regional governments”(www.saveourstate.info).
By 2006 immigration was a household conversation and media coverage of it was at a high not seen since the Proposition 187 controversy over a decade earlier. This was in part because the U.S. Congress was debating new federal immigration policy. There was intense controversy over whether the new policy should prioritize tougher enforcement or be a comprehensive bill that created a path to citizenship for unauthorized residents. Media coverage also focused on the immigrant rights rallies in the spring of 2006 that were organized in response to House Bill 4437, which would have criminalized unauthorized immigrants, employers and social service providers. In four months an estimated 3.5 to 5.1 million people attended rallies in over 160 cities across the country (Benjamin-Alvarado, DeSipio, and Montoya 2009, 718). Congress failed to pass a substantive immigration overhaul and many people on both sides of the issue were left frustrated (Esbenshade and Obzurt 2007). The national political climate and discourse around immigration was polarized. Still it came as a surprise to some when municipalities entered this polarizing debate with a forceful local policy.

In June 2006, the mayor of Hazleton, Pennsylvania drafted a piece of local legislation that closely resembled San Bernardino’s IIRA. Hazleton adopted the first IIRA in July 2006. The Hazleton ordinance made national news and within months copycat ordinances existed around the country. The difference between San Bernardino’s IIRA and Hazleton’s ordinance is that in San Bernardino the IIRA was proposed but never enacted, while in Hazleton the IIRA was enacted but never enforced. This is significant because many municipalities proposed an IIRA, but few municipalities enacted it. Thus far not one has been implemented. The Fair Immigration Reform Movement and the Puerto
Rican Legal Defense and Education Fund each compiled lists 2006-2007 of localities where immigration related ordinances had been proposed. Both lists compiled include a wide variety of both pro- and anti-immigrant ordinances. The most cited total number of local immigrant-related laws is “131 cities and counties in thirty states” between May 2006 and September 2007 (Esbenshade and Obzurt 2008). However, political scientists Ramakrishnan and Wong having consulted the same lists concluded that, “98 municipalities had proposed restrictionist ordinances and 78 had proposed pro-immigrant ordinances” and of the restrictionist ordinances proposed about 55 percent passed (Ramakrishnan and Wong 2010, 80). In other words, according to Ramakrishnan and Wong approximately 53 municipalities passed restrictionist ordinances. Even within the restrictionist policies there is a variety of types of laws: maximum occupancy laws, anti-day laborer laws, anti-solicitation laws, anti-driver’s license laws, business license laws, or English-only laws.

Figure 2 Google Map of Municipalities that proposed IIRAs 2006-2010
For my purposes I examined these two lists to determine which municipalities had proposed ordinances resembling Hazleton’s IIRA that dealt directly with housing and employment. I have cross-referenced the Fair Immigration Reform Movement and the Puerto Rican Legal Defense and Education Fund lists with media reports and with other scholars that relied on these lists. By my count, the number of Hazleton-like ordinances proposed between May 2006 and September of 2007 is approximately 60 and since then another two municipalities have made national headlines for proposing an IIRA, Fremont, Nebraska and Summerville, South Carolina [See Figure 2]. It is admittedly an imperfect list because some cities proposed the housing portion of the IIRA without the employment provisions and other cities did the reverse. I chose to focus on municipalities that included housing and employment restrictions in their IIRA because housing and employment are central to a person’s survival.

After Hazleton enacted its IIRA with much fanfare there was an explosion of copycat ordinances in the state. Pennsylvania had by far the most IIRAs proposed. At least 30 copycat ordinances (approximately 50 percent of the total) were proposed in Pennsylvania and a number of localities like Bridgeport, Mahanoy City, and West Mahanoy Township also enacted it. Some cities like Allentown had an IIRA proposed then quickly rejected it, while other cities decided to table their IIRA until the courts ruled on the constitutionality of Hazleton’s IIRA. New Jersey had the second largest number of copycat ordinances proposed with five. Riverside Township was the only
municipality in New Jersey that enacted an IIRA and the first locality nationally to rescind it.

Figure 3 Matrix of IIRA policy trajectories

Municipalities had a variety of reactions to a proposed Illegal Immigration Relief Act. The main reactions included enacting, tabling, or rejecting. Of the municipalities that did enact an IIRA, there have been three possible outcomes: ongoing legal challenges, a legal injunction placed on the IIRA by a judge, rescinding the IIRA, and/or altering it in some way to make it legally defensible enough to implement.

Of the municipalities that proposed an IIRA ordinance, there have been a few trajectories: some city councils voted against it, other towns are waiting on the final outcome of the Hazleton case (currently being petitioned to the U.S. Supreme Court) to take further
action, and others have decided against pursuing an ordinance because they are worried about legal challenges, legal fees and negative publicity. Even discussing the possibility of an IIRA created conflict in many cities. Enacting, even without implementation has meant lasting spatial, legal, political, and economic impacts.

<table>
<thead>
<tr>
<th>City:</th>
<th>State:</th>
<th>Proposed/Enacted:</th>
<th>Status:</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Bernardino</td>
<td>CA</td>
<td>Proposed</td>
<td>Failed to pass city council vote and did not go to public vote</td>
</tr>
<tr>
<td>Hazleton</td>
<td>PA</td>
<td>Enacted</td>
<td>3rd Circuit court ruled against Hazleton and the IIRA, case is being appealed to U.S. Supreme Court</td>
</tr>
<tr>
<td>Riverside</td>
<td>NJ</td>
<td>Enacted</td>
<td>Rescinded 2007</td>
</tr>
<tr>
<td>Escondido</td>
<td>CA</td>
<td>Enacted</td>
<td>Injunction barring</td>
</tr>
<tr>
<td>Cherokee County</td>
<td>GA</td>
<td>Enacted</td>
<td>Injunction pending Hazleton decision</td>
</tr>
<tr>
<td>Valley Park</td>
<td>MO</td>
<td>Enacted</td>
<td>9th Circuit court allowed ordinance after housing provision was removed, requires employers to use E-Verify. The U.S. Supreme Court heard a similar case in 2010, decision is expected shortly.</td>
</tr>
<tr>
<td>Farmers Branch</td>
<td>TX</td>
<td>Enacted</td>
<td>City seeking legal appeal of injunction – housing provision was enacted by popular vote</td>
</tr>
<tr>
<td>Carpentersville</td>
<td>IL</td>
<td>Proposed</td>
<td>Tabled pending Hazleton decision</td>
</tr>
<tr>
<td>Avon Park</td>
<td>FL</td>
<td>Proposed</td>
<td>Failed to pass city council vote</td>
</tr>
<tr>
<td>Fremont</td>
<td>NE</td>
<td>Enacted</td>
<td>Enacted by popular vote after city council rejected</td>
</tr>
<tr>
<td>Summerville</td>
<td>SC</td>
<td>Proposed</td>
<td>Failed to pass city council vote</td>
</tr>
</tbody>
</table>

Hazleton, Pennsylvania and Riverside, New Jersey are two of my three case studies. They were the first municipalities to enact IIRAs in the states with the largest number proposed. Both municipalities enacted the IIRA in the summer of 2006 when the ordinance became popular, received national media attention and had lawsuits filed against them by the American Civil Liberties Union (ACLU) and other law firms.
Hazleton is arguably the most significant case because it is establishing legal precedent in the courts. Riverside acts as interesting comparison because even though it rescinded its IIRA and did not pursue it in the courts, the town has had lasting impacts from the IIRA controversy.

Escondido California, Farmers Branch Texas and Valley Park Missouri are three other municipalities that fit this criterion.² They were the first in their respective states to enact the IIRA in the summer of 2006, received national media attention, and had lawsuits filed against them. These three localities were not my first choice for case studies because each one revised their original IIRA to include only the hiring provision or the housing provision. Escondido and Farmers Branch both dropped the hiring law while Valley Park dropped the housing law. Though I did not choose them as case sites, I do consider them to be important and my hope is that in the future I can expand this study to include these three localities. Escondido is distinctive because it was the largest city to enact an IIRA and because it led to California state bill AB 976 that prohibits cities and counties from enacting ordinances requiring landlords to check the immigration or citizenship status of their tenants and prohibits landlords from inquiring into their tenants’ status. Farmers Branch is crucial because like Hazleton it is still pursuing legal challenges and because it was the first IIRA to be enacted by a popular vote. Valley Park is relevant because it was enacted in a municipality that had no immigrant population and because after two legal challenges the town dropped the housing section of IIRA and then the U.S. District Court

² Cherokee County Georgia also fits the criteria, however because it is a county and not a municipality I decided not to include it.
for the Eastern District of Missouri upheld the employment provision separately.\(^3\) Avon Park, Florida and Carpentersville, Illinois also received national attention 2006-2007. Avon Park’s mayor proposed the IIRA and it passed the first city council vote, but the *Miami Herald* reported that the town’s one African American city councilmember, Brenda Gray voted ‘No’ in the second and final reading of the IIRA preventing it from being enacted (Woods 2006). Local newspapers attributed the win for IIRA opponents to the political mobilization of regional immigrant groups. Carpentersville was the subject of a lengthy article in the *New York Times* about the controversy over the IIRA. The city eventually tabled the ordinance after many tense public meetings. Fortunately, these two municipalities did not enact the IIRA so I did not choose to include them as case sites.

My third case study site is Fremont, Nebraska. Fremont is unique because it was the first IIRA enacted since 2007 and because after two years of controversy it was enacted by public referendum in June 2010. Unlike Hazleton and Riverside, Fremont was not enacted in the summer of 2006 by city council vote. It does however fit the remaining important criteria for case selection. It was the first IIRA proposed in Nebraska, it received national media attention, has been sued by the ACLU and Mexican American Legal Defense Fund (MALDEF), and includes hiring and housing provisions. Fremont is also currently in litigation.

\(^3\) The U.S. Supreme Court ruled on U.S. Chamber of Commerce et al. v. Candelaria. The court decided that Arizona can enforce the 2007 Legal Arizona Workers Act (LAWA) law that makes E-Verify mandatory for employers in the state. This ruling will have implications for Valley Park’s employment provision that relies on E-Verify and future rulings about the employment section of the IIRA. The Immigration Reform Law Institute and FAIR helped to draft LAWA and were legal counsel.
Ultimately, local governments that enacted the IIRA did so to [re]produce “illegal” resident status at the municipal scale. With this goal in mind the language and content of the IIRA has been revised repeatedly in the hopes of crafting a legally defensible ordinance. Opponents consider the IIRA’s purpose to be to segregate the established White population from the perceived threat of Latino immigrants. Proponents use the ordinance as a political call-to-arms against unauthorized immigrants and believe the ordinance will demonstrate to state and national leaders their dissatisfaction with the federal government’s failure to strictly enforce current immigration laws or establish an updated policy. Supporters of these ordinances make no mistake that “illegal is illegal” and are unapologetic for racial profiling and territorializing of space by race, cultural norms and immigration status. This dissertation is concerned with the political processes that lead to the IIRA and the impacts of attempting to criminalize housing and employment.

The respective geographic location, history, socio-political-economic conditions, total population, percentage of Latino immigrants, and even what countries their immigrant populations hail from vary widely between Hazleton, Riverside, and Fremont. Yet, regardless of history, contemporary conditions and demographic differences, enacting an Illegal Immigration Relief Act has been enough to influence a number of shared experiences and outcomes for these municipalities. Before beginning the research I speculated, what makes a city ripe for an anti-immigrant ordinance? Is it the post-industrial neoliberal economy and class resentment? Good old-fashioned racism in the face of demographic change? Is it one leader who sees an opportunity to be a hero and
goes too far? I wondered what the impacts of the IIRA were and whether it caused “brown flight?” The following are the formal research questions used to conduct the research for this dissertation.

**Research Questions**

1. Who have been the agents and forces that initiated and produced the IIRA?
2. What stresses did the municipality undergo leading up to enacting an IIRA?
3. How has the IIRA evolved?
4. What spatial, legal, economic, and political impacts resulted from enacting an IIRA?

**Methodology**

Three case studies were conducted using qualitative research methods. I relied primarily on document analysis, interviews, and direct observation. First, key documents were gathered: records of city council meetings (agendas and minutes), and all versions of the IIRA. Then, Census data for Hazleton, Riverside and Fremont was gathered for 1990, 2000, and 2010 as well as American Community Survey data for 2005-2009. Maps were made reflecting this demographic data using Social Explorer (www.socialexplorer.com). Local, regional and national newspaper articles, blogs, websites, and archival research from local public libraries were also reviewed. I traveled to each location between August and December 2010 and performed direct observation. Over fifty semi-structured interviews were conducted with key informants from these municipalities. These key informants were city council members, city attorneys, police chiefs, school superintendents, local Chamber of Commerce directors, small business owners, ordinance proponents, ordinance opponents, community activists, landlords, and Latino residents.
<table>
<thead>
<tr>
<th>Research Question</th>
<th>Topics</th>
<th>Data/Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What have been the agents and forces that initiated and produced the IIRA ordinances?</td>
<td>- Was the IIRA initiated and produced top down or bottom up?</td>
<td>Documents: Public meeting records, Statements of interest groups, Interest group websites</td>
</tr>
<tr>
<td></td>
<td>- What is FAIR’s role?</td>
<td>Qualitative Research: Interviews with policymakers, interest group representatives</td>
</tr>
<tr>
<td></td>
<td>- What other organizations were involved?</td>
<td></td>
</tr>
<tr>
<td>2. What were the stresses that the municipality was undergoing leading up to enacting an IIRA?</td>
<td>- Was there rapid population increase?</td>
<td>Documents: Census data, court transcripts, Task Force reports, newspaper articles &amp; opinions</td>
</tr>
<tr>
<td></td>
<td>- Were residents of the city making code complaints?</td>
<td>Qualitative Research: Interviews with policymakers, public officials and business owners/landlords</td>
</tr>
<tr>
<td></td>
<td>- Was their evidence of a drain on city resources?</td>
<td></td>
</tr>
<tr>
<td>3. How has the IIRA evolved?</td>
<td>- What are the goals of the IIRA?</td>
<td>Documents: Local policy documents including all versions of the IIRAs, newspaper articles</td>
</tr>
<tr>
<td></td>
<td>- Is the current language of the IIRAs different from original versions?</td>
<td>Qualitative Research: Document analysis, Interviews with policymakers and legal representation</td>
</tr>
<tr>
<td></td>
<td>- How similar are the IIRAs to each other?</td>
<td></td>
</tr>
<tr>
<td>4. What kinds of outcomes resulted from enacting an IIRA?</td>
<td>- Were politicians punished or rewarded politically for their position?</td>
<td>Documents: Newspaper articles, public records, Census data</td>
</tr>
<tr>
<td></td>
<td>- Did businesses suffer?</td>
<td>Qualitative Research: Interviews with politicians, policymakers, business owners, landlords, activists</td>
</tr>
<tr>
<td></td>
<td>- Were other types of local policies enacted to compliment the IIRA?</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Have there been demographic changes?</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Are there state level policies being initiated?</td>
<td></td>
</tr>
</tbody>
</table>
Central Arguments of the Thesis

1. In Hazleton and Riverside the city mayors initiated the IIRA. In Fremont a longtime city councilmember initiated the IIRA, but when it failed to pass a city council vote grassroots activists fought for a public referendum. In all three municipalities there were local ordinance proponents and opponents. In all three municipalities there is evidence that the Federation for American Immigrant Reform (FAIR) was involved first in the writing or rewriting of the ordinances and then as legal council after the IIRAs were met with legal challenges. More needs to be uncovered about the relationship between FAIR and the municipalities that enacted IIRAs, but I present compelling findings that FAIR did contribute to producing the IIRA. If one organization is shaping immigration policy through the “backdoor” (Varsanyi 2008), the public should know something about their methods and agenda. Ultimately, agents and forces at multiple scales co-produced the IIRA.

2. The justifications given by public officials for the IIRA were the stresses placed on the city by unauthorized immigrants and the lack of federal enforcement. Though these three municipalities had experienced some population change and there was public discussion about crime, abuse of public services and overcrowding, for the most part, with the possible exception of Riverside and housing overcrowding, these municipalities were not experiencing stresses due to population growth or new immigrants. In fact, the total populations and population densities of these cities were stagnant for over twenty years and if not for new immigrants these municipalities would likely have been shrinking. In Hazleton and Fremont public officials including the police chief, school superintendent,
and representatives from various other public agencies and services made statements on record confirming this.

3. The following chapters discuss the objectives of the IIRA, the evolving language and purpose. I conducted a close read of the text of each municipality’s first IIRA as well as subsequent versions. Hazleton, Riverside and Fremont each revised their IIRAs at least once and though the goals remain largely the same, the language and project is modified. Each case’s IIRA studied evolved between its first and final version. Nevertheless, the text of each IIRA resembles the others. These cases are more than locally distinct narratives. They are part of a larger political movement.

4. Though the IIRA has never been implemented there have been concrete impacts on these municipalities. The following chapters analyze how business owners, landlords, local politicians and Latino residents have been impacted.

Structure of the Thesis

This dissertation has six chapters. Chapter two draws on four major literatures to lay the historical and conceptual framework for this dissertation. I also present the recent literature about Illegal Immigration Relief Acts. Chapter three is a case study of Hazleton, Pennsylvania. On July 13, 2006 Hazleton, Pennsylvania became the second city in the country to propose an Illegal Immigration Relief Act (IIRA) and the first to enact it. Hazleton is widely considered the most important case study about local ordinances that target the hiring and housing of unauthorized immigrants. It set the policy precedent in 2006 and since it has also set legal precedent in the courts.
Chapter four is a case study of Riverside, New Jersey. Riverside was one of the first municipalities to copy the Hazleton IIRA. Chapter five is a case study of Fremont, Nebraska. Fremont is over a thousand miles from Hazleton or Riverside, and the IIRA was not proposed there until 2008. Still, Fremont is an important progression of the processes and language of the IIRA. These three cases share many similarities and as many differences. Chapter six revisits the main arguments of the dissertation and suggests future research.
CHAPTER TWO: RESTRICTIONS V. RIGHTS

A great deal of literature went into shaping this work, highlighted here are the most influential. By linking together a diverse group of literatures I show historical precedent for the IIRA and the theoretical framing of the issue including the construction of Latino identity, space, law, and citizenship. I begin this section discussing the growing literature on the increase and impact of Latinos on cities and towns in the United States, in particular in places unaccustomed to immigrant communities and diversity. Next, I discuss theories of citizenship and exclusion, and then move on to discuss contemporary examples of exclusionary state and local policies targeting Latinos. Finally, I end with the small literature written since 2006 about Illegal Immigration Relief ordinances – the focus of my study.

New Latino Arrivals

At the beginning of the 21st century Magical Urbanism: Latinos reinvent the US City (Davis 2001) was published. The title is a not-so-subtle reference to magical realism, a literary genre that emerged out of Latin America more than sixty years ago. (What is worth noting about this literary style is that it locates the fantastical in common, everyday settings so the reader can readily accept them). Mike Davis’ book Magical Urbanism is about the changing demographics of American cities, the “Latinization” of these metropolises and what, if anything, should be the policy response. This book was one of the first in the 21st Century to address this topic and encouraged an explosion of social science literature. It investigated the spatial, cultural, economic, and political implications
of Latin Americans being the newest and largest American minority group.\textsuperscript{4} Davis’ clever allusion to magical realism begs the question will these fantastical changes be readily accepted?

To better understand this question and to begin to answer it, one should refer to the many articles and books written since 2000 that discuss the contemporary Mexican, Central American, Caribbean and South American migration to the United States. This literature straddles sociology, geography, demography, urban planning and border studies. Thanks to this body of work, we now know much more about the impact of new immigrants and Latinos on the United States.

Many scholars agree that complex economic factors explain the rise in the number of immigrants, including unauthorized immigrants, living and working in the United States. In a new book about local immigration policies entitled \textit{Taking Local Control} (Varsanyi 2010), Monica Varsanyi attributes this to two main factors, the first being the impact of the North American Free Trade Agreement (NAFTA) and other push factors from Latin America. The second, she attributes to the powerful pull factor of “continued and increasing demand by business and corporate interests for low-wage, flexible, relatively unregulated labor in the United States particularly in construction, hospitality, home care, and service industries” (Varsanyi 2010, 9). Within migration studies there is a developed literature about why people migrate that explains the many “push” and “pull” factors. For the purpose of this dissertation I am concerned with what happens once people arrive.

\textsuperscript{4} Other scholars wrote on this subject matter prior to Davis.
There are two main destination classifications for immigrants, “traditional gateways” and “non-traditional gateways.” Traditional gateways include large cities (Los Angeles, New York City, Chicago, Miami) and states (California, Texas, New York, New Jersey and Florida), while non-traditional gateways include the Midwest, the South, and other regions like suburbs and rural areas where influxes of immigrants and/or Latinos were uncommon before the 1990s. Most of the IIRAs have been proposed in non-traditional new destinations either in the South, Midwest, or suburban communities, especially in places where there are immigrant labor hubs like meat packing plants, construction and other manufacturing or low-skilled industry.

The following is a small summary of the expanding literature about Latino immigrants and immigration. Some excellent examples of this field are in a number of edited books including *Hispanic Spaces/Latino Places* (Arreola 2004), *New Destinations: Mexican immigration in the United States* (Zuniga and Hernandez-Leon 2005), *Latinos in the New South* (Smith and Furuseth 2006), *New Faces in New Places* (Massey 2008), and *Latino Immigrants and the Transformation of the New South* (Odem and Lacy 2009). The main commonality throughout this literature is that new Latino immigrant communities bring spatial, economic and cultural change, beyond this other reoccurring themes are issues of global economic restructuring, visibility, and the degree to which there is integration. This literature is also valuable because it demonstrates how various municipalities respond dramatically differently to new immigrants and how often one city will change responses back and forth (between pro-immigrant and anti-immigrant responses) over time.
Latinos in the New South: Transformations of place describes how the “Nuevo South” can only really be understood by connecting the changing demographics, culture and local economy to “broader processes of restructuring and globalization” (Smith and Furuseth 2006, 15). The South has historically been bi-racial with a great deal of tension and struggle between races, but the influx of new immigrants is changing the ethnic and cultural lines. Similarly, New Destinations: Mexican immigration in the United States depicts the “new geography of Mexican immigration” mostly in the Midwest and South, each chapter is a unique case and all are deeply connected to the restructuring of the local economy and globalization. As in Hazleton, Riverside, and Fremont the economic restructuring and immigration is often connected to either meatpacking, construction or manufacturing. Two chapters of particular importance in New Destinations for understanding the political economy of Fremont, Nebraska are “Latinos Have Revitalized Our Community: Mexican Migration and Anglo Responses in Marshalltown, Iowa” (chapter 6) and “The Great Plains Migration: Mexicanos and Latinos in Nebraska” (chapter 2).

Another contribution of New Destinations is that editors Zuniga and Hernandez-Leon included chapters that discuss issues of visibility, family and the possibility for integration, “most new destinations are smaller towns and cities where it is impossible for migrants to go undetected,” therefore instead of the contrast in large cities of either “ghettoization or integration” there tends to be two “separate social worlds” (Zuniga and Hernandez-Leon 2005, xxvii). This process has also been coined “parallel universes” (Nelson and Hiemstra 2008). In Hazleton, Riverside, and Fremont, new immigrants even
when relatively small in numbers were easily visible and detected by longtime residents. This dynamic of two separate social worlds or parallel universes was evident in each of the case studies in this dissertation.

In Apple Pie & Enchiladas, an in-depth ethnographic case study of small rural towns in the Midwest, authors Millard and Chapa had expected greater integration in the workforce, schools and churches and found that demographic change does not necessarily mean a Mexicanization. They discuss the many successes and failures of rural Midwestern communities in accommodating newcomers. Prior to the IIRA being enacted only Riverside could make a claim to experiencing a Brazilianization. Hazleton had not yet undergone its Dominicanization and Fremont has still not undergone a Mexicanization (although many residents are convinced and concerned that it is in the beginning stages). Thus far these cases have also failed in accommodating newcomers because of enacting the IIRA. There are however potential opportunities for integration going forward.

**Constructing Citizenship, Locating Law, and Right to the City**

Early exclusionary policies in the United States targeted the perceived cultural, political, and economic threat of demographic change: Chinese immigration during the late 1800s, Mexicans-Americans and Mexican migrant laborers in the early 1900s, and the rural to urban migration of African Americans after the Civil War (Ngai 2004, Salyer 1995 and Thomas 1997). Throughout the 1880s Chinese immigrants legally contested well-known exclusionary policies like the Chinese Exclusion Act as well as lesser-known anti-
Chinese laws like the Anti-Coolie Act of 1862 and a local San Francisco ordinance that prevented Chinese residents from operating laundry businesses. The latter controversy culminated in the Supreme Court Case, Yick Wo v. Hopkins, Sheriff (Salyer 1995).

Mae M. Ngai’s book *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Ngai 2004) describes the “historical origins of the ‘illegal alien’ in American law and society and the emergence of illegal immigration as the central problem in U.S. immigration policy in the twentieth century” (Ngai 2004, 3). She gives historical and legal context to the migration of Filipinos, Mexicans, Chinese and Japanese to the United States. One of her central arguments is that, “restriction not only marked a new regime in the nation’s immigration policy,” but that it is also “deeply implicated in the development of twentieth-century American ideas and practices about citizenship, race, and the nation-state” (Ngai 2004, 3). As the Illegal Immigration Relief Act is about “illegal aliens” as well as citizenship, race and the nation-state, it seems right to begin with this history.

The contemporary political debate surrounding immigration policy does not recognize that laws constructed and formed the notion of an illegal alien nor does it acknowledge or grapple with the complex history of American immigration policy. Ngai provides historical and legal context to the concept of illegal alien, but I also rely on the socio-legal theories she uses and generates to better understand the motivations and goals of the IIRAs. In particular, I am interested in her chapters on Mexican-Americans and Mexican migrants, as they were the first Latinos in the country, long before the ethnic category had been defined.
Ngai makes a strong case that “restrictive immigration laws produced new categories of racial difference” and that immigration laws were used to “solidify the legal boundaries of the white race” (Ngai 2004, 7). There are many examples in the text of how this was achieved. One example closely connected to the IIRA was the “application of Jim Crow segregation laws to Mexicans in the Southwest, especially in Texas, and at the federal level, the creation of “Mexican” as a separate racial category in the census” (Ngai 2004, 7). Other states like Arkansas and Missouri also had “white only” places that in addition to African Americans specifically excluded Mexicans (Ngai 2004, 147). This is an example from over ninety years ago of local ordinances targeting Latinos that began blurring the lines of what constituted national and local immigration policy.

Three significant dates that changed U.S. immigration policy radically were 1917 when the first appropriation of funds were allotted to enforce deportations, 1924 when the statute of limitations were eliminated on deportation, and 1929, the year illegal entry became a separate criminal offense. As Ngai points out, “the illegal immigrant cannot be constituted without deportation – the possibility or threat of deportation, if not the fact” (Ngai 2004, 58). In other words, without deportation there would be no such thing as an illegal immigrant. This twelve year period between 1917 and 1929 is when the federal government constructed the illegal alien through criminalizing entry into the country, making deportation something that could happen any time or place and began funding this project. Due in large part to these new federal policies, the U.S./Mexico border was rearticulated as a “cultural and racial boundary” and “as a creator of illegal immigration” (Ngai 2004, 67).
Leo R. Chavez (2008) expands on this view, analyzing contemporary social, political and cultural attitudes towards Latinos in his book *The Latino Threat: Constructing Immigrants, Citizens and the Nation*. He states that:

Being an unauthorized migrant, an “illegal,” is a status conferred by the state and it then becomes written upon the bodies of the migrants themselves because illegality is both produced and experienced. But illegality itself is a status resulting from political decisions made by governmental representatives who could just as well have decided to allow migrants to enter under the sanction of law…the migrants themselves are the same people (Chavez 2008, 25).

After the 1920s, Ngai explains:

The view that the undocumented immigrant was the least desirable alien of all denotes a new imagining of the nation, which situated the principle of national sovereignty in the foreground. It made state territoriality – not labor needs, not family reunification, not freedom from persecution, not assimilation – the engine of immigration policy (Ngai 2004, 62).

The IIRAs are built in this tradition of framing immigrants as undesirables, making the goal to remove unauthorized immigrants from the interior of the country, (re)defining borders, and privileging the principle of sovereignty above all else. Furthermore, the racialization of Mexicans and the use of Jim Crow coupled with Ngai’s claim that, “during the 1920s the legal traditions that had justified racial discrimination against African Americans were extended to other ethno-racial groups in immigration law through the use of euphemism and the invention of new categories of identity” (Ngai 2004, 9), seems to set a historical precedent for the IIRA.
June Manning Thomas and Marsha Ritzdorf in their edited volume *Urban Planning and the African American Community* (Thomas and Ritzdorf 1996) also focus on this time period. The book covers, among other topics, the creation of zoning, zoning as a racist and segregationist project and racially restrictive covenants. The authors state that, “by the 1920s, anti-immigrant and anti-Black sentiment was rampant among American Whites…the major connection of these events with urban planning occurs with the rise of residential controls” (Thomas and Ritzdorf 1996, 5). The book goes on to document how from the 1920-1960s African Americans were involved in numerous legal battles against zoning and various other types of local ordinances that restricted where and how Blacks could live. Many scholars have written related work on the ways in which zoning and planning law has been used to preserve the dominant group’s values about work, family, private property, ownership and cultural practices. The history of cities seeking “legally defensible” ways to be exclusionary is not new. It is with mindfulness of this history that I approach the IIRAs.

These crucial texts reveal the connections between belonging, citizenship, race, the nation-state and law. Ngai says of her book, “*Impossible Subjects* proceeds from the contention that law not only reflects society but constitutes it as well” and that “law normalizes and naturalizes social relations” (Ngai 2004, 12). The legal geographies literature that I have relied on for a theoretical framework proceeds from similar notions, but goes a step further, connecting law to society and then to space.
The Legal Geographies Reader, edited by Nicholas Blomley, David Delaney and Richard T. Ford, begin by stating, “social reality is shaped by and understood (or constituted) in terms of the legal, it is also shaped by and understood in terms of space and place” (Blomley, Delaney and Ford 2001, xv). They explain how spatiality is part of the material form that power is given and how this spatialization is often necessary for power. In their words, “much of social space represents a materialization of power and much of law consists in highly significant and specialized descriptions and prescriptions of the same power” (Blomley, Delaney and Ford 2001, xix). This leads them to the conclusion that the spatial and the legal are at times indistinguishable. From the beginning the authors use provocative examples and raise questions of interest to the framing of the IIRA. “The trespasser and the undocumented alien, no less than the owner and the citizen, are figures who are located within circuits of legally defined power by reference to physical location vis-à-vis bounded spaces” (Blomley, Delaney and Ford 2001, xviii). Government officials and proponents of the IIRA often refer to themselves as “legal” and unauthorized immigrants as “illegal” – this acknowledges that they are all “located within circuits of legally defined power.” What they do not acknowledge is that this power is not fixed or innate. Hazleton, Riverside, and Fremont are physical locations, but if implemented, the “legally defined power” of the IIRA would cement them as locally bounded spaces (as opposed to nationally bounded spaces).

The Legal Geographies Reader quotation from the preface brings attention to it as a potential area of study, “the connections between the legal and the spatial in the world may, in some situations, be so tight as to be seen as identical. “Is the state a legal or
spatial entity? Is eviction a legal or spatial state of affairs? Is deportation a legal or spatial experience?” (Blomley, Delaney and Ford 2001, xix). All three of these questions have implications for the IIRA. If enforced the IIRA would likely result in evictions and deportations, not to mention a redefining of the state and its role. Even not having been implemented thus far, Hazleton, Riverside, and Riverside have had common legal and spatial experiences.

Two chapters in this book of particular theoretical relevance are “The annihilation of space by law: The roots and implications of anti-homeless laws in the United States” by Don Mitchell and “The boundaries of race: Political geography in legal analysis” by Richard Ford. Don Mitchell discusses law, space, and homelessness. Mitchell also investigates these theories and policies in The Right to the City: Social justice and the fight for public space (Mitchell 2003). In The Legal Geographies Reader he states that, “the intent is clear: to control behavior and space such that homeless people simply cannot do what they must do to survive without breaking laws. Survival itself is criminalized” (Mitchell 2001, 9). There are many useful connections to be made here. Jobs and housing are the most important necessities for all people, but particularly for new immigrants. Having criminalized both jobs and housing the Illegal Immigration Relief Act if enforced would succeed in criminalizing survival. Parallel to Mitchell’s critique of anti-homeless laws, the IIRA threatens to annihilate the spaces of, as well as new immigrants themselves. Municipalities that enacted an IIRA were very consciously trying to use law to create and perpetuate segregated spaces. Attorney Kris Kobach and others have been vocal about trying to create a legally defensible ordinance. Not being
able to fully prohibit all Latino immigrant movement in the town, the “best” the law could do was to restrict working and renting an apartment. Expanding on his concept of “the annihilation of space by law” Mitchell says, “they have turned to a legal remedy that seeks to cleanse the streets of those left behind by globalization and other secular changes in the economy by simply erasing the spaces in which they must live” (Mitchell 2001, 7).

Mitchell goes on to say:

There are, as we shall see, numerous other reasons for criminalizing the homeless, reasons that revolve around insecurity in an unstable global market and a rather truncated sense of aesthetics developed to support the pursuits of capital…The hope is simply that if homeless people can be made to disappear, nothing will stand in the way of realizing the dream of prosperity, social harmony, and perpetual economic growth (Mitchell 2001, 9).

The parallels between the arguments for anti-homeless policy and the arguments made to justify anti-immigrant policy are striking.

In “The boundaries of race: Political geography in legal analysis,” Richard Ford asserts that residential segregation leads to isolation, disempowerment and oppression. He also argues that, “Law is implicated in the creation and perpetuation of racially segregated spaces. Explicit legal rules may require or prohibit the movement of certain individuals. In the absence of formal segregation, a host of more subtle mechanisms enforce segregation with almost equal effectiveness” (Ford 2001, 88). According to Ford laws do not need to be explicitly racist, they just need to perpetuate or reemphasize the status quo. The IIRA is not explicitly racist, in fact it never mentions race, but it attempts to reestablish the status quo of immigration enforcement and exclusion of new minority groups using housing restrictions. The ultimate goal of the IIRA is formal segregation, to
have immigrants leave town, however the ordinance uses the indirect mechanisms of fining landlords and employers to achieve these objectives.

Ford discusses *Virginia of Arlington Heights v. Metropolitan Housing Development Corp.* where the court accepted that the town wanted single-family housing and rejected that it was motivated by racial or class prejudice. Even more interestingly, the court accepted the town’s wishes because it was the product of a democratic process. The IIRA enacted in Fremont, Nebraska was the product of a democratic process as well. The Nebraska Supreme Court did not rule that the IIRA was permissible, but it did rule that the Fremont city government could not block the public referendum because proponents had gone through the proper channels. In other words, the state Supreme Court protected the ordinance proponents’ rights to a democratic process even on an ordinance that might be unconstitutional. However, the potential for a democratically made decision about the Illegal Immigration Relief Acts is unlikely because as Ford suggests the people being most impacted by the ordinance are a voting minority, and the majority of the people in question do not have the right to vote at all, including Latino legal permanent residents and unauthorized immigrants. Ford’s chapter posed the issue of localities that exclude outsiders with possible rights to inclusion. For my purposes this is an interesting tension, the popular logic/rhetoric is one that assumes “illegal aliens” are outsiders without rights to inclusion. Reframing this discussion using Lefebvre’s right to the city framework is one possible way of changing the discourse around the IIRAs.
Mark Purcell’s article, “Excavating Lefebvre: The right to the city and its urban politics of the inhabitant” begins by explaining that the “right to the city implies an extensive rescaling of the arrangements that presently characterize democratic participation” (Purcell 2002, 100). New scholarship seeks to use Lefebvre’s concept of ‘the right to the city’ to rescale participation and empowerment to include immigrants, including unauthorized immigrants. Purcell has this to say,

“In liberal democracies participation structures are linked tightly to formal citizenship in the nation-state; formal citizens have some institutionalized say in the decisions the state will take. Because their participation is linked to state decisions and policies, citizens’ participation is scaled in a very particular way. Citizens inhabit a fairly rigid series of nested scales that constrain their participation. In the U.S., for example, citizens are typically enfranchised in a municipal government, a county government, a state government, and the federal government and their participation is limited to these nested scales…the scales they inhabit are arranged in a hierarchical relationship. The national scale is hegemonic, meaning they must be a citizen of the nation-state in order to be enfranchised at the other scales.” The right to the city “upends the current nested hierarchy with a complicated vision of overlapping and reconfigured scales, such that these hierarchies are no longer hegemonic in structuring participation…The right to the city implies radical transformations in the structures of political power.”

“Rescaling political community in this way may be more possible now than in the past. Many scholars have recently advanced the argument that the hegemony of national-scale political and economic organization is becoming unstable as a result of global political-economic change. They suggest that new forms of citizenship, political membership, and identity are proliferating, especially in core areas of the world economy such as Europe and North America. They argue that nation-state citizenship and national identity is no longer as dominant a frame for political life as they once were. The right to the city would both benefit from and add to that climate of scalar instability. Nevertheless, such a radical reimagining of the scalar relationships that frame political membership would involve conflict.” (Purcell 2002, 100).

Scale is important when discussing the IIRA because the text of the ordinance refers to multiple scales. It indicates the domestic scale of the home, the local scale of the municipality, the nation-state and enforcement of national borders, and even recognizes
the transnational scale. Scale is also important when discussing the IIRA, because pro-
and anti-immigrant responses happen at multiple scales and actors are operating at
multiple scales. The IIRA simultaneously redefines political membership at the urban
scale and at the national scale. The IIRA creates a local border, with the justification of
the national border. In addition to the right to the city theory creating potential for
inclusionary rescaling, there are exclusionary theories and policies that have the opposite
purpose.

**Latino Exclusion and Inclusion**

Immigration policy in the United States has with a few exceptions been a project of the
federal government. Local immigration policy is a new concept that refers to state and
local policies designed to restrict and control the behavior of immigrant communities.¹⁵
Various types of local anti-immigrant policies exist, their aim is to control what, where
and how public and private spaces are used by immigrants as well as exclude immigrant
communities from fully participating in economic and civic life. Because municipalities
historically have not had the power to take direct action against unauthorized immigrants,
municipalities wishing to treat immigrants as illegal must design and implement policies
that render their routine and daily actions illegal. Some daily actions at issue are
debatably already illegal (e.g. large numbers of people living in small apartments, said to
violate housing codes). While other daily actions are not yet illegal (e.g. speaking
Spanish or soliciting work on a public street) towns are trying to propose policy that

¹⁵ To be clear, local immigration policy is a new concept, but there have been historical instances
of local governments making policy that restricts and regulates immigrant life. The policies
against Chinese immigrants in the late 19th Century and the use of Jim Crow laws against
Mexicans are two important examples.
makes these activities illegal. Though many of the regulations against immigrants are marketed as a response to “illegal” immigration, policymakers appear to have numerous objections to the appropriation of space by all immigrants. Officially, regulations intend to help communities manage rapid population growth or demonstrate a town’s dissatisfaction with the federal government’s failure to establish an updated immigration policy. However, Latinos experience these regulations as racist and xenophobic, largely designed to preserve traditional “Anglo” cultural and market practices, while discouraging (or driving-out) immigrants and informal economies. Generally, these responses do not fix problems, but rather exacerbate them. The most infamous anti-immigrant policies stagnate in court battles, bleed government money, and worst of all divide communities. The IIRA is one type of local immigration policy.

Other local initiatives include anti-day laborer ordinances, anti-taco vending codes, new discriminatory housing codes, and local enforcement arrangements like 287(g). Increasingly common local policies like 287g and Secure Communities give more power to local police to act as or with ICE and ultimately have unauthorized immigrants (and sometimes legal residents) deported. The literature on contemporary local policies targeting Latino immigrants reflects these initiatives and has been expanding. In addition, texts like Brown tide rising: Metaphors of Latinos in contemporary American public discourse (Santa Ana, 2002), and The new Nativism: Proposition 187 and the debate over immigration (Jacobson, 2008) investigate California’s Proposition 187.
Most of the sociology, geography, and planning literature attempts to theorize why these local policies have become popular and attribute local immigration policies at least in part to demographic change and settlement patterns. Once the importance of demographic change and settlement patterns has been acknowledged, there is some divergence of thought on what else contributes to municipalities creating these local policies. Though the following literature is not about the IIRAs specifically, it examines other local exclusionary processes targeted at Latino immigrants and raises many interesting points of comparison. The methods used in the majority of this literature are similar to the methods I used for this dissertation and the research findings from these case studies have a great deal in common with my own research findings.

The literature about exclusionary local policies targeted at Latinos has mostly been written since the beginning of the 2000s. Authors Harwood and Myers 2002, in “The Dynamics of Immigration and Local Governance in Santa Ana: Neighborhood Activism, Overcrowding, and Land-Use Policy” made connections in Santa Ana, California between the rapidly changing population and local planning conflicts. In short:

In 1991, the city passed a new ordinance that essentially limited the occupancy of an average one-bedroom apartment to five people…Opponents asserted that over half of Santa Ana would be subject to eviction under the new ordinance. The city’s neighborhood associations, made up mostly of homeowners, supported the ordinance and began to rally around other code issues, such as banning pushcart vendors and open-air swap meets in the city. The push for new ‘neighborhood standards’ polarized the community (Harwood and Myers 2002, 80).

Harwood and Myers recognize that, “nationality and cultural factors influence public response to local policy choices” (Harwood and Myers 2002, 87). This is significant
because longtime residents complained that Santa Ana looked more like Tijuana than the city they knew, while Mexican and Central American immigrants felt targeted by the new housing code. One family sued the city and the ordinance went to trial and subsequent appeals courts. Ultimately, the courts ruled against the ordinance and “the city of Santa Ana found immigration impossible to control through legal measures, which left them with few effective tools” (Harwood and Myers 2002, 81). Harwood and Myers show that all residents prefer to live and work in safe, clean, healthy environments, but how to achieve this goal is the “point of contention” (Harwood and Myers 2002).

Audrey Singer at the Brookings Institute is well known for her numerous studies on changing immigration patterns in the United States. In “Immigrants, Politics, and Local Responses in Suburban Washington,” authors Singer, Wilson, and DeRenzis focus on the role that rapid population growth and demographic change contributed to the restrictive local policy in Prince William County, Virginia. In addition to rapid population growth and demographic change, the authors identified two other primary factors that led to the implementation of 287(g). There was a perception of long-time residents that their quality of life and property values were declining. There was a grassroots movement organized to pressure local government to take action. Secondary factors identified included the heated national immigration debate in 2006, local and national media attention, local political ambitions, an upcoming election as well as the lack of preparedness of the Prince William County government and lack of organizations and services for new immigrants (Singer, Wilson and DeRenzis 2009).
In interviews, blogs, public meetings and media coverage the authors heard complaints about “traffic congestion, crowded schools, and heavy demand on public services” (Singer, Wilson and DeRenzis 2009, 12). These challenges or stresses were explained as changing the “feel” of the community. Specifically residents complained of:

Changes in outward appearances of houses and property (such as trash, debris, tall grass, parking on lawns, inoperative vehicles and on occasion the raising of chicken or corn), overcrowding as evidenced by multiple vehicles and the apparent presence of unrelated people sharing homes, more Spanish being spoken, less personal interaction among neighbors, increase in outdoor activities and noise levels, and in some cases, a rise in street crime, hit-and-run driving accidents, gang activity, and the appearance of graffiti” (Singer, Wilson and DeRenzis 2009, 14).

These complaints were being called into the county property code enforcement office. From 2004 to 2006 the number of complaints about housing overcrowding doubled. Unfortunately none of the five code enforcement officers could speak Spanish and therefore there was difficulty communicating with the very people that were targets of the complaints. Lastly, residents complained of school overcrowding and resources being diverted to ESOL (English for Speakers of Other Languages) classes. In this region of Virginia there was “local precedent for restrictive policies” and it did not take long for a grassroots movement to emerge. The organization Help Save Manassas was formed and their self-proclaimed mission was to “reduce the number of illegal aliens living in our country” (Singer, Wilson and DeRenzis 2009, 15). This group effectively put pressure on the county government and they were successful in getting a 287(g) agreement enacted in Prince William County. The authors point out that little opposition emerged. The documentary film 9500 Liberty (2009) also dealt with the controversy surrounding the implementation of a 287(g) program in Prince William County, Virginia.
When Singer, Wilson and DeRenzis’ research was being conducted it was too early to analyze long-term impacts of the policy, but short-term impacts include how expensive 287(g) is to implement at the local level (regardless of the fact that it has not brought crime down) and Latinos in the region feeling targeted (regardless of immigration status). Finally, it is worth noting that in the conclusion the authors state that there is “continued disagreement in Prince William County about whether the costs – direct and indirect - have been worth the outcomes – intended and unintended” (Singer, Wilson and DeRenzis 2009, 19). Similar complaints, heated public meetings, protests, grassroots movements and outcomes also occurred in Hazleton, Riverside and Fremont.

A study conducted by Kyle Walker investigated metropolitan Chicago. In “Immigration, Suburbia, and the Politics of Population in US Metropolitan Areas” Walker draws parallels between past suburban racialized policies targeted at African Americans and contemporary exclusionary policies targeted at new immigrants. He explains, “stereotypical representations of American suburbia frequently paint the suburbs as the exclusive domain of the white, middle class, and indeed many suburban communities have used strategies such as restrictive zoning or racial covenants in attempts to achieve this homogeneity” (Kyle Walker 2008, 2). Using the Chicago metropolitan area as a case study, the author establishes a framework for using demographic data and spatial analysis techniques to analyze the relationships between suburban immigration and associated political responses. He analyzed survey data from the “America’s Immigration Quandary” survey to examine “geographic variability within metropolitan areas.” Data
from previous surveys and from his analysis showed that suburban residents are more concerned about immigration, than urban and rural residents. More specifically Walker cross-analyzed Census data with the “America’s Immigration Quandary” survey findings. He found that residents of suburban Chicago were more likely to answer the question “is immigration in your local community – a very big problem, moderately big problem, a small problem, or not a problem at all?” by classifying immigration as a problem more than other Illinois residents (Kyle Walker 2008, 10).

In thinking about the suburbs as a contested space authors Carpio, Irazábal, and Pulido use Lefebvre’s right to the city framework as the intellectual backdrop for their article, “Right to the Suburb? Rethinking Lefebvre and Immigrant Activism.” The article compares Maywood, a self-described sanctuary city in Los Angeles County, with nearby Costa Mesa in Orange County that was one of the first municipalities in the country to partner with ICE to deport unauthorized immigrants. Both Maywood and Costa Mesa have seen a rapid growth in the Latino population in the last twenty years. The authors demonstrate that these suburbs are sites of “contestation” and:

With suburbs as the epitome of the mythical ‘American Dream’ – rooted in the idea of homeownership, the heteronormative family, and white supremacy – suburbs are becoming a symbolic battleground for who has access to rights (legal or natural) in the United States as the Latino and immigrant population increase (Carpio, Irazábal and Pulido 2011, 5).

The authors found that “immigrant activism is increasingly generated in suburbs” and that “election-based organizing and local activism can be a highly effective way to enact municipal level change” (Carpio, Irazábal and Pulido 2011, 1). Costa Mesa illustrates
both of these findings. According to the authors Costa Mesa had a history “rooted in exclusion, militarism and conservatism.” Though there were pro- and anti-immigrant activist networks in Costa Mesa the nativist groups like Save Our State and the Minutemen were successful in mobilizing public support for the partnership with ICE, electing City Council members who campaigned on immigration enforcement in 2006 and getting the ICE partnership enacted. In fact, Costa Mesa implemented numerous anti-immigrant policies including banning soccer in public parks and closing a job center that served day laborers, their local anti-immigrant policies culminated in the partnership with ICE. Pro-immigrants rights groups like the Tonantzin Collective and Citizens for Constitutional Rights attempted “to reclaim the Right to the Suburb by…attending City Council meetings and demonstrations,” but it “proved unsuccessful when countered by conservative council members, influential anti-immigrant organizations, and federal policies extending immigration enforcement to local governments” (Carpio, Irazábal and Pulido 2011, 6).

Carpio, Irazábal and Pulido have contributed something new and important to the literature by pointing out that, “Seeking to expand or constrict the Right to the City/Suburb necessarily entails multi-scalar efforts” (Carpio, Irazábal and Pulido 2011, 18). The authors conclude that in these two towns:

Discrimination was enabled through intersecting municipal politics, state policies, and federal departments. Similarly, successful organizing efforts called on local organizations, regional networks of activists, and linkages with national discourses on immigration policy (Carpio, Irazábal and Pulido 2011, 18).
Nelson and Hiemstra also compared two municipalities, one that responded to new immigrants with inclusionary policies and one that responded with exclusionary polices. “Latino immigrants and the renegotiation of place and belonging in small town America” begins by explaining how, due to local and global economic shifts, Leadville Colorado and Woodburn Oregon have both experienced significant growth in their Latino populations and why each is now comprised of approximately fifty percent Latino residents. The result is a distinct “politics of place and belonging” (Nelson and Hiemstra 2008, 319). Leadville Colorado has “entrenched social and spatial barriers to inclusion,” mainly because of residential segregation. The Mexican immigrants live in trailer parks outside the city limits. They are also segregated by employment, working in low-wage service jobs, which supports the region’s tourism (skiing & hiking) industry. The authors found a “parallel universe” (“the time-space geographies of each group rarely intersect”) in Leadville and therefore non-immigrants and immigrants rarely interact. By contrast, Woodburn Oregon’s Latino residents have forged “social and political spaces expanding their sense of belonging” by organizing to build farm worker housing. In spite of heavy resistance and political backlash to these residential construction projects from White residents and the City Council, the Latino community was successful in building farm worker housing (Nelson and Hiemstra 2008, 320).

In “Can’t Live With Them; Can’t Landscape Without Them: Racism and the Pastoral Aesthetic in Suburban New York” James and Nancy Duncan compare two towns in Westchester County New York; Bedford, an upper-income rural-like suburb where day laborers work taking care of large gardens and landscaping and Mount Kisco, a nearby
middle-income village where the Latino day laborers live. The authors explain brilliantly how “this has created a paradoxical situation in which those whose labor maintains Bedford’s landscape aesthetic are themselves considered an unaesthetic element of the streetscape of neighboring Mount Kisco” (Duncan and Duncan 2003, 91). The authors revisit and expand on these case studies and theories in *Landscapes of privilege: the politics of the aesthetic in an American suburb* (Duncan and Duncan 2004).

Bedford’s White-affluent residents are very concerned with protecting their pastoral aesthetic (think “exclusionary zoning, stringent environmental protection legislation and the exploited labor of recently arrived Latino day workers”), but do not have to own up to their racism or exclusionary practices because who can live in Bedford is restricted subtly “through various social, economic, political, and legal practices legitimated by appeals to an unquestioned desire to preserve a valuable and unique sense of place” (Duncan and Duncan 2003, 89). Meanwhile, Mount Kisco residents speak of an “invasion” of immigrants and as a result their deteriorating quality of life. The local government enacted and attempted to implement numerous exclusionary policies in the late 1990s and early 2000s including a panhandling law (which was meant to end the informal day laborer sites), midnight housing overcrowding raids, and a new housing code that defined family narrowly to prevent single men from living together in a house. The Westchester County American Civil Liberties Union (ACLU) sued Mount Kisco in each instance, settling out of court for large sums of money. Based on 76 semi-structured interviews and over 700 surveys, the authors concluded that “because as many as 40 percent of the Latinos in Mount Kisco may be undocumented, many of the other residents act as though
the whole Latino population has forfeited the right to be treated as belonging in the
village” (Duncan and Duncan 2003, 94).

This work represents a select survey of the growing literature on responses to Latino
immigration. I chose these particular case studies because they raise many of the same
issues that my case studies raise, though the details are unique. Together these authors
point to a complex landscape of attitudes as well as socio-economic and political
processes to explain contemporary exclusionary policies targeted at Latino immigrants.
Though the locale and context of each of these cases is different there are obvious and
emerging patterns including contested space, the history of exclusionary local policy,
spatial segregation, the role of scale, the real versus imagined suburb, the perception of a
decline in quality of life, entrenched racism, the role of grassroots movements, the
“parallel universe,” and experimenting with various contemporary restrictive policies
followed by legal challenges. Some of the theoretical frameworks presented in these
articles have also been used in analysis about the IIRAs. I incorporate many of these
ideas into my case studies.

**The Illegal Immigration Relief Act**

There is a small but growing literature about the IIRAs. I consider this is a fairly
comprehensive overview. This literature looks at how many IIRAs have been proposed
and enacted and analyzes facts and statistics about these municipalities. In addition, to the
themes discussed above, this literature investigates the role of neoliberalism, class,
partisanship, and discourse in the construction of the IIRA ordinance. Arguments are made against the IIRA and there is preliminary discussion of the impacts of it on communities.

Esbenshade and Obzurt, in their article, “Local Immigration Regulation: A Problematic Trend in Public Policy” (Esbenshade and Obzurt 2007) analyzed quantitative data for 131 cities and counties that considered ordinances that targeted unauthorized immigrants between May 2006 and September 2007. Their main case study, Escondido California, was used to explain the primary arguments against the IIRAs, including the legal arguments, logistical concerns (usefulness of federal databases, how to implement, etc.), economic issues, civil and human rights violations, community relations impacts, and lack of substantiation for ordinance claims.

Monica Varsanyi has made a significant contribution to the literature about local immigration policy in general and the IIRAs in particular. In “Neoliberalism and Nativism: Local Anti-Immigrant Policy Activism and an Emerging Politics of Scale,” Varsanyi (2010) explains that the IIRAs are the outcome of three important processes: neoliberalism (i.e. state restructuring, global trade, and migration flows), a more closed militaristic border policy, and changing immigration patterns. Hazleton is the case examined. Neoliberalism’s role is significant in the history of the IIRAs because as Varsanyi states, “City governments and residents often bear the brunt of neoliberalizing policies but are simultaneously disempowered by the emerging ‘governance nexus’ of ‘international agreements, nation states and private corporations’ to adequately contest
the policies that are shaping their destinies” (Varsanyi 2010, 4). Varsanyi argues that the IIRA is an act of contestation against these forces. There are progressive responses to neoliberalism, but this is not one of them, as Varsanyi concludes, “not all contestations may lead to progressive futures” (Varsanyi 2010, 3).

Another important contribution Varsanyi makes to the literature is comparing how the IIRA is different from other types of local immigration policies. The central difference is that the IIRA, unlike 287(g) and others, is not authorized by the federal government and contradicts the federal government’s plenary power. The federal government has been in part defined by this power, but:

This power over immigration is reflected not only in the federal government’s ability to admit, exclude or expel noncitizens from the territory of the nation-state, but additionally, in the federal government’s ability to discriminate against noncitizens living within the United States on the basis of their noncitizen status (Varsanyi 2010, 2).

Taking Local Control (Varsanyi 2010), which Varsanyi edited and contributed to, comprises many chapters that try to theorize and contextualize the IIRAs. Varsanyi has written extensively on Hazleton’s IIRA and in this book refers to the IIRAs and other types of local immigration policies (like anti-day laborer ordinances) as immigration policing “by proxy” and “through the backdoor.” The authors in this preeminent book have greatly influenced my understanding of the IIRAs. In Varsanyi’s introduction to Taking Local Control she lays out the historical context (from the Chinese Exclusion Act to California’s Proposition 187) and the contemporary context for local immigration policy activism. The contemporary context includes economic factors like NAFTA and
the changing labor market, demographic trends, and political factors, mainly national immigration policy. There are excellent chapters in this book that discuss plenary power and legal limitations of local policy, types of pro-immigrant policies as well as local enforcement efforts. For my purposes, I will highlight three especially relevant chapters that deal directly with the IIRAs.

In the chapter “Partisanship, Not Spanish: Explaining Municipal Ordinances Affecting Undocumented Immigrants,” the authors Ramakrishnan and Wong challenge the explanation of the IIRAs that centers on “the size and growth of Latino populations and attendant challenges such as overcrowded schools and housing, growth of Spanish-language communities, erosion of wages among native-born workers, and perhaps xenophobia or racial prejudice among native-born populations” (Ramakrishnan and Wong 2010, 73). Ramakrishnan and Wong, offer quantitative research to argue that “partisanship and politicization” more than demographic change or local stresses explain the IIRAs. Partisanship is linked to how conservative voters and elected officials are, while politicization refers to the local reaction to the pro-immigrants rights rallies in the spring of 2006. The authors set out to answer, “why these policies are considered in some places, but not in others and, once they are considered, why they pass in some localities but fail in others” (Ramakrishnan and Wong 2010, 76). They draw conclusions from their multivariate data analysis about the significance of Republican-majority areas, the political strength and numbers of Latino citizens, and restrictionist backlash to the spring 2006 immigrants rights rallies. They also point out that the vast majority of municipalities in the country have taken neither pro- or anti-immigrant policy actions.
The chapter “Neoliberalism, Community Development, and Anti-Immigrant Backlash in Hazleton, Pennsylvania” states that, “the rise of neoliberal economic policies has tended to transfer state power upward to global institutions and responsibility downward to local communities” (Fleury-Steiner and Longazel 2010, 157). The authors Fleury-Steiner and Longazel analyze Hazleton’s history of policy decisions and economic factors that led to the demographic changes and indirectly to the IIRA. This chapter explains how neoliberal policies can lead to anti-immigrant backlash and explains how a city government can support conflicting local policies that both include and exclude immigrants simultaneously.

In the chapter “The Law and Order Foundation of Local Ordinances: A Four-Locale Study of Hazleton, PA, Escondido, CA, Farmers Branch, TX, and Prince William County, VA” authors Esbenshade, Wright, Cortopassi, Reed, and Flores used 45 hours of audio and video recordings from public meetings to conduct a discourse analysis of four different communities that enacted local immigration policies, three of the four were cities that enacted IIRAs. The authors focused on the arguments of ordinance proponents and had interesting findings. Surprisingly, in three of the four municipalities more people spoke against the ordinance than for it, yet the new regulations were approved in each place and the arguments residents and City Council members made did not always align with the official justifications for the ordinances. The discourse centered mainly around concerns of “economic costs and deterioration in quality of life” and more abstract issues of “law and order.” The authors found that residents were especially concerned with illegality. They stated, “it is illegal presence itself that seems to be of most concern to the
public and even to local officials, rather than the supposed quality of life and economic ramifications of illegal presence that politicians and pundits so often invoke” (Esbenshade et al. 2010, 256). Additionally, residents defended the ordinances as race neutral and positioned themselves as having rightful ownership of the United States.

Esbenshade, Wright, Cortopassi, Reed, and Flores described how in each of these locales Latinos were under attack. The authors explained, “in every city Latinos reported a rise in racial hostility following the introduction of the regulations into public debate” and continued, “these regulations appear to be both a result of racism and a catalyst for increased racism” (Esbenshade et al. 2010, 272). They found that rather than these ordinances promoting assimilation (the usual goal of nativists), these ordinances institutionalized exclusion. The authors concluded that, “not only have the ordinances been unsuccessful at expelling undocumented immigrants, their vulnerability to legal challenges has meant that the ordinances have also undermined the goal of assimilation. What the ordinances have achieved is the further alienation and marginalization of Latinos in general within these communities” (Esbenshade et al. 2010, 273). The undermining of assimilation that the authors discuss is directly related to my finding that enacting an IIRA results in the slowing down or halting of the immigrant integration process.

Authors Brettell and Nibbs, in their article “Immigrant Suburban Settlement and the ‘Threat’ to Middle Class Status and Identity: The Case of Farmers Branch, Texas” (Brettell and Nibbs 2010) use the case of Farmers Branch Texas and their anti-immigrant
housing ordinance to emphasize how class status and the ‘rule of law’ are understood and why White residents feel that these two pillars of American society are being threatened. The threat to middle class status is “discussed first in relationship to issues of home ownership and income and then in relation to cultural dimensions of class, including matters of taste and the spatializations of middle class identity” (Brettell and Nibbs 2010, 1). The rule of law is discussed as “an exclusionary tool” that gives “those who support anti-immigrant ordinances a platform for legislating a certain quality of life” (Brettell and Nibbs 2010, 17). Their research methods included Census data, a discourse analysis of local newspaper articles and blogs, and an interview with the City Council member who first introduced the ordinance.

In August 2006, then City Councilmember Tim O’Hare proposed an Illegal Immigration Relief Act. He wanted Farmers Branch’s ordinance to include housing and employment restrictions as well as an English-only law and a partnership with ICE. In November 2006 the City Council voted unanimously to adopt a simplified ordinance that required apartment managers to check the citizenship or legal residency of their tenants to determine whether they were renting to unauthorized immigrants. The City Council re-wrote the ordinance to try to avoid legal challenges. Meanwhile, Uniting Farmers Branch, a grassroots group against the ordinance turned in a petition to force a special election. Leading up to the May 2007 election there was an aggressive voter registration drive and campaigning on both sides of the issue. According to the authors, “43 per cent of voters turned out to support the anti-immigrant measure by 2 to 1” and by the end of 2007 “the city had spent close to $450,000 on legal costs” (Brettell and Nibbs 2010, 8).
Farmers Branch has much in common with Hazleton and Fremont. Its anti-immigrant ordinance was re-written multiple times, the ACLU and MALDEF filed lawsuits that have thus far been successful at preventing the city from implementing its IIRA and certain local leaders (namely Tim O’Hare) have been politically rewarded for their exclusionary position. In addition, Farmers Branch’s White residents had similar types of complaints; residents took issue with the Carnival Grocery store that catered to a Hispanic market opening in the city, they were unhappy with a sign in Spanish at the post office that explained how to send money to Mexico, and they even wanted an ordinance passed about what color homeowners could paint their house.

The authors cite compelling findings that “today’s resurgence of middle class anxiety about a loss of place in the American stratification system certainly has some relationship to the anti-immigrant backlash that has erupted in suburban places like Farmers Branch where white residents feel like their community has been changing around them and their quality of life has declined” (Brettell and Nibbs 2010, 10). Specifically, they cite a 2006 Brookings Institute study that found that middle class neighborhoods were disappearing as a result of the widening gap between rich and poor. There is also related evidence that more middle-income families are living in low-income neighborhoods. Additionally the balance of “owner-occupied, renter-occupied and vacant housing units” has changed dramatically in Farmers Branch between 1960 and 2000. Finally, home values and median incomes are down. Because “American middle class culture and identity is

6 Tim O’Hare was elected Mayor of Farmers Branch in 2008.
spatialized,” or in other words “associated with suburbia” residents of Farmers Branch who are proponents of the housing ordinance have increasing anxiety about these changes.

The majority of the literature about the Illegal Immigration Relief Act has been published in the last two years. These works greatly influenced this dissertation while it was in development and in process. My case studies contribute to this young, but growing literature by re-examining many of these same theories, and using interviews and direct observation to research more in depth what happened leading up to enacting the IIRA and what has happened since.

Conclusion

It takes a diverse set of literature to make sense of the Illegal Immigration Relief Act because it is a complex policy experiment. As the literature reveals local policies targeted at immigrants, including the IIRA, have both stated goals and larger less articulated goals. The larger less articulated goals seem to be reducing immigrant rights and criminalizing survival. As Chavez points out “since rights are part of a process of defining citizens and aliens, affording rights to immigrants can reflect, for some, a dilution of citizenship, reducing its value in a calculus of privileges. Not surprisingly, anti-immigrant discourse and actions are often framed around rights and privileges – that is, reducing the rights and privileges afforded to immigrants” (Chavez 2008, 12). The IIRA ordinance attempts to put new restrictions on housing and employment singling out
Unauthorized immigrants. It refers to multiple scales – domestic, local, nation-state, and transnational – complicating the ordinance’s jurisdiction and geography.

This group of literature has informed my dissertation in many ways. First, the literature provided evidence of how global economic restructuring lead to local economic restructuring and how it impacted Latino immigration. Much of the literature about economic restructuring and Latino immigration focused on three main industries; manufacturing, construction, and meatpacking. Each of my three cases depends on at least one of these industries and has been impacted by the industry’s changes. This literature informed me, prior to fieldwork, of the importance of these three industries economic restructuring on the evolution of the IIRAs. The themes of neoliberalism, class, political partisanship, and public discourse in the formation of the IIRA helped to narrow my focus.

The literature about how Latino communities have brought spatial, economic, and cultural change as well as scholarship about visibility, immigrant integration and how municipalities respond to new immigrants was also influential. It helped to prepare me for why many cities fail in accommodating new comers and why “separate social worlds” (Zuniga and Hernandez-Leon 2005) or “parallel universes” (Nelson and Hiemstra 2008) exist between Whites and Latinos.

Still the most important literature demonstrated historical precedent for the IIRAs, and encouraged thinking theoretically about citizenship, identity, and the nation-state. Only by investigating these constructs was I able to understand how exclusion becomes
institutionalized and why policies like the IIRA develop. In particular Mitchell's theory of criminalizing survival was central to designing my research questions and case study research to focus on housing and employment – both critical to survival.

This dissertation makes a contribution to this body of work by expanding the legal geography literature because very little has been written on the relationship between the legal, spatial, and its relevance to immigration policy and if enforced the IIRA would likely result in evictions, deportations, and a change in the role of the nation-state. Next, different authors have concentrated on either the role of neoliberalism, class, partisanship, or public discourse in the construction of the IIRA – I brought these analyses together and showing how they all applied and interacted in these three case studies. As Ramakrishnan and Wong suggest in *Taking Local Control*, I used the case studies to determine whether the IIRA was mobilized from above or from below. Additionally, I analyzed the IIRA texts demonstrating how it refers simultaneously to the domestic, local, nation-state, and transnational scales, then linking this to the multiple scales of pro- and anti-immigrant political mobilizing.

To date there is almost nothing written about the impacts of the IIRA on the communities that enacted it. This dissertation begins exploring the socio-political and economic implications of the ordinance as well as the implications for constructions of citizenship and national identity. Finally, like Ngai, I tried to look at how “law normalizes social relations” and discuss how the IIRA impacted relationships between White and Latino residents.
CHAPTER THREE: HAZLETON

Introduction

On July 13, 2006 Hazleton, Pennsylvania became the second city in the country to propose an Illegal Immigration Relief Act (IIRA) and the first to enact it. Hazleton is widely considered the most important case study about local ordinances that target the hiring and housing of unauthorized immigrants. It set the policy precedent in 2006 and since it has also set legal precedent in the courts. In part because Hazleton was the first city in the country to adopt this type of ordinance journalists and academics alike have written much more about it than any of the more than 130 cities to propose ordinances restricting the harboring and hiring of illegal aliens, including the two other cases covered in this dissertation. It has not, however, been thoroughly compared to similar cases and very little has been researched or written about what has transpired in Hazleton since the summer of 2006.

Though Hazleton was the first city in the nation to enact the Illegal Immigration Relief Act, no one in Hazleton, including then Mayor Lou Barletta wrote the ordinance. The former Mayor Barletta is responsible for bringing the ordinance before the city council, but did not devise it. He has told the press many times that he read about the Illegal Immigration Relief Act that was proposed in San Bernardino, California in May 2006 and thought his city could benefit from a similar policy. Hazleton’s original IIRA contains many of the same objectives as the San Bernardino ordinance – to penalize employers and landlords for doing business with “illegal aliens” as well as making English the official language of the town. Additionally, the original titles are almost identical, “City
of San Bernardino Illegal Immigration Relief Act Ordinance” and “City of Hazleton Illegal Immigration Relief Act Ordinance.”

In spite of the similarities between San Bernardino’s IIRA and Hazleton’s IIRA, it is important to also recognize significant differences. San Bernardino’s ordinance included provisions about day laborers, which the Hazleton ordinance did not include. More importantly, Hazleton’s ordinance is written in a more sophisticated language, in more detail and with references to federal and state policy and law.

The San Bernardino IIRA states in Section 2: Findings and Declaration of Purpose,

A. That illegal immigration leads to higher crime rates, contributes to overcrowded classrooms and failing schools, subjects our hospitals to fiscal hardship and legal residents to substandard quality of care, and destroys our neighborhoods and diminishes our overall quality of life.

B. That the City of San Bernardino is empowered and mandated by the People of San Bernardino to abate the nuisance of illegal immigration by aggressively prohibiting and punishing the acts, policies, people and businesses that aid and abet illegal aliens.

Hazleton IIRA Section 2: Findings and Declaration of Purpose, subsection A and B are identical, but adds;

C. This ordinance seeks to secure to those lawfully present in the United States and this City, whether or not they are Citizens of the United States, the right to live in peace free of the threat of illegal alien crime, to enjoy the public services provided by this city without being burdened by the cost of providing goods, support and services to any whose presence in the United States is contrary to its laws, and to be free of the debilitating effects on their economic and social well being imposed by the influx of
illegal aliens to the fullest extent that these goals can be achieved consistent with the Constitution and Laws of the United States and the Commonwealth of Pennsylvania.

This comparison between San Bernardino’s IIRA and Hazleton’s IIRA demonstrate that Hazleton was not a simple copycat ordinance. Rather it was a revision of the first proposed Illegal Immigration Relief Act. This becomes more significant later on in the dissertation when the Hazleton IIRA is compared to IIRAs in other cities as they too attempt to craft a legally defensible ordinance.

Not only was Hazleton’s IIRA an evolution from San Bernardino’s ordinance, but Hazleton’s IIRA had many subsequent revisions. Once legal organizations like the American Civil Liberties Union (ACLU) and the Puerto Rican Legal Defense and Education Fund (PRLDEF, now LatinoJustice) threatened a lawsuit, the mayor and city council received outside legal counsel to help re-write the ordinance. In the five months leading up to the trial Lozano v. City of Hazleton, Mayor Barletta, the Hazleton City Council and their legal counsel aggressively pursued a legally defensible version of the IIRA through amendments to the original ordinance.

According to court documents and city council minutes Hazleton enacted the first version, Ordinance 2006-10, in July 2006. Then on August 15, 2006 the council voted on the Tenant Registration Ordinance (RO) a standalone ordinance that explained how rental permits would work, what the responsibilities would be for landlords, who could enforce it and what the penalties would be for noncompliance. In September the council first
voted to make English the official language of the town in another standalone ordinance\(^7\) and passed a second revised version of the IIRA, which replaced the original. In late December 2006 the council again revised the IIRA, including a section about how the ordinance would be implemented. The last revision was enacted during the trial *Lozano v. city of Hazleton* and added language to specify that complaints made based on race, national origin, or ethnicity would be considered invalid. This was the city’s last minute attempt to combat charges that the ordinance would lead to racial profiling of Latinos.

It is worth noting that Hazleton had actually enacted two separate ordinances that impacted renters and landlords in the city. The “Harboring” provision that is within the IIRA prohibited housing “illegal aliens.” While the Tenant Registration Ordinance, mentioned above, required anyone who wanted to rent an apartment or house in Hazleton to obtain a permit. However, to be eligible for a permit the applicant had to show proof of legal citizenship and/or residency. This combination of ordinances and amendments signals a coordinated effort.

In addition to analyzing the trajectory of the ordinance revisions, it is important to also analyze the discourse and assumptions within the text of Hazleton’s IIRA. Even a brief review of the ordinance text from the Findings and Declaration of Purpose section above reveals a great deal. For one thing the ordinance takes for granted that unauthorized immigrants are living in the community and that because of them, there is increased crime, a burden on public services and decreased quality of life. Of course this is all

---

\(^7\) Hazleton’s English-only law, Ordinance 2006-19, states “The English language is the official language of the City of Hazleton” and requires that all official city documents, meetings, programs, etc. be in English.
stated with no supporting evidence or data. This is not an interpretation of the ordinance, this is the actual language in Hazleton’s IIRA. This provision of the ordinance described “illegal aliens” as a nuisance and referenced the alleged debilitating effects of immigrants. Though later versions of Hazleton’s ordinance were sanitized and some of this language was edited or omitted, the intent is straightforward and cannot be camouflaged – to use the law to prohibit unauthorized immigrants from work and housing within the city limits. The ordinance sought to eliminate the spaces of economic (work) and domestic (home) reproduction thereby eliminating undocumented immigrants and their families from the city.

This chapter examines in detail the objectives as well as the implementation and enforcement strategies of the IIRA. The chapter will also examine the mayor and city council’s role in enacting it and the climate in the city leading up to the vote on the ordinance and the community reactions/outcomes. The next section describes Hazleton’s economic and demographic history. Later in the chapter I will discuss Mayor Barletta’s reasons for proposing the IIRA as well as the reactions of Hazleton residents. Finally, I will consider the impacts the enactment of the Illegal Immigration Relief Act Ordinance has had on the city of Hazleton and its residents.

**Background**

There is a long historical connection in the United States between immigration and economic structural changes. The vast majority of immigrants who arrived during the second and third wave migrations came for economic opportunities. In the 1800s and
early 1900s immigrants were mainly responding to the economic changes created by industrialization. After the 1980s neoliberalism and globalization created the structural changes for increased migration from southern underdeveloped countries to the richer northern nations. In this section I argue that migration patterns to Hazleton have historically mirrored the national trends. The town grew into a city because of industrialization and immigration. More recently neoliberal models for economic development and competition have led to the newest wave of Latin American immigration.

Hazleton developed because of anthracite coal. The Hazleton Coal Company was formed in 1836 and less than twenty years later the town was established (Ridgley and Steil 2009, 14). The mining industry created the need for thousands of jobs and within a short period of time many young men and families moved to the region for this opportunity. By 1910 the town had near 25,000 residents. The laborers came from many European countries, spoke many languages and practiced many different sects of Christianity. There are still many Christian churches in town - Orthodox, Catholic, and numerous denominations of Protestants that according to longtime residents conducted religious services in many languages. To this day the city has left over cultural influences from the Italians, Polish and Eastern Europeans.

As Ridgley and Steil describe in their article, “Controlling Immigrants by Controlling Space: Current Issues in Historical Perspective,” “signing up immigrants from Great Britain and Ireland became more and more difficult as migrants eventually became
increasingly resistant to the exploitation of their labor in such a low-wage, high risk industry, mining companies established active recruiting networks across Southern and Eastern Europe” (Ridgley and Steil 2009, 15). Hazleton has always been an industrial region and a destination for new immigrants to seek jobs and economic opportunities. A number of people interviewed pointed out that many residents in Hazleton have forgotten that part of the city’s history. In 1940 Hazleton’s population reached almost 40,000 residents. However, after WWII, oil replaced coal as the country’s main energy source and therefore the coalmining industry shrank substantially. The city’s main challenge became finding an economic base to replace coalmining and prevent the city from becoming a post-industrial ghost town.

Figure 4 Photograph of Hazleton housing

---

8 Unless otherwise noted all photographs were taken by Arianna Martinez
In 1954 the Hazleton Chamber of Commerce created CAN-DO (Community Area New Development Organization) with the specific mission to create jobs and bring new industry to the region. CAN-DO has been a successful institution at revitalizing Hazleton’s economy, largely because of their early efforts to raise enough money to buy land to convert into an industrial park. A state policy entitled Keystone Opportunity Zone Initiative (KOZ), under Pennsylvania’s Ex-Governor Tom Ridge, awarded Hazleton a tax free zone to entice businesses to its region. Hazleton qualified for the free zone because of it had high rates of unemployment, underutilized old mining fields and CAN-DO’s oversight (Fleury-Steiner and Longazel 2010, 157). Ultimately, CAN-DO brought Cargill a meatpacking plant, OfficeMax, Amazon and numerous other massive warehouses to the industrial parks. Authors Fleury-Steiner and Longazel argue that by abandoning the community led grassroots economic development strategies of the early years and instead transitioning to the 1980s neoliberal economic growth model, CAN-DO encouraged corporations to move to the region that they knew would hire immigrants to many of the blue-collar jobs. The authors contend that, “there has been little resistance to such initiatives. The linkages between neoliberal legislation, immigration and anti-immigrant backlash were never laid out in the public debate” (Fleury-Steiner and Longazel 2010, 166). But how did the all-American city whose mayor was known for being the most loud and proud about his anti- “illegal” immigrant local policy become home to a new thriving economic and cultural community of Latinos?

This is a crucial part of the story. If it had not been for the massive push to stimulate economic development and create new jobs many of the new Latino residents would not
have moved to Hazleton. Fleury-Steiner and Longazel point out that, “by framing the invitation to immigrants as economic growth on the one hand and by criminalizing immigrants by touting a crackdown on illegals on the other, Barletta and other Hazleton elites adhered to an approach that simultaneously includes and excludes immigrant workers in the city’s economy” (Fleury-Steiner and Longazel 2010, 167).

One women who works as a Spanish and English translator in Hazleton described the rapid job growth and need for workers in the industrial park, “there was a time when there was more jobs than people to work. By 2002 there were so many jobs, everyone was working, temp agencies would call and say I need this number of people, but I would say everyone is already working. People started buying homes and the community was growing for the positive.”

The industrial parks yielded thousands of low-skilled, low-paying jobs. These jobs did not attract new young white urban professionals to the area or prevent Hazleton natives from going off to college and not returning. These jobs did however entice many hardworking young immigrants and their families. One resident explained the change like this, “the neighborhood where I used to live on Pine Street that was an Italian neighborhood, when I moved there in 1995 I was the only Hispanic on the entire block. If I go there now, there is only one American on the entire block. That has happened very much in the entire city.”
Cargill meat packing plant alone has between 800-1000 employees. One Cargill employee interviewed estimates that at least 70 percent of the workforce there is Latino. This interviewee also explained that at Cargill the cafeteria is segregated mainly because White employees eat lunch watching TV in English, while Latinos eat lunch watching Spanish-language TV on the other side of the room. The Amazon warehouse has approximately 900 employees. The company hired a bilingual translator out of necessity to conduct interviews to fill the positions there because many applicants did not speak English. Similarly, Office Max, Michaels, and QuadGraphics all have bilingual staff to help facilitate communication at their warehouses. In all there are approximately 10,000 workers in the industrial park. It is no coincidence that while the total population of Hazleton has barely grown the Hispanic population has increased by more than 8,000 residents (See Figure 5 below). [SEE APPENDIX B, p. 211-216]

<table>
<thead>
<tr>
<th>Hazleton</th>
<th>1990 Census</th>
<th>2000 Census</th>
<th>2010 Census</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Population</td>
<td>24,730</td>
<td>23,329</td>
<td>25,340</td>
</tr>
<tr>
<td>Race (White)</td>
<td>24,392 (98.6%)</td>
<td>22,092 (94.7%)</td>
<td>17,592 (69.4%)</td>
</tr>
<tr>
<td>Hispanic Origin By Race</td>
<td>249 (1.0%)</td>
<td>1,132 (4.9%)</td>
<td>9,454 (37.3%)</td>
</tr>
<tr>
<td>Detailed Hispanic Origin / Place of Birth for the Foreign Born Population</td>
<td>334 (Puerto Rican, Dominican, Peruvian, Colombian, Mexican)</td>
<td>408 Latin America, [298 / Dominican Republic] [93 / Mexico]</td>
<td>n/a</td>
</tr>
<tr>
<td>Per Capita Income in 1989/1999</td>
<td>$11,512</td>
<td>$17,270</td>
<td>n/a</td>
</tr>
<tr>
<td>Per Capita Income in 1989/1999 for Hispanic Population</td>
<td>$8,886</td>
<td>$7,688</td>
<td>n/a</td>
</tr>
<tr>
<td>Year of Entry Foreign Born</td>
<td>1980-1990 122 (19.7%)</td>
<td>1990-2000 477 (55.7%)</td>
<td>n/a</td>
</tr>
</tbody>
</table>

Table 1: Census data – Hazleton Pennsylvania
Today, the largest group of Latinos in Hazleton is from the Dominican Republic or of Dominican decent [SEE APPENDIX B, p. 215]. The influence of Dominican culture on the town is unmistakable. It would be a misnomer to call Hazleton the Little Dominican Republic, but one might call it Little Washington Heights. Dominicans and Dominican Americans have been moving in steady numbers to Hazleton since 2000, but residents agree most have arrived since 2007. Some have moved directly from the island, but for most residents who migrated to Hazleton in the last three to five years they are relocating from New York City, Philadelphia, or smaller cities like Newark or Paterson, New Jersey.

Hazleton is a second destination. Additionally, many of Hazleton’s youngest new residents are Dominican Americans, born and raised in the United States, but with deep familial and cultural ties to their mother country and ethnicity. This is the suburbanization of an urban ethnic enclave as much as it is an immigration wave. A number of White residents interviewed explained that the immigrants have been good for Hazleton because
they have filled many formerly vacant store fronts with small business, brought a new younger tax base to town and housing values have risen from the new rental tenants and home buyers. According to the “Plaintiff’s Post Trial Proposed Findings of Fact and Brief” presented in the United States District Court for Middle District of Pennsylvania, the Plaintiff’s attorneys found evidence that “2006 marked the largest annual-property-value increase in Hazleton’s history.”

The Ordinance

July 14, 2006 the New York Times reported simply “The Hazleton City Council approved an ordinance designed to make the city, in northeastern Pennsylvania, among the most hostile places in the country for illegal immigrants. The ordinance, passed 4 to 1, will deny licenses to businesses that employ illegal immigrants, fine landlords $1000 for each illegal immigrant discovered renting their properties and require city documents to be in English only.”

The mainstream media that has reported on Hazleton’s IIRA commonly summarized the ordinance’s purpose in this manner, distilling the ordinance down to its basic premise of restricting employment and housing to illegal immigrants, but little has been written in the press about the text of the ordinance. The national, regional and local media have done a fine job following the controversy surrounding the ordinance and the subsequent legal challenges in Hazleton. Similarly, the academic articles reviewed for the literature review have also avoided content analysis. A few scholarly law journals have dealt with the content of the ordinance in more depth, analyzing the constitutionality of it and
placing it in the context of United States legal history. The lawyers and judges scrutinized the IIRA in the court and the appeal trials. Overall the content of the IIRA has been severely under-studied outside the framework of the law and legal literature.

It is important to study the content of Hazleton’s IIRA to better understand how the ordinance refashioned the city as a legitimate site of immigration enforcement. The goals of the politicians who supported it as well as their plans for implementation and enforcement are all explained in the ordinance text. In the introduction to this chapter I discussed the process the city of Hazleton went through in revising the IIRA in the hopes of crafting a legally defensible ordinance. Above the New York Times refers to the original version of the IIRA. However, a close reading of the most recent and final version of Hazleton’s IIRA demonstrates best how in spite of revisions the ordinance if implemented would create very real legal restrictions to space.

The City of Hazleton Illegal Immigration Relief Act Ordinance 2006-18, which was revised from the original version, was enacted in September 2006. This version of the ordinance maintains most of the goals of the original ordinance but clarifies how it would be implemented and enforced. The first page of the IIRA expands upon subsections A-C in Ordinance 2006-10, the original version discussed in the Introduction. These new subsections do more to set the tone of exclusion and try to embed the IIRA within legally defensible logic. Section 2 states,

*D. That the City of Hazleton is authorized to abate public nuisances and empowered and mandated by the people of Hazleton to abate the nuisance of illegal immigration by*
diligently prohibiting the acts and policies that facilitate illegal immigration in a manner consistent with federal law and the objectives of Congress.

E. That United States Code Title 8, subsection 1324(a)(1)(A) prohibits the harboring of illegal aliens. The provision of housing to illegal aliens is a fundamental component of harboring.

F. This ordinance seeks to secure to those lawfully present in the United States and this City, whether or not they are citizens of the United States, the right to live in peace free of the threat of crime, to enjoy the public services provided by this city without being burdened by the cost of providing goods, support and services to aliens unlawfully present in the United States, and to be free of the debilitating effects on their economic and social well being imposed by the influx of illegal aliens to the fullest extent that these goals can be achieved consistent with the Constitution and Laws of the United States and the Commonwealth of Pennsylvania.

G. The City shall not construe this ordinance to prohibit the rendering of emergency medical care, emergency assistance, or legal assistance to any person.

The IIRA is positioned to be an extension of state and federal law, making the City of Hazleton an extension of state and federal law and therefore a valid jurisdiction for enforcing these laws. The ordinance specifies who it intends to exclude namely “unlawful workers and illegal aliens.” Section 3 of the IIRA defines its terms, again invoking federal and state law, attempting to being clearly aligned on what constitutes “unlawful workers and illegal aliens.”

D. “Illegal Alien” means an alien who is not lawfully present in the United States, according to the terms of United States Code Title 8, section 1101 et seq. The City shall not conclude that a person is an illegal alien unless and until an authorized
representative of the City has verified with the federal government, pursuant to United States Code Title 8, subsection 1373(c), that the person is an alien who is not lawfully present in the United States.

E. “Unlawful worker” means a person who does not have the legal right or authorization to work due to an impediment in any provision of federal, state or local law, including but not limited to a minor disqualified by nonage, or an unauthorized alien as defined by United States Code Title 8, subsection 1324a(h)(3).

Many of the definitions for words like “work,” “business entity” and “contractor” clarify employment language that is commonly used. By contrast, “Basic Pilot Program” is a term that most residents would not have previously been familiar with. It is an important definition though because it explains how the city will differentiate between who is an unlawful worker or illegal alien and who is not. The ordinance would have made the Basic Pilot Program the standard in this regard and allowed for a systemization of the exclusion. Not surprisingly, this part was a later addition to the ordinance, when it became clear to the city that they needed a method for determining legal status. The Basic Pilot Program would be used to determine who is an unlawful worker.

G. “Basic Pilot Program” means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, P.L. 104-208, Division C, Section 403(a); United States Code Title 8, subsection 1324a, and operated by the United States Department of Homeland Security (or a successor program established by the federal government.)

The next section of Hazleton’s IIRA deals with the specifics of what actions employers would have to take to comply with the new law and what would result if they did not
comply. Section 4. Business Permits, Contracts, or Grants states clearly that, employers may not “recruit, hire for employment, or continue to employ, or to permit, dispatch, or instruct any person who is an unlawful worker to perform work.” It then goes on to explain the complicated enforcement procedures that would be maintained by the Hazleton Code Enforcement Office. The punishment for a first violation is similar to a warning, but after a second or subsequent violation an employer can have their business permit suspended for twenty days.

Interestingly, there is a procedure for making a complaint against an employer and there is language that tries to protect from complaints being made based on national origin, ethnicity or race. Again this is something that was added to the ordinance later as a way to quell the discussion of potential racial profiling. Section 4.B states, “a complaint which alleges a violation solely or primarily on the basis of national origin, ethnicity, or race shall be deemed invalid and shall not be enforced.”

Additionally, there is language that tries to protect workers from being fired because they are believed to be unlawful workers. This section explains what someone who has been wrongfully terminated can do to be compensated. Its main purpose is to prevent employers from firing, out of paranoia, anyone and everyone that they suspect of being “illegal aliens.” This section is almost admitting to the reality that racial profiling will likely result from this policy, but trying to preemptively prevent it. Section 4.E states, “the discharge of any employee who is not an unlawful worker by a business entity in the City is an unfair business practice if, on the date of the discharge, the business entity was
not participating in the Basic Pilot program and the business entity was employing an unlawful worker.”

The next section of Hazleton’s IIRA is called “Harboring Illegal Aliens” which deals with rental housing. The use of the word “harboring” is key in the IIRA because it collapses the common dictionary definition (providing shelter) with legal language used in the United States Code, Title 8 (Aliens and Nationality), Chapter 12, Subchapter II, Part VIII, §1324. This section of federal Code is entitled “Bringing in and harboring certain aliens,” and lays out the criminal penalties for any person who “knowing that a person is an alien, brings to or attempts to bring to the United States” or “knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such an alien in any place, including any building or any means of transportation.” This is a striking manipulation of discourse and the law because it collapses renting someone an apartment (i.e. providing shelter) with federal policy language about providing someone illegal refuge. It is also the most controversial part of the IIRA because if landlords implemented it could conflict with the federal Fair Housing Act. In *Lozano v. the city of Hazleton* the Plaintiff’s argued that the IIRA discriminates in residential real estate transactions based on race and national origin and therefore would violate the federal Fair Housing Act (42 U.S.C.). Judge Munley from the United States District Court for the Middle District of Pennsylvania found this challenge without merit. However, Chief Judge McKee in the appeals decision two years later wrote that, “it appears plain that the purpose of these housing provisions is to ensure that aliens lacking legal immigration status reside somewhere other than Hazleton” and
while Judge McKee did not address the FHA directly it seems clear that there is some recognition that the IIRA seeks to promote residential discrimination. Whether the IIRA violates the FHA is likely to be argued again in *Martinez v. the city of Fremont* in 2012.

Section 5 states,

*A. It is unlawful for any person or business entity that owns a dwelling unit in the City to harbor an illegal alien in the dwelling unit, knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, unless such harboring is otherwise expressly permitted by federal law.*

*(1) For the purposes of this section, to let, lease, or rent a dwelling unit to an illegal alien, knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, shall be deemed to constitute harboring. To suffer or permit the occupancy of the dwelling unit by an illegal alien, knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States deemed to constitute harboring.*

The IIRA then goes on to describe how the Hazleton Code Enforcement Office will enforce the new procedures for landlords and tenants to comply with. In short, if you are a rental property owner this includes registering all properties with the city and asking for rental permits from tenants or having an agent to complete these tasks for you. There are many bureaucratic procedures spelled out for failure to comply. Ultimately, rental property owners who refuse to comply or have second or subsequent violations can be fined $250 for each separate violation, which was changed from no less than $1000 in the original version of the IIRA.
The harboring section of the ordinance includes identical language to the employment section about complaints that are made based on national origin, ethnicity or race being invalid and unenforceable. In spite of this protection against racial profiling, the ordinance goes on to explain that, “upon receipt of a valid written complaint, the Hazleton Code Enforcement Office shall, pursuant to United States Code Title 8, section 1373(c), verify with the federal government the immigration status of a person seeking to use, occupy, lease, or rent a dwelling unit in the City. The Hazleton Code Enforcement Office shall submit identity data required by the federal government to verify immigration status. The City shall forward identity data provided by the owner to the federal government, and shall provide the property owner with written confirmation of that verification.”

The Tenant Registration Ordinance that was discussed in the introduction to this chapter and accompanied Hazleton’s IIRA as new policy in 2006, explains the procedures for tenants. Potential renters must purchase a rental permit and allow their personal information to be on file with the city. It is not uncommon for cities to have or consider rental permits, what was unique in Hazleton was that licenses would be limited to residents who could prove they were authorized to be in the United States.

Though some of the language in the ordinance was changed and revised, the main goals of Hazleton’s IIRA remained, namely to punish employers and landlords for conducting business with residents whom the Mayor and City Council members considered undesirable for the town. According to the IIRA, the Hazleton Code Enforcement Office
is largely responsible for enforcing both the employment and harboring regulations. Notably this office has few code officers. What is described in the ordinance is obviously a very large and time-consuming job for two to three people - this is just one practical problem.

Hazleton’s IIRA uses language from federal and state policies to refashion the city as a location of immigration enforcement. Thus far the courts have concluded that federal policy protects against local immigration enforcement of this kind. The mayor and city council were largely responsible for pushing the ordinance forward with little consideration for its constitutionality or foresight about the impact it would have on the city. In fact, during the trial Lozano v. the city of Hazleton it was revealed that Mayor Barletta did not discuss the IIRA before proposing it with Hazleton’s Director of Planning and Public Works even though this position oversees the offices of Code Enforcement and Tenant Registration that would have been responsible for enforcing the ordinance. It was also revealed that the city council never commissioned or reviewed any studies or data about the impacts of unauthorized immigrants on the city (crime, education, economy, healthcare or other public services) prior to enacting the IIRA nor did the city council conduct a study about the potential impacts of the IIRA. It is useful then to better understand the stated motivations for enacting the IIRA and the political climate at the time.

In 2000, Lou Barletta was elected the new Mayor of Hazleton. By autumn 2006, he had become the national poster-child for the Illegal Immigration Relief Act. Lou Barletta has
said publicly many times that he read about the Illegal Immigration Relief Act that was proposed in San Bernardino, California and thought his town could use a similar policy to protect the city against rising violent crime and gangs. There was one high profile crime in the summer of 2006 in Hazleton that the mayor used as examples of the risk of having “illegal aliens” in the community, though it was never decided whether unauthorized immigrants had been involved in this crime. Nevertheless, Barletta allegedly brought the IIRA to the city council in reaction to the crime.

The city council voted nearly unanimously for the ordinance with only one dissenting vote. According to Citizen’s Voice newspaper Councilman Robert Nilles was the dissenting vote against original and revised versions of the ordinance. He was concerned about lawsuits costing the city a lot of money. He did however vote for the English as official language ordinance when it was voted on separately.

According to authors Esbenshade, Wright, Cortopassi and Flores who listened to hours of audio and video from Hazleton and three other localities to do an in-depth discourse analysis of how anti-immigrant ordinance supporters understand the reasons for local immigration legislation, “There was very limited debate in Hazleton on the ordinances. Council members were mainly concerned about the effect on landlords and the enforceability of the housing regulations. Many fewer residents spoke to the issue than in other locales. Speakers were not encouraged and even intimidated. The president of the Hazleton City Council, Joe Yannuzzi, repeatedly reprimanded, ‘this is not a discussion’ and ‘this is not up for debate’” (Esbenshade et al. 2010, 258).
A few people did get a chance to speak against the IIRA at the city council meetings, but the council members had already made up their minds ahead of time and were not open to dissent. I think it would be disingenuous to say that there was a real and open debate. The mayor summarized his goal for the ordinance at a city council meeting on June 15, 2006. Mayor Barletta stated, “if we pass this we’re going to send a clear message that if illegal immigrants are going to go somewhere in the United States, I don’t think I’d choose Hazleton, Pennsylvania” (Ebenshade et al. 2010, 270).

Surprisingly, in spite of this most of Hazleton’s Latino leaders interviewed agree that Mayor Barletta is not a racist. Previous to the ordinance he had a good relationship with the Latino community and as far as everyone could tell he did not have a problem with new immigrants moving to the town up until 2006. He had appointed a few Latinos to local and state political positions and had never said anything publicly against Latinos or new immigrants (documented or undocumented). More than one interviewee described how it came as a shock then when he did an about-face and began speaking passionately about the ills of “illegal aliens.” It is widely believed that he had political motivations beyond town mayor and that being tough on “illegal immigration” would be a persuasive political platform.

In addition, people interviewed, including longtime Latino residents agreed that before the ordinance was proposed Hazleton was not an intolerant place and that before Mayor Barletta introduced the ordinance there had not been major ethnic or racial tensions in the city for many years. Interviewees explained that there are latent racists everywhere, a few
“bad apples,” but that Hazleton was not out of the ordinary. While it is true that the Latino community was smaller then, than it is now, it is significant that there had been no major incidents in spite of Mexican families who settled there after previously working in nearby seasonal agricultural jobs, long standing Puerto Rican residents and the growing Dominican community. When asked how Hazleton has changed in the last twenty years, one resident had this to say, “the City hasn’t changed. One person changed the city and you know his name. Barletta changed the city.”

Besides Mayor Barletta and the city council, no other community leaders, institutions, businesses or organizations came out in support of the ordinance. This is significant because there was no grassroots movement in Hazleton organized in support of the ordinance and that the decision to move forward with it came from elected officials inside government. For the most part, council members remained quiet in public about their opinions, leaving Barletta to be the primary, proudest pro-ordinance spokesperson for six years.

Mayor Barletta seemed to enjoy this role. He championed the ordinance nationally and became the expert and activist on the issue of “small town America” and the burden of illegal immigration. He did guest appearances on TV shows and gave interviews to numerous newspapers. The most famous TV appearance was the Lou Dobbs special “Broken Borders” in May 2007, which used Hazleton and Mayor Barletta as a backdrop to discuss illegal immigration and the failures of the federal government’s immigration policy.
In addition, Mayor Barletta collected donations to the cause on his “Small Town Defenders” website. Over the last four years the city collected close to $500,000 in private donations. “Nearly 4,500 people from throughout the country donated to the city’s legal defense fund between July 2006 and February 2008” mostly in small sums of $50 or $100, but there were also two large donations upwards of $50,000 (Galski 2010). Interestingly, this $100,000 in donations was not attributed to anyone specific and to this day the city has not revealed its largest donors. The local newspaper the *Times Leader* sued Hazleton in December 2006 after the city would not comply with Pennsylvania’s Right to Know law requiring the city to release the list of names of donors. Hazleton released the list of most of the donor names to the newspaper in February 2008. The newspaper reported that this money was largely spent on defense attorney bills in the city’s federal lawsuit and insurance deductibles. In part because the city needed advice and legal assistance with the ordinance revisions and lawsuit and in part because Hazleton and Mayor Barletta had become a popular conservative cause worth supporting, the mayor and city council received support from lawyer Kris Kobach, FAIR, the Immigration Reform Institute and the Mountain States Legal Foundation. However, this support came with a price tag that continues to rise. The lead attorney Kris Kobach was paid approximately $115,000 up until that time (Mocarsky 2008).

Though there was limited discussion and debate within the city council meetings, and Mayor Barletta attempted to be a ubiquitous voice about the IIRA, right outside City Hall there were passionate displays of opposition against the ordinance. The Hazleton area newspaper *Citizen’s Voice* reported that about three-hundred “supporters of immigrant
rights stood behind a statue of Christopher Columbus on Sunday and prayed the city would abandon an ordinance intended to drive illegal immigrants from the area” (Dobo 2006). A prominent Latino community member described the convening outside City Hall this way, “we established a candle light vigil in front of the city hall, and we also established candle light vigil the day of the second and third readings…The Latinos were on one side and the so-called natives were on the other side.”

Other interviewees explained the scene similarly with Latinos and their allies on one side of the street and ordinance supporters on the other side. Ordinance supporters were described as “bikers” and “KKK” members. Neither the Mayor nor the city wanted to be associated with these ordinance supporters, but nonetheless these were the most visible proponents. It is unclear from interviewees and news reports whether the pro-ordinance protesters were locals or outsiders. Interviewees and local newspapers described one rally outside city hall where ordinance supporters, widely believed to be white supremacist, became very aggressive with one prominent longtime Latino resident. Latinos interviewed echoed this sentiment, “it was very evident that the community was divided…you could see the division, you could see the hate.”

Though there were some local White allies at the vigils supporting the Latino community, including a Lutheran minister and Rabbi from Hazleton, lawyers from the ACLU and people who had traveled from Philadelphia and Harrisburg made up the majority of the White allies at the protests. One Hazleton resident described her frustration that White Hazleton residents would only express their support to her in private. She explained,
“there were those that would say, we are with you more than you know, they were behind the scenes, they were very supportive but not publicly, doctors, attorneys, professionals, the radio stations, but not publicly.”

The Hazleton Latino community received zero support from any Hazleton public institution, civic group or community organization. Even institutions that have spoken in favor of pro-immigrant immigration reform nationally were silent in Hazleton, including the Hazleton Chamber of Commerce, the United Way or any of the local Catholic Churches. In addition, neither CAN-DO nor any of the major employers in the area, ever wrote a letter or showed any public opposition to the Illegal Immigration Relief Act. Largely for that reason, the small group of local Latino political leaders contacted institutions and organizations outside of the city for help. The main allies were the Pennsylvania Commission on Latino Affairs, the Puerto Rican Legal Defense and Education Fund (PRLDEF, now known as LatinoJustice) and the American Civil Liberties Union (ACLU). These advocacy and legal organizations were also central to launching the lawsuit and winning the appeals cases.

It is undeniable that from the time of the first reading of the IIRA in June 2006 through the trial the following summer, the city was on edge. The city of Hazleton was polarized politically between people who agreed and disagreed with the IIRA. The city was also polarized along ethnic lines, between White residents who increasingly felt suspicious of Latinos and Latino residents (documented and undocumented) who felt alienated by the mayor, the ordinance, and the hostility they felt from neighbors and people at the grocery
store. One White ally explained, “that law that we have on the books here, our ordinance, means that Latinos will be very selective oftentimes in choosing where they go.”

As early as September 17, 2006 the local newspaper *Citizen’s Voice* began reporting on how the passage of the ordinance (though it hadn’t been enforced) was already changing the lives of all Latinos in Hazleton. Residents reported feeling singled out, targeted, afraid. According to press reports Latino residents were discussing leaving town and Latino owned businesses were closing. Hazleton’s Illegal Immigration Relief Act threatened and intimidated the Latino community and according to residents relations were strained for at least one to two years. In the early aftermath of the ordinance there was evidence that suggested Hazleton was experiencing brown-flight. One could hypothesize then that the enactment and controversy surrounding the IIRA would deter Latinos for many years to come. Interviewees agree the city was very tense after the ordinance was adopted, but there is disagreement on how many Latinos fled Hazleton after its passage and whether their departure was permanent. In the end, it seems that some immigrant families, in particular some Mexican families moved away, but the IIRA did not deter new immigrants for long.

Regardless of the hostile and tense climate the IIRA created, Hazleton became a model for cities in Pennsylvania and around the country. Regionally and nationally towns created copycat ordinances and Hazleton gained quick notoriety as the trendsetter. In Pennsylvania approximately thirty copycat ordinances were proposed 2006-2007. In 2007 Barletta was reelected mayor of Hazleton, having won both the Republican and
Democratic primaries, he won the election with 90 percent of the votes. This is the best measure of local support for Barletta after the IIRA was passed. Then in 2008 Mayor Barletta was awarded “Mayor of the Year” by the Pennsylvania State Mayors Association for his dedication to the IIRA. This is the best measure of political support he enjoyed statewide. The Hazleton area newspaper *Citizen Voice* quoted Barletta in 2006, “we're fighting this fight for cities and towns across the country” (Malcolm 2006).

Unlike many other cities that dropped or repealed their ordinances to avoid legal challenges, Barletta seemed to welcome the trial. Latino residents felt equally passionately about moving forward with the “fight” but for more personal reasons. One resident explained:

> It was decided that we had to fight against this ordinance because it has several assumptions that were not true. That we increased the crime in the city, that we increased the drugs, that we defaced the city, that we made it an unwelcome place. If you have read the law, it says it in the preamble there. They are assuming lots of things about undocumented individuals but it really touches all Latinos.

The trial and legal decisions are a central part of Hazleton’s Illegal Immigration Relief Act story. This dissertation does not delve into the specifics of the legal arguments, but it is necessary to highlight the outcomes of the trial and appeals cases. The legal decisions have in large part shaped Hazleton’s future. Had the judges come to legal decisions favorable to Mayor Barletta and the city council, the city’s future would have been considerably different.

March 12, 2007 was the first day of trial, which lasted 9 days. One important aspect of the trial was that many of the social ills that Mayor Barletta and the ordinance insisted
“illegal aliens” were responsible for including a rise in violent crime, drug offenses and gang activity was not corroborated by the testimony of the Hazleton Chief of Police or other experts. The New York Times reported that the ACLU argued that only 4 out of 428 violent crimes committed in Hazleton in the last six years had been committed by unauthorized immigrants (Preston 2007). Review of the trial documents confirm this, in fact between 2001-2007 there were seven homicides in Hazleton and not one unauthorized immigrant was tried or convicted in any of these cases including the murder of Derek Kichline. There was also no evidence that supported accusations that were made that immigrants were a drain on public services. It is clear from the testimony that Mayor Barletta’s justifications for the IIRA had been at best exaggerated and embellished, if not outright fabricated.

Even after two appeals decisions unfavorable to the city, Barletta has not backed down (recall the cartoon in the opening). The city of Hazleton has appealed the most recent ruling to the U.S. Supreme Court, but it is unknown at this time (June 2011) whether the court will agree to hear the case. So far the legal decisions have been very positive for the Latino community, both Judge Munley (U.S. District Court for the Middle District of Pennsylvania) and Chief Judge McKee (United States Court of Appeals for the Third Circuit) wrote thoughtful and lengthy legal decisions that invalidated the legal logic behind the ordinances and placed permanent injunctions against Hazleton’s IIRA.

---

9 Hazleton resident Derek Kichline was murdered May 10, 2006. Mayor Barletta used this crime as his early explanation for why the IIRA was necessary, when he referred to “illegal aliens” causing a rise in crime he was eluding to this particular incident. Four unauthorized immigrants were arrested, but not one has ever been tried or convicted.
Judge Munley concluded on July 26, 2007 that, “Federal law prohibits Hazleton from enforcing any of the provisions of its ordinances…The genius of our Constitution is that it provides rights even to those who evoke the least sympathy from the general public. In that way, all in this nation can be confident of equal justice under its laws. Hazleton, in its zeal to control the presence of a group deemed undesirable, violated the rights of such people, as well as others within the community. Since the United States Constitution protects even the disfavored, the ordinances cannot be enforced.”

Four Years Later

“The people that stayed, told everybody else, ‘come on, there is nothing to fear, they cannot do anything to us’…so after that the amount of people coming in increased and the number of businesses increased. We have 15-20 beauty shops, we have about 45 bodegas, small mom & pop stores, and we have many restaurants.”

This quote by a Latino leader in Hazleton is one perspective on what has happened since Judge Munley’s decision. While it is impossible to prove a direct causality between the failure of the IIRA in court and the rise in the Latino population, the facts are that the IIRA was never implemented and the Latino population – made-up largely of Dominican immigrants and Dominican-Americans – has increased steadily. In spite of the mayor and council’s efforts to drive out or drive underground the immigrant influence in Hazleton, it is alive and thriving.
The most interesting thing that has happened since the Illegal Immigration Relief Act was first proposed is that the Latino community has been galvanized. This galvanizing began in response to the IIRA when the Latino community organized to bring the lawsuit. It has since evolved a great deal to do much more than react to discriminatory policies. Thus far their efforts have been successful against the ordinance and that, along with a growing community, has created momentum for more grassroots political organizing as well as services for the Latino/Dominican community.

Churches, the Rotary Club and other civic organizations are providing free ESL classes at the request of residents. Latinos have run for political office, so far unsuccessfully, but voter registration outreach and plans to elect a Latino leader to the school board in the next election cycle foreshadow change ahead. The Luzerne County Community College
has a campus in Hazleton that opened a Multi-Cultural Learning Center. Hazleton has a seven-year-old Spanish language newspaper and its founder became the first Latino member of the Hazleton Chamber of Commerce. Wyoming Street is a main commercial street in the downtown that has been revitalized by an array of new Latino-owned businesses. Last summer (2010) the first ever LatinFest was a huge success. It was an outdoor full-day family festival that included performances, dancing, music and food from Mexico, Puerto Rico, Dominican Republic, Peru, and Argentina. LatinFest had corporate sponsors and support from the entire city. Mayor Barletta even attended, as did the President of City Council and the local State Representative. The plans for this year’s LatinFest are even bigger and there are already five committees organizing it.

Figure 7 Photograph of Latino businesses

The organization Concerned Parents formed in 2008 to promote educational success for Latino students. The group has become successful in a short amount of time because it has support from both the Latino and White community and has many active volunteers.
They provide tutoring, after-school activities, reading classes, one-to-one ESL classes, citizenship classes and have become active with the School Board, district politics and policies. They give public computer classes, art classes, adopted a playground and created a mural. It is probably the best example of how relations between the White and Latino communities have greatly improved in the last few years and the context in which residents described how the Hazleton community has started to heal since the IIRA controversy. One leader from Concerned Parents explained all the many programs and projects the organization has began this way, “there is such a need in this community for helping the new comers…and they are so grateful.”

There is however another perspective on what has happened since 2006. Rather than, or maybe in addition to the city beginning to heal from the ordinance debate White residents are moving out of the city. In addition to hearing about White-flight in interviews with Latino residents the Census 2010 data appears to corroborate this. According to Census 2000 data there were 22,133 Whites living in Hazleton (94.7 percent of the total population). According to Census 2010 data there were 17,592 Whites living in Hazleton (69.4 percent of the total population), a change of -4,541.

In the immediate days after the IIRA was enacted it appeared to be having its desired effect, driving Latinos out of the town. In the longer-term Mayor Barletta and the city council did not succeed in scaring immigrants out of town. Four years later the data points to the reverse trend, there is evidence of White-flight. In response to a question about whether Latinos have left Hazleton because of the IIRA, one resident had this to
say, “the exodus that has been going on is of the so called ‘native’ population, they have moved to the outskirts, they have moved to the valley in Conyngham. In the paper today, [there was an article about] Hazle Township, the value of their real estate has gone up, why? Because the people from Hazleton city are moving to Hazle Township.” Longtime White residents have sold their homes and bought new ones in newly constructed developments in nearby towns like Conyngham, and Hazle Township, Pennsylvania. Locals call this area the “valley” because it is literally in the valley, but the name also evokes the California-style aesthetic of low density, two-car garage single family homes on large lots with manicured lawns. The influx of immigrants has inadvertently raised home values in the entire area and allowed White residents to relocate to more suburban, homogenous surrounding towns.

Hazleton’s most [in]famous White resident, longtime (now former) Mayor Lou Barletta has also moved – only to Washington D.C. After running for the position for the third time, with the help of the Tea Party conservative voting-block, and with the advantage of four years of media profile-raising and publicity, Barletta was elected to the U.S. Congress in November 2010. Since 2006 opponents accused Barletta of being a political opportunist and using the IIRA as a stunt to get his name known regionally and nationally. Whether that was his intention I cannot say, that the ordinance controversy brought him attention, notoriety and political advancement is apparent.

---

10 Barletta ran for Pennsylvania’s 11th congressional district in 2002, 2008 and 2010.
Everyone interviewed, supporters and opponents alike, agreed that for ten years Mayor Barletta was the most important leader in the city. It is unclear how Hazleton history will remember Barletta. On the one hand it brings pride to the city that a born and bred Hazleton mayor is now their Congressperson, but on the other hand Barletta’s decision to propose and then legally pursue the IIRA has left the city with pending debt and other consequences of over five years of legal battles. Six months into his term in Congress Barletta has already prepared his first piece of legislation, which not surprisingly is related to local immigration policy. The Mobilizing Against Sanctuary Cities Act, if passed, would take away federal funding from sanctuary cities. Thus far it appears that Congressman Barletta will work towards similar goals to the IIRA on the regional and national scale. In the meantime, as Barletta promised, current Mayor Joe Yannuzzi and the city of Hazleton are attempting to appeal the case once again, this time to the U.S. Supreme Court.

The most recent legal decision from the United States Court of Appeals for the Third Circuit upheld the previous decision from the United States District Court for the Middle District of Pennsylvania making it increasingly unlikely that the IIRA will ever be implemented or enforced in Hazleton. Chief Judge McKee wrote a thorough legal decision stating that:

Although the federal government does not intend for aliens here unlawfully to be harbored, it has never evidenced an intent for them to go homeless. Common sense, of course, suggests that Hazleton has absolutely no interest in reducing aliens without legal status to homelessness either. No municipality would benefit from forcing any group of residents onto its streets. Rather, it appears plain that the purpose of these housing provisions is to ensure that aliens lacking legal immigration status reside somewhere other than Hazleton. It is this power to
effectively prohibit residency based on immigration status that is so clearly within the exclusive domain of the federal government.

Furthermore, the Judge concluded, “It is, of course, not our job to sit in judgment of whether state and local frustration about federal immigration policy is warranted. We are, however, required to intervene when states and localities directly undermine the federal objectives embodied in statutes enacted by Congress.

The court has also ruled that the city of Hazleton owes $2.4 million to the Plaintiffs to cover their legal fees (and mostly likely significantly more because this only covers the fees through the trial, not the appeals). While another court ruled that the city’s insurance company does not have to pay any of these legal fees (Morgan-Besecker 2010). Meanwhile, the city’s legal defense fund had “generated as much as $430,000 in contributions from private citizens,” but as of October 2010 only had about $10,000 remaining. The majority of the defense fund went to paying lead attorney Kris Kobach $197,615 and paying Adleson, Hess & Kelly law firm (used in suit against Hazleton’s insurance company) $168,830 (Galski 2010). Remarkably, thus far Hazleton has not used any tax dollars towards its legal bills (Galski 2010). However, when these plaintiff bills come due it is unclear how Hazleton will be able to comply monetarily.

Ironically, in the end the IIRA may well punish the new immigrants and native-born Latinos in Hazleton after-all, not by enforcement, but economically. The growing Latino community could be hurt greatly by a rise in taxes or cuts in public services if Hazleton’s
current Mayor Yanuzzi and city council are forced to make difficult decisions about how to pay its exorbitant legal bills.

Hazleton is at a crossroads. The influence of Caribbean and Latin American culture has a visible and vibrant presence in the city. There is a growing Latino empowerment, people are putting down roots and creating political and social capital. From Concerned Parents and other initiatives there is reason to believe the White and Latino communities can work together to move forward from the IIRA controversy. There are new residents who have never heard of the ordinance and even some longtime Latinos believe the ordinance no longer impacts their daily lives. However, there are also signs that increasing White-flight and other concerns like long-term fiscal debt as a result of the lawsuit legal bills will make it challenging for Hazleton to move past the IIRA.

**Conclusion**

What has been described here is primarily Hazleton’s local narrative, the forces that initiated the IIRA in the city, the political climate leading up to the enactment of the ordinance and some of the political, economic, and demographic outcomes. But Hazleton is widely considered the most important of the many municipalities to consider or enact this type of ordinance because it has come to represent the national policy trend. As Monica Varsanyi explains it was not only given exhaustive media coverage as the policy innovator, but it continues to be the legal test case for this local policy strategy (Varsanyi 2011, 295).
As I have shown, Lou Barletta was the unequivocal force that initiated the IIRA in Hazleton, though he also enjoyed the full support of the city council. Since he has resigned as mayor and begun his term in Congress, the new Hazleton mayor and council have continued to pursue the *Lozano v. the city of Hazleton* legal appeal. Barletta’s unwavering support from Hazleton’s voters and the letters of encouragement and small donations he received from around the country also propelled the IIRA forward. Additionally, it is apparent that less visible, but powerful forces were also involved in the production of the IIRA. The Federation for American Immigration Reform and Kris Kobach worked together closely with the city of Hazleton throughout the last five years.\(^\text{11}\) Kobach wrote and amended multiple versions of the ordinance and defended it in trial and appeals cases. Most recently, Kobach and the Immigration Reform Law Institute submitted a petition to the U.S. Supreme Court to review the case. Finally, the unnamed large donations to the “Small Town Defenders” legal defense fund made it possible for city officials to pursue the lawsuits (up until now) with little financial burden to the city or taxpayers.

As the testimony at the *Lozano v. the city of Hazleton* trial revealed and the research and interviews I conducted corroborate, Hazleton was not undergoing the stresses or challenges used to justify the IIRA. In particular, accusations against new immigrants like violent crime related to increased gang and drug activity were unfounded. It should be said that while the justifications for Hazleton’s IIRA were unfounded, the community was undergoing stresses leading up the enactment of the IIRA. These stresses are not

\(^{11}\) On his campaign website [http://www.loubarletta.com/meet-lou](http://www.loubarletta.com/meet-lou), he describes himself as “on the National Board of Advisors of the Federation for American Immigration Reform, (FAIR).”
attributable to unauthorized or authorized immigrants, but immigrants are an easy target for these complex “stresses” and changes, namely the economic changes connected to neoliberalism (Fleury-Steiner and Longazel 2010).

From the first proposed IIRA initiated by Joseph Turner of Save Our State in San Bernardino to the most recent revision of Hazleton’s IIRA, the ordinance has evolved. The first IIRA enacted in Hazleton included an English-only provision, in later versions this was removed and the city voted and implemented it separately. Another important change was the inclusion of a section that explained how the ordinance would be implemented. Lastly, the final version included language that penalized and invalidated housing or employment complaints based on race, national origin or ethnicity to address accusations that the IIRA would lead to illegal racial profiling.

Hazleton attempted a legally defensible way to restrict employment and housing to unauthorized immigrants. Thus far, the city’s elected officials have been unsuccessful in getting court approval for the IIRA. It has been equally unsuccessful in deterring immigrants from residing or working in the city or in implementing a more effective strategy to deal with unlawful immigrants than the federal government. It safe to say then that Barletta and the city council were unsuccessful in meeting any of their original goals of the IIRA and compounding this is the increasingly likelihood that the lawsuits related to ordinance will cost the city millions of dollars in debt.
Meanwhile, it is evident that Hazleton has undergone significant changes since 2006, but it is a complex endeavor to determine what is attributable to the IIRA. The most prominent impacts of the IIRA are the legal challenges, the political advancement of Lou Barletta and increased local political involvement of the Latino community. Another important outcome is that the enactment of the IIRA has not stopped immigrants from moving to Hazleton. I conclude here that the Latino community galvanized politically and began actively building political partnerships because of the threat the IIRA posed to their community and that at least in part, the rise in Dominican and Dominican-American migration to the city was linked to the failure of the IIRA in U.S. District Court.
CHAPTER FOUR: RIVERSIDE

Introduction

On July 26, 2006, Riverside New Jersey enacted the Riverside Township Illegal Immigration Relief Act, making it the second city in the country to enact an IIRA. Mayor Charles Hilton introduced the ordinance and the Township Committee voted for it unanimously. Local newspapers, *The Philadelphia Inquirer* and the *Burlington County Times*, reported that the town solicitor never reviewed the ordinance ahead of the vote because the mayor and council were so enthusiastic about passing it quickly. These same papers reported that some longtime White residents had been complaining for years to city officials about “illegal immigrants,” housing overcrowding, out of state license plates and other social ills they attributed to the increase in the town’s Brazilian population. These vocal anti-immigrant residents may explain in part the unquestioning support the Township Committee had for the IIRA.

Though the town’s Brazilian immigrants were largely responsible for revitalizing the main-street and much of its local economy, there was intense hostility from some residents against the new Brazilian community. Riverside’s longtime residents complained of the changing culture of the town, overcrowding schools, alleged property devaluing, and immigrants taking the jobs of “Americans.” By contrast, the Brazilian and

---

12 The U.S. Census does not categorize Brazilians as Latino or Hispanic because they are not Spanish speaking and Brazil was colonized by Portugal rather than Spain. However, many Brazilians in the United States identify as Latino because they are from South American, Catholic and share some common history and culture. I do not identify Brazilians as Latino or Hispanic here, but I do recognize that by being called “illegal immigrants” many White residents in Riverside were collapsing Brazilians into this illegal=Latino identity. It should also be said, that residents differentiated between the Brazilians (“illegal”) and the Portuguese (“legal”), but did not differentiate between Brazilians and Mexicans or Ecuadorians.
other Latino immigrants complained that though they had revitalized the downtown, brought new businesses and were contributing to the community and economy, they were still actively un-welcomed. The chairman of the local planning board in Riverside at the time the ordinance was enacted explained to a newspaper that there is nothing wrong with “making it uncomfortable to be illegal” (Pearsall, 2006).

Ordinance 2006-16 summarizes the objectives of the IIRA. The “Findings and Declaration of Purpose” section states,

A. **That illegal immigration contributes to negative impacts on our streets and housing, negatively impacts our neighborhoods, subjects our classrooms to overcrowding and puts distend demands on our schools edging our schools to fiscal hardships, leads to higher crime rates, adds demands on all aspects of public safety jeopardizing the public safety of legal residents and diminishes our overall quality of life**

B. **That the Township of Riverside is empowered and mandated by the people of The Township of Riverside to abate the nuisance of illegal immigration by aggressively prohibiting and punishing the acts, policies, people and businesses that aid and abet illegal immigrants**

Riverside’s first Illegal Immigration Relief Act makes clear that the central goal of the ordinance was penalizing landlords and businesses who were “aiding and abetting” illegal immigrants and stopping the negative impacts of illegal immigration. The following two sections of the act, “Business Permits, Contracts or Grants” and “Renting to Illegal Aliens” explained the consequences and fines for violating the new employment and housing regulations.
Riverside’s original IIRA had a great deal in common with Hazleton’s original IIRA. However there were some notable differences. Ordinance 2006-16 was shorter, less specific and used less formal policy language. It did not include a definition of “illegal alien” and there was no mention of federal or state immigration policy. Ordinance 2006-16 also excluded the English-only provision, because of the well-established Portuguese residents in the community.

In spite of the differences between Riverside Ordinance 2006-16 and Hazleton Ordinance 2006-10, it is clear from the content that Ordinance 2006-16 is a copy-cat of Hazleton’s IIRA. Additionally like Hazleton, Riverside made revisions to its original IIRA in an effort to make it legally defensible. The first revision, Ordinance 2006-18, was adopted on August 23, 2006 and made minor amendments. More significant revisions were included in Ordinance 2006-26 designed to make it “more efficient, enforceable and effective.” Riverside’s Ordinance 2006-26 remained township policy for about ten months, but in that time it was never implemented or enforced. Later in this chapter I will analyze Ordinance 2006-26 more closely and discuss the public reaction in Riverside to the Illegal Immigration Relief Act. The next section of this chapter attempts to contextualize the IIRA with a brief economic and demographic history of Riverside. Finally, I will consider the long-term effects of enacting the Riverside Township Illegal Immigration Relief Act on the city and its residents.
Background

Though New Jersey is a traditional gateway state for new immigrants and has been one of the most densely populated and ethnically diverse states in the country for decades, many of Riverside’s residents were caught-off-guard in the late 1990s and early 2000s when the town became a destination for new Brazilian immigrants. Nevertheless, the waves of migration to Riverside over the last 150 years have largely reflected national and state migration trends. Like Hazleton, Riverside’s demographic changes and immigration waves can be tied to structural changes in the economy.

Riverside is located in southern New Jersey. In 1851 German-Americans founded the town of Riverside, though it was originally named Progress. For about twenty years it was a resort town where residents from nearby Philadelphia and Camden would holiday, but when the railroad to Atlantic City was completed that became the new vacation spot. In spite of being only about 1.6 square miles, the town was renamed Riverside in 1867 and reinvented itself as a thriving factory town. According to the Census in 1880 there were only 134 residents in Riverside, but the garment business and other new factories brought jobs and an increase in population. Local industries that resided in Riverside during the 20th Century included glass manufacturing, a canning factory, hosiery production and watch making. The Taubel Hosiery Mill was one of the largest producers of hosiery in the country, but only one of three knit mills located in Riverside. The Philadelphia Watchcase Company (which later became known as the Keystone Watchcase Company) took over an abandoned hotel building in Riverside and at its high point dominated the town’s economy and employed approximately 1000 workers.
By the early 1950s Riverside had a population of around 9,000 residents most of whom were German, Italian, Polish and Irish immigrants or descendants of immigrants. The town had a small but vibrant downtown that was the shopping hub of neighboring Delran and Delanco townships. Unfortunately, Riverside was hit hard by the closing of the Watchcase Company factory and by 1960 Riverside’s thriving industrial period was over. Then to add insult to injury, suburban strip-malls opened outside of town along the highway, which quickly changed the viability of Riverside’s commercial downtown.

Like Riverside, many New Jersey municipalities including nearby Camden and Trenton, suffered economic slowdowns and population loss in the decades after WWII. Riverside’s post-industrial landscape was marked by boarded up factories, low property values and few remaining small businesses in the downtown. The city government has had been big plans for decades to revitalize Riverside’s downtown and generate a new economic base. These plans have centered on the redevelopment of the Golden Triangle, which includes the historic Keystone Watch Case Co. building, the former Taubell Mill property and the former Zurbrugg Hospital property. How to execute these projects and revitalize has proven challenging for the township in the years since.

In the meantime, the next wave of immigrants moved to Riverside. The Portuguese are crucial to the story because they influenced the most recent immigration wave. The federal government approved the Immigration and Nationality Act in 1965, which immediately spurred a new wave of immigration to the country. Since the 1965 act, for
the most part, abolished the previous quota system it resulted in people arriving from countries that had not been sending countries before. Portuguese immigrants were among this new wave, over 10,000 a year up until the 1980s. Portuguese mainly migrated for economic advancement because most left rural communities and were uneducated. Once in the United States the majority found labor jobs or became small business owners in carpentry, construction, restaurants or bakeries (Smith 1989). According to the 2000 Census, there were over one million people of Portuguese ancestry living in the United States. New Jersey was the state with the fourth largest population of Portuguese-Americans with approximately 72,000 residents (Smith 1989). Additionally, the Immigration and Naturalization Service reported approximately 1100 Portuguese immigrants entered New Jersey a year 1990-1997 (Murakami 2000).

The Portuguese made up the largest group of foreign-born in Riverside in 2000 [SEE APPENDIX C, p. 221]. Riverside residents interviewed estimate that about four hundred Portuguese families have settled here since 1965. In 2000 the foreign-born made up 10 percent (806 people) of Riverside’s population, of those 29 percent (235 people) reported their Place of Birth as Portugal (Census 2000). The Philadelphia Inquirer article from the same year, entitled “Culture, Cuisine, Camaraderie Draw Portuguese to Area Club” explained how some thirty families purchased the 4,000 square-foot building, formerly Polish-American club and converted it into The Association of the Lady of Fatima of Riverside, the first Portuguese-American club in the region, which at the time had over four hundred members. In addition, St. Peter’s Roman Catholic Church had a Portuguese-speaking priest who conducted masses and holiday services in Portuguese. A White
Riverside resident described the Portuguese as “well respected, assimilated” and having nice houses. Most Riverside residents that I spoke with echoed these sentiments. Though the Portuguese seem to be a tight knit community, they are also well established and integrated in the town.

In 2000, Brazilians made up the second largest group of foreign-born in Riverside with 26 percent or 210 people [SEE APPENDIX C, p. 220]. Though it is difficult to explain why the Portuguese chose to originally settle in Riverside, it is not difficult to explain why the Brazilians did. The first Brazilians to move to Riverside were young men who were employed as carpenters by Portuguese-owned construction companies. Interviewees described how a van would pick them up at their homes and generally take them out of town to work construction jobs. The housing-boom provided many construction jobs for day laborers and new immigrants during the early 2000s. During this period economic restructuring meant renewed emphasis on the real estate market and new development.

Douglas Massey explains that, “immigrants tend not to disperse randomly…but to move disproportionately to places where people of the same nationality have already settled. To a large extent, this selective channeling of immigrants to specific destination areas reflects the influence of migrant networks” (Massey 2008, 25). While, the Portuguese and Brazilians do not share a nationality they do share a language and history. The Brazilians gained entry into the Portuguese migrant network in Riverside and eventually came to establish their own.
According to the three part series published by the *Philadelphia Inquirer* in 2005, Riverside was a vibrant town, bustling with Brazilians. Jennifer Moroz reported:

They hoped this old town would be rediscovered someday. That new life would course through the tired streets, revive the aging storefronts, fill the burnt-out, boarded-up buildings. And when they learned a new light-rail line was coming their hope soared…In their dreams, this blue-collar burg on the Delaware’s banks, a place that booming suburbs drained long ago, would be bypassed no longer. The town once called Progress would prosper yet again. First, the developers would come, then the young professionals and empty nesters, filing into new lofts and townhouses and restoring lonely downtown to a vibrant business district…And they got their wish. People are coming. They’re just not the ones anyone here was expecting (Moroz 2005).

Local police estimates at the time were that 2000 Brazilians were living within the township limits, but other estimates ranged as high as 5000. The divergence of estimates was due to a combination of community hyperbole, the number of men living in previously single family units, and the lack of a recent population count. Additionally, Riverside was considered the epicenter of Brazilian culture in the region so some lived elsewhere, but would visit to eat at restaurants or attend church.

Brazilians interviewed for the article described Riverside as the cultural and commercial hub of their community in the region. Though they did not yet open a formal cultural club like the Association of the Lady of Fatima, Brazilians had already opened many ethnic businesses and services including restaurants, groceries, bakeries, hair salons, wire transfer establishments, Capoeira classes, and English-classes. Brazilian residents were also members of the Catholic Church and celebrated traditional Brazilian religious festivals in town. Most of Riverside’s Brazilian immigrants migrated from two states in Brazil, Minas Gerais in the southeast or Rondonia in the northwest (Moroz 2005).
Moroz’s three-part series also described the issues White residents were angry about that they felt were a result of the growing Brazilian population. The most common complaints White residents had about the new immigrants were that they caused housing overcrowding in rental units and that they drove cars with Pennsylvania license plates skirting New Jersey insurance prices and laws. If pressed further White residents might also be concerned about alleged school overcrowding or a feeling that the town was losing its culture. One resident had even begun circulating a petition that hundreds of residents signed demanding that the township crack down on housing overcrowding (Moroz 2005).
In 2005, in response to this feeling of being unwelcome in Riverside, coupled with the reality that ICE had recently conducted raids in town, some Brazilians began relocating or considering relocating out of fear. The article leaves the future of the town open ended.

The author was uncertain whether the integration process – White teenagers taking Capoeira classes, the first interracial marriages, Brazilians studying English – would continue or if the Brazilians would continue to relocate to Philadelphia or back to Brazil out of intimidation. Longtime Portuguese residents worried that without the Brazilians Riverside would be a ghost town (Moroz 2005).

<table>
<thead>
<tr>
<th>Riverside</th>
<th>1990 Census</th>
<th>2000 Census</th>
<th>2010 Census</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Population</td>
<td>7,974</td>
<td>7,911</td>
<td>8,079</td>
</tr>
<tr>
<td>Race (White)</td>
<td>7,763 (96.6%)</td>
<td>7,137 (90.2%)</td>
<td>6,480 (80.2%)</td>
</tr>
<tr>
<td>Hispanic Origin By Race</td>
<td>211 (2.7%)</td>
<td>325 (4.1%)</td>
<td>916 (11.3%)</td>
</tr>
<tr>
<td>Detailed Hispanic Origin 1990 / Place of Birth for the Foreign Born Pop. 2000</td>
<td>197 (2.5%) (Puerto Rican, Other Hispanic)</td>
<td>[235 / Portugal]</td>
<td>n/a</td>
</tr>
<tr>
<td>Per Capita Income in 1989/1999</td>
<td>$13,133</td>
<td>$18,758</td>
<td>n/a</td>
</tr>
<tr>
<td>Per Capita Income in 1989/1999 for Hispanic Population</td>
<td>$9,965</td>
<td>$13,733</td>
<td>n/a</td>
</tr>
<tr>
<td>Year of Entry Foreign Born</td>
<td>1980-1990 244 (40.6%)</td>
<td>1990-2000 369 (45.8%)</td>
<td>n/a</td>
</tr>
</tbody>
</table>

Table 2: Census data – Riverside NJ

The Ordinance

Riverside’s original Illegal Immigration Relief Act had much in common with Hazleton’s original IIRA including the language used, the assumptions it made and its goals. Riverside’s ordinance also went through a number of revisions. Riverside also went through a similar process to Hazleton to enact the IIRA. Riverside’s Mayor proposed the
IIRA and the township committee came out in strong support of the mayor and the ordinance. Then when Riverside was faced with legal challenges, with the help of outside legal counsel from FAIR the committee revised and passed newer versions of the IIRA. Though the ordinances’ text and objectives were close to identical and the process to enact the IIRA were similar, that is where the commonalities between Hazleton and Riverside end.

Riverside, a smaller town geographically, with a much smaller population, had White residents complaining about the new immigrant community for many years and tensions surrounding the Brazilians in town existed long before the ordinance was proposed. Unlike Mayor Barletta’s explanation for the ordinance being violent crime, Riverside’s Mayor Charles Hilton used the IIRA as a response to quality of life issues. Complaints mainly included everyday issues like parking, housing overcrowding, a recent fire, etc. This chapter examines in detail the goals as well as the implementation and enforcement strategies of the IIRA. The chapter will also examine the Mayor and City Council’s role in enacting it. Finally, this chapter will discuss the climate in the town leading up to the vote on the ordinance and the community reactions/outcomes in 2006 and 2007.

The goals of Riverside’s Illegal Immigration Relief Act are made clear in the ordinance text. The original ordinance, Ordinance 2006-16 was discussed in the introduction. Here the final revised version will be highlighted and analyzed.

From Riverside Ordinance 2006-26:
Whereas, on July 26, 2006, the Riverside Township Committee passed the Illegal Immigration Relief Act Ordinance, designated as Ordinance 2006-16; and

Whereas, minor amendments were thereafter made by adoption of Ordinance 2006-18 on August 23, 2006; and

Whereas, the Township continues to review and analyze the terms of the Ordinance in an effort to clarify same and make the Ordinance more efficient, enforceable and effective.

“Efficient, enforceable and effective” sums up the goals of the newest version of Riverside’s IIRA. The next section of the ordinance, “Findings and Declaration of Purpose” is interesting because there are many amendments that have been made that were not included in Hazleton’s final revision. Hazleton included A-G, while Riverside included from A-L. The following language is unique to Riverside:

D. The State and Federal Government lack the resources to properly protect the citizens of the Township from adverse effects of unauthorized employment and harboring of illegal aliens. While the Federal Government has passed laws and regulations on these issues, it has woefully forsaken the enforcement of same.

H. According to census figures, the Township of Riverside’s population is approximately 8,000 residents; however, estimates are that approximately 2,000 to 3,000 illegal aliens live with the Township. By the very nature of this population, the exact numbers are impossible to document. These additional residents place increased demands on all municipal services and thereby create a drain on the Township’s financial resources.

I. Code enforcement has revealed extensive instances of unscrupulous landlords renting to illegal aliens by a process referred to as “stacking.” These landlords charge excessive rates to each individual and often charge weekly rates to illegal aliens, creating
and fostering overcrowding conditions. These landlords make substantial profit in creating these conditions, which conditions are conducive to fire and other health hazards.

J. A fire within the Township on Delaware Avenue on or about June 19, 2006 resulted in approximately twenty illegal aliens fleeing the building and the scene, indicating the severity of health and public safety issues presented by the housing methods used in “stacking.”

K. This Ordinance intentionally targets those that unlawfully employ and/or house illegal aliens, as defined herein, often at exploitative rates of pay or rents, and nothing within this Ordinance should be construed to be a direct regulation by the Township of illegal aliens or their status in this Country.

These added amendments made explicit the intentions of the IIRA and attempted to explain why it was needed. Subsection “D” directly addressed the federal governments lack of enforcement of immigration laws and tried to hold the federal and state governments responsible for the ordinance being necessary. Subsection “H” addresses the question of how many illegal immigrants are in the town (which none of the Hazleton IIRA versions ever mentioned). Subsections “I” and “J” give examples of problems related to illegal immigration that are contemporary and unique to Riverside. The last subsection “K” directly addresses the exploitation of immigrants, but clarifies that the ordinance will not regulate anyone’s immigration status.

Other than the “Findings and Declaration of Purpose” section the Riverside IIRA is very similar to Hazleton’s revised IIRA. The purpose of this revision was largely to specify and clarify the process of implementation and enforcement. Implementation and
enforcement would rely on the code enforcement officer, the local policy force and the Basic Pilot Program. Notably, in 2006 Riverside’s police force was made up of 15 people and the town had two code enforcement officers (Callas 2006). This further highlights how even if the township had tried to enforce the IIRA there likely would have been logistical difficulties. Amazingly, around this time the Burlington Country Times reported that, “Hilton said enforcement would be handled primarily by the police and the township’s code enforcement officer, but he added that help would be needed. ‘It will certainly take the whole community to enforce it’ Hilton told the crowd.”

The Philadelphia Inquirer reported that three hundred people were in attendance at the township committee meeting the night the first Illegal Immigration Relief Act was passed in Riverside (Callas 2006). The Burlington Country Times reported over five hundred people attended. Public attendance at a typical township committee meeting would be no more than 15-20 people. Because of the unprecedented turnout, the public meeting was moved from its usual location at City Hall to the high school auditorium. By all accounts the majority of people at the meeting wanted the township committee to pass the IIRA, one resident even led a “go back, go back” chant (McHale 2006).

While there were hundreds of ordinance supporters inside the public meeting, there were also hundreds of vocal and active ordinance opponents in the streets. Reverend Miguel Rivera organized the first public dissension against the IIRA and continued to lead protests and vigils held throughout July and August of 2006 in Riverside. The largest of Rivera’s rallies was held Sunday August 20, 2006. The Philadelphia Inquirer and Burlington Country Times reported three hundred to five hundred people with Rev.
Miguel Rivera outside city hall, but also reported close to one thousand counter-protesters who the *Inquirer* reported screaming, spitting, cursing and being held back by police (Callas 2006).

Reverend Rivera is the President of The National Coalition of Latino Clergy and Christian Leaders, a longtime resident of New Jersey and originally from Puerto Rico. Reverend Rivera and his organization CONLAMIC have connections across the state and country to Christian churches, in particular Evangelical churches. Riverside houses a number of evangelical churches. According to one Brazilian resident interviewed, there are three whose congregations are made up entirely of Brazilians and services are held in Portuguese.

Two separate anti-ordinance factions emerged, the first led by Reverend Rivera encompassing Latino religious leaders and faith-based community groups in the region. The second group was made up of thirty members of the Riverside Coalition of Business Owners & Landlords along with the American Civil Liberties Union (ACLU) and Puerto Rican Legal Defense Education Fund (PRLDEF, now LatinoJustice). In spite of the uncoordinated yet complimentary opposition to the IIRA, there was little discussion inside city hall about potentially negative impacts of the ordinance until legal action was brought. Both anti-ordinance factions filed lawsuits. Attorney William Sanchez-Calderon filed the first lawsuit in U.S. District Court in Newark on behalf of CONLAMIC demanding $10 million in compensation for undocumented immigrants displaced by the

---

13 Ridgefield Park, New Jersey, over an hour away from Riverside.
IIRA. PRLDEF and ACLU filled the second lawsuit in New Jersey Superior Court on behalf of the Riverside Coalition of Business Owners & Landlords.

It is important to point out that Brazilians residents did not play a significant role in either anti-ordinance coalition. Reverend Rivera’s faction consisted mainly of Latinos from outside Riverside, while the Riverside Coalition of Business Owners & Landlords consisted of Latino and Portuguese business owners impacted financially by the IIRA. For the most part, Brazilians did not have the security of valid immigration papers let alone the political or economic power to fight the township.

Unfortunately, the anti-ordinance coalitions and the lawsuits did not stop or even slow-down the effects of the IIRA. Members of the Riverside Coalition of Business Persons & Landlords began reporting fifty-percent drop in business sales after the ordinance. Longtime resident Dave Verduin was quoted in the newspaper, “I think this ordinance accomplished exactly what Riverside wanted it to do. They didn’t want to enforce this law. It was to scare a lot of people out of town. Even legal immigrants have left because they don’t want to live in a town that would do this.” Interestingly, some residents believed that the intention of the mayor and township committee to scare immigrants out of town was twofold, to appease the growing xenophobic sentiments of voters in town and to clear the downtown for capital investments and the redevelopment plans they had been considering for many years. One longtime resident explained, “There were a lot of rumors, investors coming, trying to push the immigrants out to construct buildings and bring a different class of people here.”
Regardless of the motivations for implementing the IIRA, everyone interviewed agreed in the months following the passage of it that the majority of the Brazilian population moved out of Riverside. The newspapers ran stories of Brazilians leaving for Northeast Philadelphia, other south Jersey neighborhoods and even back to Brazil (Bahadur 2006). Adding to the fear, ICE raided two houses the first week in August arresting thirteen Ecuadorian immigrants suspected of being unauthorized immigrants. This led to discussion on whether the landlords would be charged under the new ordinance (Levinsky and McHale 2006). The raid and arrests could have been the first opportunity to fine a landlord under the new ordinance rules, but the township committee members and Mayor were not yet ready to move on enforcement. Nevertheless, it prompted even more immigrants to flee the town.
In spite of the exodus of Brazilians out of Riverside the controversy surrounding the IIRA continued to intensify. Both pro- and anti- ordinance groups made public threats of holding protests on the day the public schools reopened in September.

Two longtime Riverside residents organized a rally in mid-September that brought together speakers from FAIR and other area anti-immigrant organizations. “An event billed as an educational forum about federal immigration law quickly became a rally against illegal immigration yesterday as speakers decried an invasion of illegal immigrants and warned a second Civil War is brewing. Addressing a supportive crowd of about 30 at Spring Garden Park, speakers from the Federation for American Immigration Reform...blamed illegal immigrants for driving down wages and sucking up welfare” (Harris 2006).

At the end of September Mayor Charles Hilton announced publicly that he had contacted ICE requesting state police to help with enforcement of immigration laws in Riverside. Then in late October at the township committee meeting after the council voted on the third and final revision of the IIRA, township solicitor Douglas Heinold stated that Riverside was receiving legal advice from the Washington-based Immigration Reform Law Institute (McHale 2006).

On Election Day, November 4, 2006, two senior Republican members of the township committee (including Mayor Charles Hilton), were voted out and replaced by two new Democrats. Both Democrats and Republicans on the township committee were in favor
of the IIRA (and had voted for it). Even still when two long standing Republicans (including the mayor) were ousted from office the press and local residents speculated it was because people were upset about the legal challenges, the division in town, and the lack of action that had been taken. It was not necessarily a vote against the ordinance, but it did appear to be a vote against the way in which the mayor had handled the controversy.

The one-year anniversary of the enactment of the Riverside Township’s Illegal Immigration Relief Act coincided with federal judge, Judge Munley’s decisive ruling against the city of Hazleton and its IIRA. This proved to be a turning point. There was already a hearing scheduled in New Jersey Superior Court for August 31 to review the ACLU’s request for a permanent injunction and by then the township committee was under new leadership and had a new township solicitor. On August 23, 2007 the Riverside township committee voted to rescind the IIRA, officially repealing a law that had never been enforced.

**Four Years Later**

“I don’t think people knew there would be such an economic burden,” said Mayor George Conard, who voted for the original ordinance. “A lot of people did not look three years out” (Belson and Capuzzo 2007).

The fallout from the IIRA in Riverside happened quickly and had a significant and lasting impact on the community. Four years later there are very concrete spatial, demographic
and economic outcomes. The township committee rescinded the ordinance in 2007 because of the growing cost of the lawsuits as well as the increasing likelihood that the lawsuit would not turnout in the town’s favor, as happened in Hazleton. In spite of rescinding the IIRA, there are many ways in which Riverside has not yet recovered from that policy decision. Though it was difficult for the township committee to admit in hindsight that Brazilians had been an important economic force in Riverside it was indeed the case. The Brazilians rented homes, opened businesses, and unlike many White residents who would shop at the big box stores and malls outside town, the Brazilians generally shopped and spent their money in the small downtown.

In the year after the ordinance was enacted, it was undeniable that many Brazilians moved out of town and that “For Rent” signs went up in downtown store fronts. Everyone interviewed agreed. White and Portuguese owned businesses including the Laundromat, bars and restaurants lost business, while the English-language school that used to be in the Watch Tower building and the town’s one arts and music venue closed. The two Ecuadorian owned businesses in Riverside, a ninety-nine cents store and a taco restaurant, also agree they had more clientele and employees before the IIRA. One longtime resident and business owner interviewed said, “The ordinance was negative for the township and for the businesses. We lost some income as a business, forty to fifty percent of business we lost in the year after the ordinance. Hasn’t really come back. The town is not crowded like it was before, it’s more empty. A lot of stores around have given up their stores for rent, and they stay empty – nobody wants to move in.”
There is no longer a strong Brazilian presence in town. On my visits to Riverside I searched for the Brazilian businesses reporter Jennifer Moroz profiled in her three part series in the *Philadelphia Inquirer* in 2005. Sergio’s Rancho Brasil Restaurant, Lunchonette Brasil, G & I Amigos all closed. In addition smaller businesses like a check cashing business, a Portuguese/English translation company and a Brazilian-owned party/wedding planning company also closed their storefronts. Two Brazilian owned businesses remain open, a hair salon and a bakery/café, these are the remnants of Brazilian culture that still survive in Riverside. The owners of this restaurant explained how little business they have and how most of their friends who moved away no longer even visit Riverside. They also explained how the hair salon used to open every day and have many employees whereas now it only opens on weekend and the owner works alone.

*Figure 10* Photograph of Brazilian bakery in downtown Riverside

Unlike in Hazleton, new immigrants have not moved to Riverside in large numbers replacing those that were scared off by the IIRA and it seems unlikely that new
immigrants will move to the township in the foreseeable future. In addition to the reputation Riverside has gained in New Jersey for being unwelcoming to new immigrants, the housing boom has ended and so the construction jobs that once enticed Brazilians and Latinos to town have since dried-up. One Latino resident interviewed estimates that today there remain “about 500 Latino immigrants, Ecuadorians, Hondurans, Mexicans and about 600 Brazilians.” According to Census 2000 there were 7,911 people living in Riverside. Census 2010 recorded 8,079 residents of those 916 described themselves as Hispanic.

Given the townships’ interest in redevelopment it is worth noting that so far none of the major redevelopment projects have occurred. Young White Professionals have still not moved in and the Light rail train has not transformed the downtown into a destination. Instead, the group of immigrants that were generating an economic and downtown renaissance left and Riverside has returned to its post-industrial ghost-town-ness.

**Conclusion**

In Riverside the IIRA was proposed by then Mayor Charles Hilton and passed with unanimous support from the township committee. There are important similarities to Hazleton as well as some striking differences. In Riverside, like Hazleton, the former Mayor was the primary force that initiated the ordinance. Another similarity to Hazleton was that FAIR and its companion organization the Immigration Reform Law Institute helped Riverside with its ordinance and legal challenges. From the time the IIRA was passed in Riverside, the Riverside township committee, including then solicitor Douglas Heinold as well as residents in the town had ongoing involvement with the FAIR.
Township Solicitor Douglas Heinold even stated publicly that, “the Washington-based Immigration Reform Law Institute, which helped construct the township’s most recent version of the anti-illegal immigration law, continues to offer legal advice and recently contributed $5000 toward the township’s legal defense fund” (McHale 2006). After Hilton left office Riverside continued pursuing the IIRA and the legal challenges for approximately six months.

Unlike Hazleton, Riverside set up a legal defense fund, but it did not receive many donations and the money raised did not offset the estimated $82,000 in legal fees accrued in one year (Martinez 2011, 16). Riverside experience was also different from Hazleton’s because Mayor Hilton did not enjoy long-term political support from the town’s residents. In fact, he was voted out within a year, has not been involved in town or state politics since. Riverside’s Illegal Immigration Relief Act is best known for being rescinded one year after it was enacted.

Interestingly, Riverside has the strongest case that it was undergoing stresses caused by unauthorized immigrants leading up to the passage of the IIRA in 2006. The stresses the town was undergoing included housing overcrowding, as well as traffic and parking congestion. These stresses were arguably diminishing “overall quality of life” as the first version of the ordinance declared. Many long-time residents were concerned about the growing population and had been making complaints to city officials. The city also had health and safety concerns after a fire in town revealed illegally subdivided units. However, Riverside’s IIRA also tried to justify the ordinance by making claims of rising
crime, overcrowded schools and lack of federal enforcement of immigration laws. There was less evidence of these stresses although it is difficult to assess because unlike Hazleton, Riverside never went to trial and therefore there are not public statements from city officials.

Riverside’s IIRA evolved from a close copy of Hazleton’s IIRA, to include more specific reasons for it and details about enforcement. One only has to visit the town to see the visible impacts of enacting the IIRA. The outcomes of Riverside’s IIRA have been much more straightforward and prolonged than Hazleton’s outcomes. The ordinance, coupled with one publicized ICE raid and threats of future raids led to an exodus of immigrants from the town. After the Brazilians fled, the economic aftershocks began including a drop in revenue for many downtown businesses, new vacant storefronts and landlords loosing tenants and decreased tax revenue (Martinez 2011, 17).
CHAPTER FIVE: FREMONT

Introduction

By 2008, the Illegal Immigration Relief Act policy trend had for the most part quieted down. Hazleton and others municipalities like Farmers Branch, Texas were still involved in legal disputes and appeals cases, but no new IIRA ordinances had been enacted in almost two years. Many city councils, like Carpentersville Illinois’ council, discussed the possibility of an IIRA throughout 2006 and 2007, but by 2008 local harboring and hiring ordinances had fallen out of policy fashion. This was largely because Judge Munley ruled decisively against the city of Hazleton and at that time his ruling was the highest court decision. The legal challenges and fees that Hazleton, Riverside, and other cities faced scared off municipalities that might have otherwise enacted IIRAs.

It was a surprise then, in the summer of 2008 to read in the Nebraska newspaper, the *Omaha World-Herald*, that the Fremont City Council was debating the benefits and drawbacks of an ordinance that closely resembled the IIRA. However, instead of calling
it the Fremont Illegal Immigration Relief Act, the Fremont council named it simply Ordinance #5165. Longtime councilmember Bob Warner proposed the original ordinance and then encouraged and pushed the council to move forward on it. Unlike in Hazleton and Riverside where the city councils’ were unified in favor of the IIRA, in Fremont council members were divided over the ordinance from the very beginning. A great deal of emphasis was put on the threat and cost of legal challenges and cities like Hazleton and Farmers Branch were cited as examples of what not to do. Two Fremont city council members and the city attorney spoke publicly about their concerns that these types of ordinances had thus far failed in the courts, created fiscal problems and often brought negative national media attention to other cities. Nevertheless, in spite of these warnings the city attorney upon request of the council drafted a housing ordinance and shortly thereafter revised it to include hiring provisions. On July 29, 2008 the Fremont City Council voted on Ordinance 5165 at a public meeting that had over one thousand people in attendance.

Before discussing the trajectory of how Ordinance 5165 came to be enacted in Fremont, Nebraska, this chapter will first analyze the ordinance text and then the historical, economic, social and political climate in the region leading up to the July 2008 council vote. The ordinance text is significant because it explains in great detail the goals of Ordinance 5165 and the proposed process of enforcement. The ordinance text is also useful because it allows for comparison to be made with the text of the Hazleton and Riverside IIRAs. Locating differences in the text demonstrates how the IIRA has changed.
The Fremont ordinance text is different from the original San Bernardino, Hazleton, or Riverside IIRAs, though it begins similarly to the most current version of Hazleton’s IIRA. Ordinance 5165 connects the local ordinance to federal policy and specifically the same sections of U.S. code Title 8 referred to in Hazleton’s ordinance. Fremont’s #5165 would amend Fremont Municipal code #3139 to include harboring and hiring regulations.

WHEREAS, Federal law requires that certain conditions be met before an alien may be authorized to be lawfully present in the United States. Those conditions are found principally at United States Code Title 8, Section 1101, et. seq., and;

WHEREAS, United States Code Title 8, Section 1324(a)(1)(A) prohibits the harboring of illegal aliens. The provision of housing to illegal aliens is a fundamental component of the federal immigration crime of harboring, and;

WHEREAS, United States Code Title 8, Section 1324a prohibits the knowing employment of unauthorized aliens; and United States Code Title 8, Section 1324a(h)(2) permits state and local governments to suspend the business licenses of those who employ unauthorized aliens, and;

WHEREAS, The presence of illegal aliens places a fiscal burden on the City, increasing the demand for, and cost of, public benefits and services, and;

WHEREAS, Crimes committed by illegal aliens in the City harm the health, safety and welfare of U.S. citizens and aliens lawfully present in the United States, and;

WHEREAS, The employment of unauthorized aliens in the City displaces authorized United States workers and adversely affects their wages, and;
The opening shows how similar the objectives and logic of Fremont’s ordinance is to Hazleton’s most recently revised IIRA. There are references to federal code about harboring and employment and it directly addresses the burden on public services, crime and the displacement of authorized workers, in spite of the fact that there is even less evidence of these claims in Fremont than there was in Hazleton or Riverside. Fremont has low crime and low unemployment, and representatives from the school district, the police department and the hospital all made public statements in 2007 for the Mayor’s Task Force about how immigrants do not increase the burden on public services.

WHEREAS, In 1996 Congress amended the Immigration and Nationality Act to require the federal government to verify the immigration status of any alien upon the request of a state, county, or municipality, for any purpose authorize by law. United States Code Title 8, Section 1373(c). The federal government has established several systems to accomplish this obligation, including the Systematic Alien Verification for Entitlements (SAVE) Program and the Law Enforcement Support Center (LESC), and;

WHEREAS, This Ordinance is in harmony with the congressional objectives of prohibiting the knowing harboring of illegal aliens and prohibiting the knowing employment of unauthorized aliens, and;

WHEREAS, The Secretary of the U.S. Department of Homeland Security has specifically praised and encouraged those states and localities that require employers to participate in the E-Verify Program, and;

WHEREAS, The City of Fremont shall not construe this ordinance to prohibit the rendering of emergency medical care, emergency assistance, or legal assistance to any
person.\textsuperscript{14}

This language is a significant break with previous IIRA versions. It is the first time any local ordinance references Congress’ 1996 immigration ruling or the Department of Homeland Security. The text claims that the ordinance is in compliance with federal immigration policy and specifically programs that were authorized by the federal government like SAVE, LESC and E-Verify. This iteration of the IIRA is the most complicated to date. The goal is to take all responsibility for determining who is ‘illegal’ out of the hands of landlords and employers and place that responsibility with city government. Similarly to the original Hazleton ordinance, Ordinance 5165 requires that all renters have an occupancy license, but the process of obtaining the license is different. Additionally all employees must be vetted by E-Verify. Like other IIRA versions, Ordinance 5165 was designed in this way to try to squash arguments that the IIRA promotes racial profiling, making the vetting process apply to everyone within the city limits. This IIRA revision is yet another attempt by the Federation for American Immigration Reform (FAIR) to align local policy with federal law and design a legally defensible ordinance to criminalize unauthorized immigrants.

Under the “Harboring or Hiring Illegal Aliens, Prohibited” section the language makes clear that being “lawfully” in the United States is a condition of the lease. It is worth mentioning here that this is in some ways reminiscent of racially restrictive covenants, but rather than using deeds to privilege certain races for home ownership, this ordinance

\textsuperscript{14} The next section is made up of definitions important to the clarity of the ordinance. Definitions include: illegal alien, unlawfully present in the United States, dwelling unit, lessor, occupant, unauthorized alien, business entity, work, E-Verify Program, Systematic Alien Verification for Entitlements (SAVE) Program, business license, and city.
uses leases to privilege some citizens and immigrants for rental units. The following section explains in detail how the process of keeping “illegal aliens” from renting properties in Fremont would be operationalized and enforced.

An occupant may not enter into a contract for the rental or lease of a dwelling unit in the City unless the occupant is either a U.S. citizen or national, or an alien lawfully present in the United States according to the terms of United States Code Title 8, Section 1101 et seq. An occupant who is neither a U.S. citizen or national, nor an alien lawfully present in the United States, who enters into such a contract shall be deemed to have breached a condition of the lease. An occupant who is an alien who subsequent to the beginning of his lease becomes unlawfully present in the United States shall be deemed to have breached a condition of the lease...

To enter into a lease everyone within the city limits must first obtain an occupancy license if over 18 years of age. The renter is responsible for filling out an occupancy license application and then purchasing the actual license from the Fremont Police Department for $5. The application asks for a person’s name, address, date of birth, country or citizenship and information about the building owner and house to be rented as well as names and birth dates of any minors. Unbelievably it also requires that,

In cases in which the applicant is a United States citizen or national, a signed declaration that the applicant is a United States citizen or national on a form provided by the City, which notifies the applicant that knowingly making any false statement or claim that he or she is, or at any time has been, a citizen or national of the United States, with the intent to obtain a state benefit or service is a crime under United States Code Title 18, Section 1015(e);

Or

In cases in which the applicant is not a United States citizen or national, an identification
number assigned by the federal government that the occupant believes establishes his lawful presence in the United States (examples include, but are not limited to: resident alien card number, visa number, "A" number, 1-94 registration number, employment authorization number, or any other number on a document issued by the U.S. Government). If the alien does not know of any such number, he shall so declare. Such a declaration shall be sufficient to satisfy this requirement.

It is hard to imagine individual renters undergoing these bureaucratic steps each time one moves. On top of that the city police department would be inadvertently collecting a great deal of personal information about non-homeowner residents of Fremont. Furthermore, the requirement is not one license per apartment, but rather one license per person in a rental unit – if four adults rent a house, all four must first obtain their own individual occupancy licenses. This provision is assumedly to prevent mixed-status immigrant families from sending one authorized family member to obtain the license for the entire household.

According to the ordinance the owner or manager of a property is responsible for notifying potential tenants of the license requirement. It is a violation to rent to someone without a license and “any person (landlord) who violates this section shall be subject to a fine of $100 for each such violation, upon conviction in the County Court for Dodge County.” On the other hand, the city is not allowed to deny a license to anyone who completes the application and pays the $5 fee. Additionally, the city is required to keep the information provided in the application confidential with the important exception that, “the information provided on an application may be disclosed to other government entities where authorized by law, pursuant to United States Code Title 8, Section 1373.”
The next section explains in specific and technical terms how the Fremont Police Department would enforce the harboring and occupancy provisions. Under Ordinance 5165, the relatively small police department of forty officers would be in regular contact with the Department of Homeland Security about the immigration status of every rental tenant in the city. In theory having the immigration status of residents determined by the federal government instead of directly by a city agency or landlord (as previous IIRA versions did) would prevent racial profiling or a mistake from being made. Because it is a complicated series of steps it is useful to look at the language.

A. Promptly after issuance of an occupancy license to any occupant who has not declared himself or herself to be either a citizen or a national of the United States, the Department shall, pursuant to Title 8, United States Code, Section 1373(c), request the federal government to ascertain whether the occupant is an alien lawfully present in the United States. The Department shall submit to the federal government the identity and immigration status information contained on the application for the occupancy license, along with any other information requested by the federal government. The Department may enter into a memorandum of understanding to use the Systematic Alien Verification for Entitlements (SAVE) Program operated by the U.S. Department of Homeland Security, or utilize any other process or system designated by the federal government.

B. If the federal government reports that the occupant is not lawfully present in the United States, the Department shall send a deficiency notice to the occupant, at the address of the dwelling unit shown on the application for occupancy license. The deficiency notice shall state that on or before the 60th day following the date of the notice, the occupant may seek to obtain a correction of the federal government’s records and/or provide additional information establishing that the occupant is lawfully present in the United States. If the occupant provides such additional information, the Department shall promptly submit that information to the federal government. The
occupant may also submit information directly to the federal government.

C. If the federal government notifies the Department that it is unable to conclusively ascertain the immigration status of the occupant, or that the federal government’s ascertainment of immigration status is tentative, the Department shall take no further action until final ascertainment of the immigration status of the occupant is received from the federal government. The Department shall not attempt to make an independent determination of any occupant's immigration status. If the federal government notifies the Department that more information is required before the federal government can issue a final ascertainment of the occupant's immigration status, or that the occupant may contest the federal government's ascertainment of status, the Department shall notify the occupant accordingly.

D. No earlier than the 61st day after a deficiency notice has been sent to an occupant, the Department shall again make an inquiry to the federal government seeking to ascertain the immigration status of the occupant. If the federal government reports that the occupant is an alien who is not lawfully present in the United States, the Department shall send a revocation notice to both the occupant and the lessor. The revocation notice shall revoke the occupant's occupancy license effective 45 days after the date of the revocation notice.

E. The terms of this section shall be applied uniformly, and enforcement procedures shall not differ based on a person's race, ethnicity, religion, or national origin.

Letter ‘F’ goes on to describe “judicial review.” The housing provisions laid out here are likely very different than what would take place in reality if Ordinance 5165 is ever implemented. Most likely immigrants, both unauthorized and authorized, as well as many U.S. citizens would wish to avoid this application procedure all together and would instead opt to look for housing in a nearby city outside Fremont’s jurisdiction. This is
purely speculative, but it is possible even U.S. citizen rental tenants and rental property owners would rather avoid this bureaucratic process and choose instead to do their housing in nearby municipalities.

The next section of Ordinance 5165 addresses employment. The “Business Licenses, Contracts or Grants; The E-Verify Program” section explains how E-Verify will be mandatory for all employers in Fremont with the exception of “an independent contractor by a business entity or to the intermittent hiring of casual labor for domestic tasks customarily performed by the residents of a dwelling.” This is coded policy language for day laborers, maids, nannies, and gardeners. It is interesting that this type of domestic or temporary labor is the exception given the widespread knowledge that unauthorized immigrants largely make up this workforce. Ordinance 5165 makes exception for unauthorized immigrants to work in the informal economy in Fremont, but not the formal economy. Otherwise, all businesses that apply for a license or permit or are awarded a contract to work for the city must use E-Verify. All city agencies must also register with the system. In fact every employer, public or private, that employees one or more people within Fremont must register with the program within 60 days of the ordinance going into effect. Signs alerting customers, clients, patrons and the public of the use of E-Verify are already common in the business establishments and government offices throughout Fremont, but this provision would mandate it.

Like the housing provision, enforcement of the hiring provision is a complicated matter. But instead of relying on the police department it relies on the city attorney and city
council in the event that a business would violate these lengthy terms.

G. In the enforcement of this Section, at no point shall any City official attempt to make an independent determination of the authorization of employment in the United States of any individual employed by a private business entity in the City.

H. This Section shall be enforced by the City Attorney as follows:

1. If a business entity possesses a license, permit, contract, loan, or grant issued by the City and violates this Section, by failing to register in the E-Verify Program and verify the authorization of employment in the United States of each employee hired after such registration, the business entity shall be tried at a public hearing before the City Council. Due process, including notice, the opportunity to present evidence and to be heard, and the right to appeal to the District Court of Dodge County, shall be accorded to all parties. If the City Council determines that a person or business entity has violated this Section, it may, according to the terms of such license, permit, contract, loan or grant, revoke the license, cancel the contract, recall the grant or accelerate the loan and institute an action to collect any sums due.

2. The City Attorney may bring a civil action against any business entity suspected of violating this section, by failing to register in the E-Verify Program and verify the authorization of employment in the United States of each employee hired after such registration, in a court of competent jurisdiction in Dodge County. The City Attorney may seek injunctive relief compelling the business entity to comply with this section.

Compared to the original Illegal Immigration Relief Act in San Bernardino, California, Ordinance 5165 is very specific about how it will be operationalized and enforced. It leaves few questions about who will be responsible for what and it attempts to legally protect people who might be adversely impacted by it, e.g. authorized immigrants. However, in spite of the more detailed and sophisticated language and process, the goals
remain the same – to eliminate opportunities for housing and employment to unauthorized immigrants within the city limits.

The economic, political and cultural changes that Fremont underwent in the last one hundred and fifty years are critical to understanding the conditions leading to the creation of Ordinance 5165. They are in some ways similar to Hazleton and Riverside and in other ways contrasting.

**Background**

In the 19th Century it was common practice in Nebraska for homesteaders, politicians, and businessmen to draw plans for a downtown shopping district, residential area, churches and schools that never materialized. “Paper towns,” as the name implies, existed only on paper. Fremont unlike other planned frontier towns in the region became a city you could visit or live in. Settled in 1856, by 1880 Fremont was a bustling railroad town with a newspaper and even an opera house. Germans and Scandinavians settled in Fremont and surrounding Dodge County between the late 1800s and 1920 mirroring the migration to the entire Great Plains region. Between 1920-1950 the population of Dodge County remained steady at around 25,000. It was not until 1960 that the population of the county went above 30,000 people largely due to Fremont. Fremont is a small city surrounded mostly by miles and miles of fields of corn and soybeans.
United States Census Data for Fremont and Dodge County, Nebraska

<table>
<thead>
<tr>
<th>Year</th>
<th>Population (Fremont)</th>
<th>Population (Dodge County)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1920</td>
<td>8,718</td>
<td>23,197</td>
</tr>
<tr>
<td>1930</td>
<td>9,592</td>
<td>25,273</td>
</tr>
<tr>
<td>1940</td>
<td>11,862</td>
<td>23,799</td>
</tr>
<tr>
<td>1950</td>
<td>14,762</td>
<td>26,265</td>
</tr>
<tr>
<td>1960</td>
<td>19,698</td>
<td>32,471</td>
</tr>
<tr>
<td>1970</td>
<td>22,962</td>
<td>34,782</td>
</tr>
<tr>
<td>1980</td>
<td>23,979</td>
<td>35,847</td>
</tr>
<tr>
<td>1990</td>
<td>23,680</td>
<td>34,500</td>
</tr>
<tr>
<td>2000</td>
<td>25,174</td>
<td>36,160</td>
</tr>
<tr>
<td>2010</td>
<td>26,397</td>
<td>36,691</td>
</tr>
</tbody>
</table>

Table 4: Census data Dodge County

From its inception Fremont’s economy was built primarily on manufacturing related to agriculture. After WWII the importance of agri-industry was solidified for the city with the opening of a meatpacking plant that is now operated by Hormel. At the time local entrepreneurs pooled their capital to start the packing plant to create jobs for veterans returning from the war. Since Hormel’s opening, the company has continuously employed approximately one thousand workers. In 1950 the population of Fremont was approximately fifteen thousand and in the next two decades the population would grow by another 10,000 residents. Many residents who were interviewed made matter-of-fact comments that during those years, most of Fremont’s residents had a father, uncle or brother working at the plant.
In many ways Fremont has changed very little culturally and politically in the last forty years, but there have been significant and at times severe economic changes – in particular the farm crisis of the 1980s, economic restructuring in the meatpacking industry and the ripple effects from the Hormel strike at Hormel headquarters in Austin, Minnesota in 1985. The national farm crisis resulted in lost wages and revenue for the Great Plains and meant many hard years for families and businesses in the region. Meanwhile, up until the 1980s Hormel’s workers were unionized and enjoyed solidly middle class salaries and benefits. Economic restructuring of the meatpacking industry led to the closure of many packing plants nationally. Locally, in nearby West Point, Nebraska another large plant, IBP dismantled its union and drove down wages. Eventually three plants in and around Fremont closed, while the ones that remained open followed the trend of cutting wages to bring down costs. Not surprisingly, throughout the economic turmoil Fremont’s population remained stagnant.
Most Fremont residents agree that Whites stopped applying for jobs in meatpacking after the 1980s because wages were low, and parents wanted their sons to attend college instead of working in the plants. In the 1990s the workforce at Hormel and other local packing plants started to change substantially. However, rather than happening overnight this was a slow process of longtime White workers retiring and being replaced by young Latino workers. Unlike national rhetoric about immigrants taking the jobs of native-born
workers, in Fremont there is little discussion of this. Most longtime residents are old enough to have witnessed the unions losing power and the slow process of Hormel employee turnover. Interestingly Hormel was one of the last plants in the region to hire Latino immigrants, the company first hired “farm boys” seeking work during and after the farm crisis and then Vietnamese refugees that had been resettled to Nebraska.¹⁵

Meanwhile Fremont met the beginning of another significant economic change in the 1970s when the commercial strip made up of small shopping centers, a mall and restaurants was built. In 1995 the Wal-Mart Supercenter was opened. As in many American towns the construction of the commercial strip, followed by the introduction of a big box store led to the decline and decay of the original downtown shopping district. In 1998 the city and Fremont Chamber of Commerce hired a planning consulting firm to come up with suggestions on how the downtown could be branded and redeveloped. The consulting firm suggested the downtown become an antiques destination. Today antique dealers occupy some of the downtown storefronts, but most of these shops are only opened on weekends and other storefronts remain empty. The *Fremont Tribune* reported in April 2006, “in an increasingly competitive marketplace, many cities face the challenge of keeping their downtown areas economically viable. Fremont is no different.” The article goes on to explain what the Greater Fremont Development Council, Main Street of Fremont and the Fremont Area Chamber of Commerce are doing to encourage building owners to upkeep the downtown properties and attract more residents to shop and eat in the city.

¹⁵ Today the second largest group of foreign-born residents in Nebraska are Vietnamese. According to Census 2000 there were 5,400 Vietnamese in the state (www.migrationinformation.org/feb04_spotlight_table.cfm).
In spite of these challenges, overall, Fremont is a relatively healthy local economy because it has low unemployment. In addition to the Hormel plant, the city relies on other smaller agricultural related industrial businesses, a hospital and medical district, car dealerships and other locally owned retail establishments to generate economic activity and employment.

Though there have been economic changes to Fremont in the last twenty to forty years mainly brought about by globalization’s impact on the meatpacking industry and the decline of American main streets, residents agree that up until 2008 there had been few if any noteworthy political or cultural changes. Former Mayor Skip Edwards was mayor for twenty-two years and on the city council for eleven years before. The city attorney Dean Skokan had worked for the county or city for over twenty years. Many city council members and other public officials served similar or longer terms. Additionally, Fremont, Dodge County and Nebraska residents consistently vote Republican (with the exception of Omaha) for local, county, state and federal representatives. Related to this, longtime
Fremont residents tend to be culturally conservative and the city has many well-attended Christian churches including the Catholic Church (the largest), a number of Lutheran and other Protestant churches. Fremont is also home to many clubs whose members are mainly retired White men like the Eagles, Kiwanis, the Masons, the American Legion and other veterans groups. Longtime White residents under age forty commented in interviews that the city has experienced zero growth in their lifetimes and that the general attitude in town is that change is bad [SEE APPENDIX, p. 228].

By contrast some other longtime residents complain that Fremont has grown and changed in the last ten to twenty years, for the worse. These residents point to a small but visible increase in Latino residents, the ethnic businesses that have opened downtown and the Spanish heard at Wal-Mart as examples of the unwelcome change.

Though Fremont is relatively new to Latino immigrants, Nebraska is not. The first wave of Latin American immigrants to Nebraska and the Great Plains arrived from Mexico between 1910-1930. Three industries attracted them, meatpacking plants in Omaha, sugar beet farms in Scotts Bluff and railroad companies that were actively recruiting in Mexico. During the Great Depression Mexican immigrants and Mexican citizens were “repatriated” and deported as part of federal policy (Ngai, 2004), but soon thereafter in another policy shift the national Bracero program brought thousands of Mexican men to Nebraska as contract laborers between 1942-1964. The Bracero History Archive website (http://braceroarchive.org/) contains interviews with men who worked in the Bracero program, at least ten of these men described their experiences working as Braceros in
Nebraska. Each one of them worked in multiple states during his tenure, but while in Nebraska each described working on sugar beet farms. The Bracero program formally ended nationwide after 1964 because the agricultural economy was in decline. Not surprisingly then without labor contracts and with the region suffering economically there was little Mexican migration to Nebraska from the late 1960s into the 1980s. In 1972 the Mexican American Commission of Nebraska was created to advocate for the Mexican population in the state and make policy recommendations. It is still active today though it recently renamed itself the Latino American Commission.

As discussed earlier, during the 1990s the restructuring of the meatpacking industry attracted new immigrants to the state. By this time meatpacking plants were mainly located in smaller cities, rather than larger cities like Omaha or Lincoln, because the companies had been given tax incentives to relocate after WWII. Immigrant workers followed the jobs. As the industry left Nebraska’s two largest cities, smaller cities and towns saw an unexpected influx of immigrants including Lexington, Grand Island, Schuyler, and Fremont, Nebraska. The following demographic data for Fremont from 1990, 2000, and 2010 illustrate the relatively small population changes that have occurred locally.
### Fremont

<table>
<thead>
<tr>
<th></th>
<th>1990 Census</th>
<th>2000 Census</th>
<th>2010 Census</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Population</strong></td>
<td>23,680</td>
<td>25,174</td>
<td>26,397</td>
</tr>
<tr>
<td><strong>Race (White)</strong></td>
<td>23,362 (98.7%)</td>
<td>23,987 (95.3%)</td>
<td>23,538 (89.2%)</td>
</tr>
<tr>
<td><strong>Hispanic Origin By Race</strong></td>
<td>165 (0.7%)</td>
<td>1,085 (4.3%)</td>
<td>3,149 (11.9%)</td>
</tr>
<tr>
<td><strong>Detailed Hispanic Origin / Place of Birth for Foreign Born Pop.</strong></td>
<td>Mexican 90 (0.4%)</td>
<td>Mexico 409 (53.8%)</td>
<td>Guatemala 143, El Salvador 15</td>
</tr>
<tr>
<td><strong>Per Capita Income in 1989/1999</strong></td>
<td>$11,504</td>
<td>$18,006</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Per Capita Income in 1989/1999 for Hispanic Population</strong></td>
<td>$7,458</td>
<td>$11,346</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Year of Entry Foreign Born</strong></td>
<td>1980-1990: 67 (24.6%)</td>
<td>1990-2000: 397 (52.3%)</td>
<td>n/a</td>
</tr>
</tbody>
</table>

| Table 4: Census data – Fremont Nebraska |

Between 1990 to 2000 over 900 new Hispanics moved to (or were born in) Fremont. Between 2000 to 2010 the number of Hispanics in Fremont almost tripled to over 3,000 residents. Hispanics now make up close to 12 percent of the city’s population. Meanwhile the total population has remained unchanged, as has the White population. The vast majority of the new residents are from Mexico, with the second largest groups being from Central American, countries like Guatemala and El Salvador. One White resident interviewed recalled, “They used to live in large numbers in the trailer parks south of town…you hear ‘other side of the tracks’ well literally there are train tracks and they lived on the other side. As they (Latinos) grew in prosperity they came in and started buying and renting homes and they have come into our neighborhood and other parts of town” [SEE APPENDIX D, p. 224-227].
Days before the IIRA was enacted the local newspaper the *Fremont Tribune* published an article about the changing demographics of the community and region. The article tried to differentiate between being foreign born and “illegal” as well as demonstrate that the actual numbers of undocumented residents is small. The article explained, “The most recent information from Senior Demographer Jeffrey S. Passel – who wrote the 2009 Pew Hispanic Center report, based on U.S. Census Bureau data – estimates the number of unauthorized immigrants at 491” (Real-McKeighan 2010) [SEE APPENDIX D, p. 233].
White residents interviewed had two early recollections of Latinos in Fremont, their attendance at St. Patrick’s Catholic Church and their participation in Habitat for Humanity. In 1998 the Fremont Tribune ran the headline, “Spreading the Word: in Spanish” about the new Spanish mass that was attracting about seventy-five worshipers every Sunday. Having attended a Spanish mass at St. Patrick’s in August 2010, I can attest to the number of worshipers being at least double that number today. When interviewees were asked where White and Latino adults interact or mix in Fremont, the most common response was nowhere. People then explained how the two groups are very segregated and even spaces where you would think there would be mixing, as at the Catholic Church, are segregated. Interviewees described how not only are the Sunday masses segregated, but religious festivals and holiday celebrations are also held separately.

Meanwhile, a Fremont chapter of Habitat for Humanity was established in 1993 and last year they built their 50th house. One Habitat for Humanity employee described proudly how house-construction days and ribbon cutting ceremonies for new Habitat homes are probably the most ethnically integrated events in Fremont. Habitat for Humanity is also then the target of certain residents’ hostilities. An interviewee who had volunteered with Habitat in the past explained:

My first personal encounter (with bias against Latinos) involved our involvement with Habitat for Humanity, I learned that there was no small amount of consternation among some citizens that these homes were going to Hispanics. These were either citizens or legal residents that received these homes and they met the qualifications better, but people complained mightily and there would be letters to the editor and calls to the Habitat office about how this is unacceptable.
Other White residents interviewed had a very different answer to being asked to recall when they first became aware of Latinos in Fremont – these interviewees focused on the pro-immigrant rights rallies that occurred nationwide in 2006 and related it to their awakening that something needed to be done about illegal immigration. Pro-immigrant rights rallies were held throughout the United States in the summer of 2006. Cities like Los Angeles, Chicago and New York had the largest rallies, but smaller cities also turned out impressive numbers including Omaha and Lincoln Nebraska (Benjamin-Alvarado, DeSipio, and Montoya 2008). One ordinance proponent had this to say, “In 2006 the illegal aliens and their American supporters marched across our country demanding legalization. We realized we had an illegal immigration problem. I don’t think at that point most Nebraskans knew how bad it was.”

The Nebraskans Advisory Group (NAG) was founded in November 2006 and in some ways NAG is responsible for the IIRA in Fremont. An active NAG leader described the organization’s members as being mostly retired and disabled White residents of Nebraska. It is unclear exactly why this is the case, but it may be that they have time to devote to the cause. Members of the group point out that they are neither attorneys nor lobbyists. They are, however, out to influence local, state, and federal policy related to immigration. One NAG organizer explained, “First we tried going through [Omaha] city council to pass an illegal alien ordinance like Hazleton, Pennsylvania did, they dragged their feet for six months trying to pass the buck off to everybody.” This interviewee then went on to explain how “one of the Fremont citizens wanted to have Nebraska Advisory meetings in Fremont because they have an illegal immigration problem there so we
started meetings out there and we helped.” These Fremont NAG meetings began in Spring 2007 one year before councilmember Bob Warner brought the IIRA before the city council.

The *Fremont Tribune* reported March 21, 2007 that 25 people attended the first meeting of NAG in Fremont and that “two members of the Omaha chapter of the Minutemen Civil Defense Corps” attended (Bowen 2007). They met at the Keene Memorial Library regularly after that. One Fremont native told the reporter “this is an unofficial local citizens grassroots organization” whose mission is to have “benefits and services to illegal immigrants shutdown and employers who hire illegal immigrants punished.” Both ordinance opponents and proponents interviewed believe that members of NAG “caught the ear” of Bob Warner with their agenda and he then became the crusader and spokesperson at city hall.

**The Ordinance**

The *Omaha World Herald* reported that, “Fremont officials said no single local event or trend sparked the proposed ordinance.” In some ways this was true – Fremont did not have a housing overcrowding problem (like Riverside) or a high profile crime to blame (like Hazleton) nor did it have a day laborer controversy or rapid population growth like many other municipalities around the country. In other ways this statement is entirely too simplistic – there were local (and national) events and trends that sparked the proposed ordinance. This chapter will discuss events leading up to Ordinance 5165 and then highlight key parts of the ordinance and analyze its meaning.
Unlike Hazleton and Riverside, the mayor of Fremont did not introduce the harboring and hiring ordinance. Instead longtime city councilmember Bob Warner first proposed it in May 2008. Though Fremont never named the ordinance the Fremont Illegal Immigration Relief Act, Ordinance 5165 has the same goals as previous versions of the IIRA and is clearly the most recent attempt at making this type of local policy legally defensible. In addition, Fremont received legal advice and counsel from the same organization and IIRA “experts” as Hazleton and Riverside, namely the Federation for American Immigration Reform (FAIR) and its legal advocacy arm the Immigration Reform Law Institute.

Councilmember Warner was the most vocal advocate for Ordinance 5165. He stressed this point, that he was the advocate for his many constituents, who had according to him, been asking him to do something about illegal immigrants for years. Bob Warner had multiple messages about the importance of his ordinance. He told the *Omaha World Herald* that he sponsored the ordinance because residents were tired of “the federal government’s lax enforcement of immigration laws.” He also explained, “the frustration he and others had already felt increased after a committee of the Nebraska Legislature prevented full debate on an anti-illegal immigration proposal supported by Governor Heineman”¹⁶ (Gonzalez 2008). Though councilmember Warner was the main spokesperson for Fremont’s IIRA, there were other city council members in favor of the proposal as well. The city council passed a motion for the study of a harboring and hiring

¹⁶ Governor Heineman’s state law would have required verification of immigration status for anyone seeking state benefits. Governor Heineman is originally from Fremont and served on the Fremont City Council for many years.
ordinance 5-3.

Fremont’s City Council was divided over the ordinance from the beginning making the process unlike Hazleton and Riverside. Two of the city council members in particular were vocal opponents of the proposed ordinance even before the first reading of it. Councilmember Gary Bolton was quoted in the local paper, “If federal laws are hard to enforce, is it possible to enforce a city ordinance like that?” Bolton also said, “Basically, when you have the Nebraska attorney general and a couple of different legal counsels telling you that the ordinance as it was is unconstitutional, it’s hard to find anything good about it…What we’re being asked to do is pass an ordinance that will land us in court and we’ll lose… that’s negligence on our part.”

Similarly, Councilmember Scott Getzschman was more than apprehensive about the ordinance. He was quoted, “Fremont Nebraska cannot fight this battle for the United States, unless the public is willing to cut services, who’s going to pay?” (Gonzalez 2008). Getzschman stated publically, “Enforcement with any part of this is going to be nearly impossible to do. Quite frankly, it’s not up to the city of Fremont to solve this issue.” He also pointed out a significant reality, “To have an ordinance on hiring like this is silly if people think the meat of the problem is at Hormel and Fremont Beef, which are outside the city limits.” Other officials pointed out that the majority of mobile home residencies were also outside the city limits, where many of the unauthorized immigrants were believed to live.
Longtime City Attorney Dean Skokan also warned the Fremont City Council against enacting the ordinance early on. In one newspaper article Skokan explained that similar ordinances were ruled unconstitutional and stated, “I’m not telling you this can’t be done. I’m telling you it’s going to be very difficult.” In another article the city attorney warned “including verbiage outlawing the hiring of illegal immigrants would hinder the city in any lawsuit because of a 1997 Nebraska attorney general opinion that says the state has no authority over the matter.” He was straightforward “it’s likely that if the proposed ordinance would pass it would land the city in court.”

Opposition to Fremont’s IIRA also existed outside city hall from the very beginning. Landlords, business owners as well as White and Latino political leaders in Nebraska spoke publicly against Fremont’s proposed ordinance. Fremont resident and landlord Steve Dahl was opposed to the ordinance and said that this type of ordinance would hurt his rental business17 (Fremont Tribune 2008). The first version of Ordinance 5165 was read July 8, 2008 at the city council meeting, but did not include a section about hiring illegal immigrants. Bob Warner urged Attorney Skokan to add the hiring section before the second reading in spite of warnings from Nebraska Attorney General Jon Bruning.

One public official interviewed confided:

I think a number of people who supported this actually thought that we would round-up quote unquote illegals and take them in buses out of town and I don’t think they thought through how far out of town, did they think the Platt River? Did they think the Kansas border? Did they think Nuevo Laredo? I think there was a general misunderstanding in the role of the city in that process. The city has a hard

17 At the time, Steve Dahl owned seven apartment buildings with about sixty units and said 25-30% of his tenants were Hispanic. He eventually became a plaintiff for the ACLU lawsuit against Fremont.
enough time dealing with what size a garage can be in a particular neighborhood let alone very complex issues of (immigration) status and things of that nature. I tend to think there is a significant problem with immigration…but I don’t think the city is equipped to deal with it.

News of additional employment regulations caused concern in the business community. A spokeswoman for the Hormel released a public statement, “Immigration is a national issue that must be addressed and we want to be part of any solution that ensures all of our valued employees are legal residents of this country.” She also explained that Hormel already uses the federal verification program for hiring and welcomed the Fremont City Council members to visit the factory and see for themselves how the company operates.

The city council did meet with Hormel plant managers and union leaders to find out more about their hiring practices. According to an insider interviewed in August 2010:

We (Hormel plant manager & union leaders) had a meeting, two to three years ago, the city council wanted to know about Hormel, what is the hiring process, how do they work, what process do they use, do they use E-Verify, which they do, and they always have, which is inaccurate anyway but that is another subject. So the city council didn’t know any of this, so we sat down at a table like this and Hormel laid out everything that they do, answered as many questions as they could.

Rick Fauss, owner of R.L. Fauss Construction of Fremont, said of the proposed ordinance, “It’s bad” and added, “I think Fremont has a lot of damage control to do relative to our business environment.” Fauss went as far as to tell the *Omaha World Herald* that he was embarrassed by the idea because it made Fremont seem against diversity (Gonzalez 2008). Even, Allan Hale, President of the Fremont Chamber of Commerce stated publicly that the ordinance had nothing to do with local economic conditions, that actually the local economy was strong and that the Chamber was opposed to “additional layers of regulation for businesses” (Gonzalez 2008). This was also very
unlike Hazleton and Riverside where most White landlords and business owners stayed out of the public debate surrounding the IIRA.

At the July 8, 2008 Fremont City Council meeting there were reports of people yelling “There’s an illegal” at Latino and Asian people in the audience (Gonzalez 2008). The next day the Nebraska Mexican-American Commission put out a public statement that “racial and anti-immigrant remarks” were made during the Fremont City Council meeting. Former commission spokesman Angel Freytez called it “shameful” (Gonzalez 2008). The proposal of Ordinance 5165 and the anti-immigrant harassment at the July 8 public meeting prompted a private meeting the following week at the First United Methodist Church where people gathered to prepare for the July 29, 2008 city council meeting. Nebraska Appleseed Center for Law in the Public Interest led the meeting. Attendees estimated approximately one hundred people attended including local White and immigrant residents.

The revised version of Ordinance 5165, which included provisions about harboring, renting and hiring illegal immigrants was prepared for the July 29, 2008 city council meeting. The involvement of the Immigration Reform Law Institute and presumably Kris Kobach became public knowledge at this time. In fact July 29, 2008 the Fremont Tribune reported that, “City Administrator Bob Hartwig stated the new version of the proposed ordinance ‘was largely prepared by the Immigration Reform Law Institute’ based in Washington, D.C.”
The July 29, 2008 City Council meeting was moved from City Hall to the Fremont high school auditorium because they anticipated needing extra space for the crowds. The council also prepared by making special rules of conduct for the meeting. People began arriving outside the school auditorium around 5pm though the meeting was not scheduled to begin until 7pm. The newspapers estimated approximately one thousand people attended and throughout the night seventy-five different speakers made comments at two microphones set up for the public. Law enforcement for the meeting included forty officers from the Fremont and Omaha Police Departments, the Nebraska State Patrol and the Dodge County Sheriff’s Office (Ferak and Gonzalez 2008). The marathon meeting lasted almost five hours. One of the final speakers of the night was Reverend Owen Korte18 of St. Patrick Catholic Church, he told the council to vote no.

The third and final vote on the proposed ordinance was supposed to occur on August 26, 2008, but the council decided to call the final vote at the July 29 meeting.19 Though no one said this publicly, it is my understanding from interviews that the council decided this beforehand because they did not want to have another public meeting of this size and because the council members had all decided ahead of time how they would vote. At 11:30pm they called a vote and it resulted in a 4-4 tie. Council members Warner, Janssen, Marsh and Schaller voted ‘Yes.’20 Council members Bolton, Getzschman, Anderson and Gilfry voted ‘No.’ According to Fremont City Council rules a tie vote kills any ordinance and there does not need to be a tiebreaker. Nevertheless, longtime Mayor Edwards made

---

18 Reverend Owen Korte left St. Patrick’s after 12 years March 2010 (Real-McKeighan, 2010)
19 Generally, the Fremont City Council votes on new ordinances three times, so this was a break with standard protocol.
20 “Voting in favor without comment, were Charlie Janssen, Mary Marsh and Scott Schaller.” (Ferak and Gonzalez July 30, 2008)
a public statement and chose to cast a vote. The mayor announced, “Trying to enforce this type of ordinance would be very expensive, hundreds of thousands of dollars, possible millions…I am of the opinion this is a federal law. I vote no” (Ferak and Gonzalez July 30, 2008).

**The Ordinance Redux**

When Ordinance 5165 was defeated in the city council in July 2008 the story had just begun. There continued to be both strong support and opposition to the ordinance, the stakes rose, and people’s passion for their position intensified and as usual the controversy landed the city in multiple lawsuits.

Anger in the community that the mayor and the city council were not taking steps to combat illegal immigration in Fremont led to the creation of a local task force on immigration. Mayor Edwards asked born-and-raised, Harvard educated, local business owner Bill Ekeler to head the task force and bring together a diverse group of people to discuss what the city of Fremont could do to address its immigration issue. The task force was made up of people for and against Ordinance 5165, including local residents and leaders, state and federal political representatives. Ekeler announced that the committee of approximately twenty-five people would meet regularly and bring policy recommendations to the council by November.

While the mayor’s task force was meeting and preparing recommendations for the city council, a grassroots movement in favor of the ordinance and in pursuit of bringing the
ordinance to a public referendum organized simultaneously. In August 2008, the city clerk told the grassroots leaders that they had six months to collect a minimum of three thousand valid signatures to push a special election. The three main organizers were Wanda Kotas, Jerry Hart and John Wiegert, but the *Fremont Tribune* reported in September that, “two dozen people gathered to hand out petition forms and start work in an effort to force a special election.”

The political backlash against Mayor Edwards also began in August when two Fremont residents announced they would try to get enough signatures to get on the November ballot, though Edwards had been the mayor for almost twenty years and was scheduled to run unopposed in the upcoming election. Vocal ordinance supporter Carl Schaffner circulated a separate petition to pursue his run. He was straightforward about his attempted candidacy being a reaction to the mayor’s vote against the hiring and harboring ordinance. He failed to submit enough signatures and therefore Mayor Edwards ran unopposed as expected. Not getting on the ballot did not dissuade Schaffner or other ordinance supporters from moving forward with the special election petition and their main goal, getting Ordinance 5165 enacted in Fremont.

Bill Ekeler presented the task force report and recommendations to the Council as planned in late autumn. Their first recommendation was to make E-Verify mandatory for all employers in the city or face fines, which had been a provision of Ordinance 5165. According to the Omaha World Herald, at that time “fewer than 1 percent of Nebraska’s employers” were using E-Verify, though many large meatpacking plants had been using
the system for years. Bill Ekeler signed up his company Overland Products with E-Verify to demonstrate his commitment to the policy. The next set of recommendations were education based; have the city offer classes for employers on how to comply with immigration laws and/or require a cultural awareness class for public school students where part of the curriculum would include issues about immigration. The task force also recommended a strategy for putting pressure on state and federal officials to make immigration enforcement a priority. Finally, it was recommended that the Council adopt a statement like, “The city of Fremont supports and encourages legal immigration and those citizens’ contributions to our community.” Ultimately, the task force’s recommendations were a mix of pro-enforcement measures and an acknowledgement of the benefits of immigrants.

In February 2009 the Fremont City Council began taking action on the task force recommendations. There were approximately sixty people in attendance at the public meeting and the discussion lasted about an hour. The council voted unanimously for “a formal policy on immigration, saying Fremont supports and encourages legal immigration and the contributions of legal immigrants in the community” (Ferak 2009). The council also voted to establish a timeline to implement more of the recommendations. Bob Warner attended this meeting and, although retired at this point from the council, urged the current city council not to implement the task force recommendations and instead allow a special election for a vote on Ordinance 5165. He announced that the grassroots citizen coalition had collected over 4,100 signatures and that a public vote was eminent (Ferak 2009).
A highly motivated core group of three to ten people launched the petition drive, with the help of as many as ten to twenty additional volunteers who handed out flyers and went door-knocking on the weekends. They mainly worked collecting signatures on weeknights and on Saturdays throughout the winter. According to one petition organizer they had an efficient streamlined system to collect signatures because Bob Warner called Nebraska State Senator Charlie Janssen to ask for the local early registration walking-list and he obliged. This allowed them to call only registered voters and then have “runners” on the streets go directly to the house of someone who had agreed over the phone to sign. The petition drive was critical to the success of Ordinance 5165 being enacted. One of the ordinance proponents explained in an interview that the city council thought the petition would die out and was taken off-guard to find out they had successfully gathered enough signatures.

The Dodge City Clerk received the completed petitions and at the end of March 2009 the clerk verified over three thousand of the petition signatures, enough to force the special election. Behind closed doors, the city council decided that they would try to prevent a public referendum in spite of the successful petition drive. Therefore, the council directed the city administrator to file a declaratory judgment on behalf of the Fremont, to seek a court ruling on whether the ordinance as drafted would be legal. This is important because it demonstrates how strongly most city officials felt about not having Ordinance 5165 enacted in their city. The Petition for Declaratory Judgment submitted to the District Court of Dodge County by City Administrator Hartwig on behalf of Fremont
argued,

Such an ordinance is not a proper subject for an initiative petition for the reason that the City lacks the authority to enact such an ordinance for the following reasons… a. The proposed ordinance violates the Supremacy Clause of the United States Constitution and is pre-empted by federal law. b. The proposed ordinance does not provide sufficient substantive and procedural due process safeguards to protect constitutional property rights. c. The proposed ordinance would violate the Fair Housing Act and give rise to federal and state equal protection claims.

WHEREFORE, Plaintiff prays that the Court determine whether the proposed ordinance is a proper subject for an initiative petition and within the authority of the City Council of the City of Fremont to pass and further to order that the City is not required to proceed to hold the special election requested by petitioners until final decision is rendered in this action.

The Dodge County District Court Judge promised to rule quickly on whether the City of Fremont would be required to hold the special election. In April Judge John Samson listened to ninety minutes of arguments. Fremont City Attorney Dean Skokan and the law firm J.L. Spray and Stephen Mossman\(^{21}\) argued against the public referendum and against Ordinance 5165, while Kris Kobach argued over speaker-phone on behalf of Kotas, Hart & Wiegert. Skokan asserted, “if we don’t have the legislative authority to enact (the law), it should not go on the ballot.” In the end Dodge County District Court Judge John Samson rejected the city’s legal challenge and mandated Fremont to hold the special election. At this point, the Dodge County election commissioner announced that the special election would cost about $14,000 (Cole 2009) and the Council must decide whether to appeal the county court’s decision. At this juncture three council members say to go ahead with the special election and others push to appeal the district court’s ruling.

City Administrator Bob Hartwig recommended voting ‘No’ on the ordinance and ‘Yes’

---

\(^{21}\) As of Dec 30, 2009 the City Clerk said the city had spent $15,000 on the Lincoln law firm (Hovey 2010).
on the election because by state law the council was required to vote on Ordinance 5165 again before holding the public referendum and he believed the city should set a date for the special election. The council voted to indefinitely postpone the process of the council’s vote on the ordinance itself and voted 5-1 to appeal the ruling.\footnote{Councilmembers Gitt and Marsh did not attend the meeting (Nelson and Cole 2009).} Needless to say, the city council did not take either of Hartwig’s suggestions. Council President Gary Bolton (who voted against Ordinance 5165 and was a vocal opponent) caste the only dissenting vote, explaining, “it was my feeling that it was time to get it in the hands of the voters.”

Fremont filed a motion to have the appeals case heard directly before the Nebraska Supreme Court. January 7, 2010 the court opens oral arguments – at issue is whether the city can stop the special election and whether the Dodge County Court ruling would stand. After waiting three months for the court’s ruling, the Nebraska Supreme Court agreed with the lower court and voted unanimously 7-0 to reject the city’s arguments. The court concluded in the \textit{City of Fremont v. Kotas} that, “The district court correctly determined that it did not have subject matter jurisdiction to determine the substantive constitutional challenge to the measure unless and until it is approved by the voters.”

Attorney Kris Kobach called it a “great victory for the citizens of Fremont.”

The city of Fremont, now in an uncommon and uncomfortable situation, would have to allow the special election it had sued to stop, then likely get sued for the outcome of the election, thereby going back to court, but this time to defend the IIRA. This is exactly
what the council had tried to prevent and exactly what happened next, but first more controversy and divisiveness awaited the city.

Once the city was told to go forward with the public referendum different groups began organizing support for and against it, for over two months (between mid-April 2010 when the Nebraska Supreme Court released its ruling and June 2010 when the special election was held) residents of Fremont engaged in a highly public, heated debate about Ordinance 5165. Both pro- and anti-ordinance elections were launched with doorknockers and public information campaigns, though notably unlike Hazleton and Riverside there were no rallies or protests. The Fremont Chamber of Commerce, and some churches made public statements taking a position, but grassroots groups organized the election campaigns.

The organizers behind the campaign in favor of the ordinance were the same residents who had pursued the petition drive, namely John Wiegert, Jerry Hart, Wanda Kotas, Carl Schaffner and less visible members of the Nebraska Advisory Group. John Wiegert was the public face of the pro-ordinance group – he appeared on numerous television stations, radio stations and gave countless interviews to further his cause. Wiegert told the *Fremont Tribune*, “A lot of them are coming here for the American dream and they’re causing nothing but an American nightmare to me.” By their own accounts, residents who wanted to see Ordinance 5165 pass stopped neighbors and acquaintances on the street to proselytize them, put flyers on doors, visited retirement and assisted living facilities to lecture on the topic, and made hundreds of phone calls on election day to
remind friends and family to vote. Interestingly, pro-ordinance leaders had never been involved in Fremont politics before, or for that matter done any kind of grassroots organizing.

One Fremont One Future organized the main campaign against Ordinance 5165, though other institutions in the city and the region were also opposed. The *Fremont Tribune* reported in May that One Fremont One Future had had two meetings so far and that it had evolved out of Nebraska is Home. Nebraska is Home Fremont was a group started the previous year by two Fremont residents Kristin Ostrom and Gabby Ayala. The goal of Nebraska is Home had been to create opportunities for Whites and Latinos in Fremont to get to know each other and to have a welcoming message for new residents. The partners in this staunchly anti-political effort were the Fremont Chamber of Commerce, the union and the ministerial coalition. Their first event in June 2009 was a community picnic to celebrate diversity that over one hundred residents attended. They later sponsored a community dance and ran a special series in the *Fremont Tribune* about immigrant families in the city – both new and old immigrant stories.

When the special election became a reality Kristin Ostrom and two other White women, both of who are ESL teachers in the public school system, created One Fremont One Future. Michelle Knapp, one member told the *Fremont Tribune*, “I’m against this ordinance, because I came to Fremont 22 years ago because I believed it was a peaceful, family-oriented community. Immigrant families I know come here for those same reasons. I want Fremont to continue to be a good place to raise a family and not a
community that is divided.” That spring they recruited over two hundred Latino residents to their weekly meetings to raise awareness about the IIRA. They also made a website where people could find information in both English and Spanish pertaining to Ordinance 5165.

The organization’s primary objective was to prevent the ordinance from passing, connected to this was an effort to educate the public about the IIRA ordinance. One organizer explained, “the Hispanic community did not know that the ordinance was still happening, they heard about the ‘No’ vote in 2008 and then they thought it was over. One Fremont One Future spent a lot of time just getting the word out to the Latino community that the ordinance was going to a vote and could still be enacted…the Latino people suggested we go to the soccer fields and the stores to spread the word.”

The lead political organizer, Kristin Ostrom tried hard to build a coalition of institutions opposed to the ordinance because she “realized the immigrant group was not going to be able to stop the ordinance alone,” but was admittedly unsuccessful. She was left with a few business owners from Centsible Citizens, but mostly everyone from her previous coalition retreated. She attributes this mainly to the “code of silence.” One interviewee described how people would stop her on the street and tell her they were against the ordinance, thank her for her hard work, but refused to get involved or have their name associated with the group. Another interviewee explained that the mayor and other city officials were “trying to help by the code of silence…and trying to stop people from talking about Latinos.” In other words, there was a concerted effort from city hall to stop
the campaign against the ordinance and stop encouraging Latino immigrants to be visible or political because they believed it was inciting proponents of the ordinance and their supporters. Though Mayor Edwards and city council members opposed the ordinance, they also ironically opposed a campaign against the ordinance and distanced themselves from One Fremont One Future. Said one organizer, “Our mayor is not handling the change at all, he is refusing to meet with a group of Hispanic people…we [One Fremont One Future leadership] have tried to talk to city council members, tried to talk to the mayor. Kristin Ostrom has tried to get a meeting with the mayor for two years to meet with Hispanic citizens and residents, but he refuses…Our leaders aren’t welcoming.” In spite of these challenges One Fremont One Future launched a strong public anti-ordinance campaign in the months leading up to the referendum.

It is important to note that there were also Latino leaders in One Fremont One Future and that both the White and Latino leadership was singled out in various ways for their participation. The White organizers suffered systematic harassment at public meetings, in the press and in one particularly threatening incident at a person’s home. They believe this harassment contributed to other White residents not wanting to get involved, but were quick to say that Latinos in Fremont were facing far worse harassment and had more to risk in speaking out. Latino business owners were threatened by phone and letter, Latino residents were harassed on the street, and some businesses were vandalized. Even still there were many Latinos who spoke at the One Fremont meetings, recruited other members, attended the election night gathering and participated actively in the organization. Two twenty-year-old Latinas, both Fremont-natives, in particular put
themselves in the public eye as the spokeswomen for the group.

Another organization that formed that spring was Centsible Citizens Say No, a group made up mainly of Fremont businesspeople who also wanted to defeat the ordinance. Don Hinds Co-Chairman of Centsible Citizens told the *Fremont Tribune*, “My concerns are three-fold. First of all, it’s a little like issuing a blank check, because we have no idea how much it will cost. Other communities who’ve gone through this have experienced huge financial obligations. Secondly, it’s a burden and expense on landlords, tenants, city offices and police. Thirdly, I’m concerned about the economic development efforts with companies possibly not wanting to come into a community with such division and turmoil.” The League of Nebraska Municipalities, made up of approximately four hundred member cities and towns, contributed $25,000 to fight Ordinance 5165 because though it is uncommon for them to get involved with local ordinances, the group was concerned about copycat ordinances in other Nebraska municipalities. The League’s executive board voted to donate the money to fund a last minute advertising campaign. Centsible Citizens say No also held an educational breakfast on the topic and invited over six hundred of the Fremont Chamber of Commerce’s members to the event, but only seven people attended. About the low attendance at the event, one person told the *Omaha World Herald*, “I’m not surprised. People don’t want to offend their neighbors, they don’t want to stir anybody up.” This was a sentiment many business owners interviewed echoed in Fremont – fear that if they spoke out against the ordinance there would be retaliation against their business.
Though the Fremont Chamber of Commerce did not formally campaign against Ordinance 5165 the executive director Ron Tillery did state publicly that it would be bad for the business community and stressed that the city would “be sued by outside parties that are making a career out of this kind of litigation” (Zavadil 2010). He also issued a press release on behalf of their position. It read, “in a unanimous vote, with two abstentions, the Fremont Area Chamber of Commerce board of directors adopted a resolution on Monday restating its position regarding the upcoming Fremont NE immigration enforcement special election on June 21, 2010… The Board of the Fremont Area Chamber of Commerce continues to advocate that immigration issues should be addressed by the federal government and not by municipalities nor on a state by state basis.”

![Figure 18 Photograph of St. Patrick’s Catholic Church](image)

Like the Chamber, the Catholic Church was against enacting the ordinance, but did not participate in any campaign against it. Three Nebraska bishops made a public statement asking the state’s 363,000 Catholics to pray for a path that legalizes foreigners, asked that state lawmakers not propose state immigration laws and specifically called the idea of a city ordinance for illegal immigrants “fundamentally unjust, vindictive and harmful”
The state level Catholic leadership took a strong position while Fremont’s St. Patrick’s church and its leaders stayed silent on the topic. Unfortunately, no one from St. Patrick’s church would agree to an interview including the Latino priest who leads the Spanish mass. It is widely believed that because Bob Warner and Carl Schaffner, two of the most active and vocal ordinance proponents attend St. Patrick’s, the church made no formal statement for or against the ordinance. Additionally, many residents interviewed brought up that St. Patrick’s church just underwent a multi-million dollar expansion and renovation so that church was not in the financial position to get in a polemic with some of its prominent members.

At this point the Fremont City Council, Mayor Edwards and other public officials were not allowed to take a position during the campaign because Ordinance 5165 was now a ballot measure. But because the council had voted twice against the ordinance and gone to court to try to stop the special election, residents of Fremont felt the council’s position was clear. What the city government could do was disseminate information about the
IIRA and other cities that had enacted it. They did this task thoroughly. Bob Hartwig, the city administrator, did research into municipalities like Hazleton, Farmers Branch, Valley Park, the history of the IIRA and the subsequent lawsuits. The city released a fact sheet with frequently asked questions answered on June 3, 2010 in the *Fremont Tribune*. Well footnoted, it explained that no city has been allowed to implement this type of ordinance, timeline of the lawsuits, the typical costs to defend the IIRA and the reason that legal insurance providers are not responsible for these legal bills. It discussed the Federation for American Immigration Reform and the Mountain States Legal Foundation, both of which offered their services pro bono, and what their track record has been for defending these ordinances. The frequently asked questions article also reminded Fremont residents that residential rental communities and businesses outside town would not be impacted, specifically the trailer parks and meat packing plants, but by far the most striking information was the potential impact on the future city budget.

City Administrator Bob Hartwig prepared two budgets for 2010-2011. One budget assumed that Fremont would be sued after enacting Ordinance 5165 and have to pay lawsuit related costs similar to Hazleton and Farmers Branch, that would mean either increasing taxes and fees, cutting services or a combination. He explained how city staff proposed increasing the mill levy by about 7.7 mills (an increase of about $154 in property taxes per year on a $200,000 house) and that most likely city services like police, fire, the library and parks and recreation would be impacted (Zavadil 2010). It is interesting that the city government’s strategy against the ordinance was to focus narrowly on the future cost of lawsuits and to reason with people about the lessons
learned from other towns’ experiences rather than focus on the civil rights of Latino immigrants or any of the other larger political issues. This was a pragmatic, but nevertheless unsuccessful approach.

The local newspaper the *Fremont Tribune* became a crucial platform for information and opinions from all sides. Not only did it publish the Fremont Chamber of Commerce’s statement and the city government’s fact sheet, but it also published many articles related to the controversy. Additionally, in May 2010 leading up to the special election the paper published an article about Kris Kobach – “Kobach helps draft proposed laws and, after they are adopted, trains officers to enforce them. If the laws are challenged, he goes to court to defend them.” Then in June two days before the election the paper published a long list of quotes from notable people in Fremont who were willing to go on record with their opinion. The following quotes from State Senator Charlie Janssen’s press release reveals his allegedly on-the-fence public position as well as the strained mood in the community, “I think it’s unfortunate that the people of Fremont are being threatened by outside forces with higher taxes and lawsuits if the ordinance gets passed. While unfortunate, I do believe both will happen and that is why I intend to take this battle to the next level of government with the hope that our federal government will finally act in a meaningful way on the growing problem of illegal immigration…A vote for or against the ordinance does not make you more or less patriotic, just as a vote for or against the ordinance does not make you a racist.”

June 21, 2010 Fremont voters went to the polls. The ballot read, “Shall the City of
Fremont Nebraska, enact proposed Ordinance No. 5165, amending the Fremont Municipal Code to prohibit the harboring of illegal aliens or hiring of unauthorized aliens, providing definitions, making provision for occupancy licenses, providing judicial process, repealing conflicting provisions, and establishing an effective date for this ordinance?

YES – in favor of proposed Ordinance No. 5165
NO – against proposed Ordinance No. 5165

The ballot also included the entire text of Ordinance 5165 under the ballot question. Voters approved the measure 57 percent to 43 percent according to Dodge Country Clerk’s office. At final tally 3,950 ballots were cast in favor and 2,966 cast against, which amounted to 45 percent voter turnout, above average for a special election. All in all, sixteen precincts voted for the ordinance while voters in four precincts voted against it.

Ordinance proponents were thrilled by their win. Interestingly, they attribute some of their success not to their own organizing efforts, but to the press coverage and public discourse about Arizona’s controversial state-level immigration policy SB1070. Governor Jan Brewer signed into the bill into law in April 2010 and it was scheduled to go into effect on July 29, 2010. Arizona’s SB1070 also written and defended by Kris Kobach and FAIR was unexpectedly perfectly timed with the special election in Fremont. One person interviewed volunteered, “Arizona helped the special election…having it out there in the news, definitely helped us in our vote.”
After the Referendum

In spite of opposition to Ordinance 5165 from the Fremont mayor, city council, Chamber of Commerce, religious community, business community and union leadership the ordinance won with the support of just under four thousand residents in the special election in June 2010. In fact, anti-ordinance activists outspent the pro-ordinance activists by six times. Centsible Citizens Say No spent over $36,000, which they mostly raised from the League of Nebraska Municipalities and used on a campaign consultant and TV advertisements. One Fremont One Future spent $6,752, which they raised from the United Food and Commercial Workers union and Nebraskans for Peace and used on t-shirts, fliers, door hangers and radio advertisements. By contrast, pro-ordinance organizers spent approximately $7,000 on fliers, radio and newspaper advertisements, of which the Federation for American Immigration Reform (FAIR) donated $2,500 (Reed, 2010).

The majority of the interviews conducted for this study were gathered in August 2010 less than two months after the referendum. No one interviewed, regardless of their position on the ordinance, was surprised by the results. Some residents were disappointed and some were exuberant, but no one expected a different outcome. The day after the special election Mayor Edwards said, “We’ll just go ahead and follow the will of the people. We just need to implement it and move forward” (Zavadil 2010). City Council President Gary Bolton said, “We will follow the will of the people, but I am concerned of the time and tremendous expense the city is going to incur in defending this ordinance in court due to the housing provision that is contrary to federal law…It’s going to be very
costly for the city while this is litigated and we need to be prepared for that” (Zavadil 2010).

Before the city certified the election results or was formally sued, attorney Kris Kobach was already offering to defend the ordinance for “free” and represent the city. He told the Fremont Tribune less than 48 hours after the election results, “This would be a unique arrangement for Fremont…But I’ve gotten to know so many Fremont citizens and have invested so much of my time and energy defending this Fremont ordinance, I want to make sure that we see this through to the end and we make sure the ordinance survives in court.” Kobach continued, “It’s important that Fremont have legal counsel with experience in this area…Obviously I’ve defended these statutes all over the country” (Zavadil 2010).

Two lawsuits were filed against the city of Fremont on July 22, 2010, a week before it was scheduled to go into effect July 29, 2010. MALDEF’s lawsuit was filed on behalf of Fred Keller a non-resident landlord in Fremont, Juan Armenta a legal resident/Fremont tenant and Juan Doe and Juana Doe undocumented Fremont residents. The ACLU lawsuit was filed on behalf of Mario Martinez and Paola Mercado, two Fremont residents and renters as well as Steve Dahl a resident and landlord. The plaintiffs also include two anonymous Fremont residents who live with at least one unauthorized immigrant. The ACLU named the City of Fremont, Chief of Police Timothy Mullen (in his capacity as responsible for enforcing and implementing) and City Attorney Dean Skokan (responsible for enforcing) as defendants in the case. The complaint stated,
1. This lawsuit challenges the City of Fremont, Nebraska’s illegal attempt to enact its own comprehensive immigration law to regulate the housing and employment of immigrants within its borders.

2. On June 21, 2010, Fremont voters passed a City Initiative Petition enacting an “ordinance relating to immigration.” The “Immigration Ordinance” seeks to prevent immigrants the City deems “illegal aliens” from residing in rental housing within Fremont’s borders. The Immigration Ordinance also mandates that any entities doing business within the City participate in a voluntary, experimental federal program known as “E-Verify,” which enables the electronic verification of an employee’s federal permission to work in the U.S.

3. As the City itself has previously acknowledged in separate state court litigation, the Immigration Ordinance violates the Supremacy Clause of the U.S. Constitution because it is preempted by federal immigration law, as well as by the federal government’s exclusive authority to regulate immigration. Indeed, courts in several other federal jurisdictions have enjoined similar laws relating to housing or employment of immigrants as unconstitutional, and the federal government has recently taken the position before the U.S. Supreme Court that a state or local government cannot lawfully mandate participation in E-Verify.

4. The Immigration Ordinance is unlawful for several other reasons as well, including that it violates Equal Protection and the federal Fair Housing Act, is unconstitutionally vague in violation of due process, and exceeds Fremont’s municipal authority under Nebraska law.

5. This lawsuit seeks to prevent the many harms that will befall citizens and noncitizens alike if the Immigration Ordinance is allowed to go into effect – including discrimination and profiling against those who are deemed to look or sound foreign. Unfortunately, immigrant residents of Fremont have already reported threats and harassment as a result of the anti-immigrant hostility surrounding the Ordinance.

6. This litigation also seeks to prevent the conflicting patchwork of regulation that would result if cities across the country were allowed to take immigration policy into their own hands as Fremont has attempted to do.
Mario Martinez, the ACLU’s first plaintiff, is a college student, married and longtime Fremont resident. He is also a self-identified Latino and native-born U.S. citizen. Martinez told the *Omaha World Herald* that “Fremont feels like a completely different town now, I’m as much a part of this community as anyone, but now I get hostile looks from people like they want me to get out, and my wife has been told to go back to Mexico because of her accent” (Gonzalez 2010).

The lawsuit forced the city to decide who would legally represent them going forward, the choices were LARM (League Association for Risk Management, Fremont’s insurance carrier), city attorney Dean Skokan a group of local lawyers hired by the city (as they had done for the previous lawsuit) or Kris Kobach with the Immigration Reform Law Institute. The executive director of LARM Mike Nolan told the city council and press that LARM had no interest in working with Kobach, but was willing to defend the city. Nolan said, “He [Kobach] contacted us, we did not solicit the contact from him and we’re not interested in having a working relationship with him on this case…We told him on the phone yesterday that we didn’t have any interest in having him involved in it” (Zavadil 2010). Fremont had also received an offer from the Mountain State Legal Foundation back in July 2008 offering pro bono legal representation, but did not bring them onto the case.23

---

23 The letter sent to the City Council in July 2008 read “Mountain States Legal Foundation is a nonprofit, public interest law firm which has made appearances before the U.S. Supreme Court and countless appearances before federal appellate courts. MSLF is eager to provide your city with free legal representation in its fight against the ACLU, MALDEF and others.” According to reports no one from the city ever contacted MSLF, but they offered to make a trip to Fremont to visit with public officials (Robert L. Warner June 3, 2010).
At the July 27, 2010 city council meeting Kris Kobach was endorsed by pro-ordinance residents and later that night the council voted unanimously to hire Kobach as legal counsel for Fremont. The council also voted to suspend implementation and enforcement of Ordinance 5165 until fourteen days after the court’s ruling on the lawsuits. Even with Kobach’s pro bono offer and suspension of the ordinance the city still needed to prepare for other expenses related to the lawsuit. Based on estimates from Kobach as well as research gathered about similar lawsuits, City Administrator Bob Hartwig made recommendations for the 2010-2011 budget. The city allocated $750,000 to cover legal expenses related to the IIRA ordinance. Hartwig discussed openly the need to either raise taxes, cut services or both to cover these new costs. At this time the city’s defense fund had only collected $410 since its inception further limiting the city’s options of legal council (Zavadil 2010).24

Meanwhile, U.S. District Judge Laurie Smith Camp combined the ACLU and MALDEF lawsuits. The District Judge then asked the Nebraska Supreme Court to weigh in on the case because she wanted the court’s input on whether it should be decided in state or federal court. The Nebraska Supreme Court rejected the opportunity to review the case in November 2010 and therefore the case remains in federal court. The federal non-jury trial for Martinez v. the city of Fremont is set for April 2012.

---

24 The latest report I could find in the Fremont Tribune showed that Fremont’s legal defense fund had raised about $2,843 in donations.
Conclusion

Different from, and more complex than Hazleton and Riverside, the agents and forces that initiated and produced the IIRA in Fremont were the Nebraska Advisory Group, two former city council members, local ordinance proponents, as well as Kris Kobach and FAIR. Though, the Fremont mayor and city council did not support the ordinance and there was widespread discussion of how it would hurt and divide the community, still NAG, FAIR, and the local ordinance supporters’ agenda prevailed.

The Nebraska Advisory Group began organizing in 2006 in Omaha and in Fremont in 2007, a year before the IIRA was brought before the city council. NAG used the meetings it had to get local residents passionate about the issue, get them talking with their friends and family members, and create support for the cause. The grassroots movement for the special election had core members that gathered signatures, knocked on doors, intimidated neighbors and ordinance opponents.

City Council member Bob Warner brought the IIRA to the city council and was a defender and proponent of it throughout the two-year process leading up to enactment. Charlie Janssen originally voted for Ordinance 5165 and though not as vocal as Bob Warner about his support for it, provided local organizers with registered voter information and has since become an anti-immigrant proponent at the state level.

FAIR and Kobach were involved with the ordinance in Fremont from the very beginning. Kobach helped write it before it went to the council vote. He was involved with the
grassroots movement for the special election, FAIR donated money to their cause, then defended them in the lawsuit brought by the city to block the election. FAIR donated more money for the campaign leading up to public referendum and then Kobach was hired to be legal counsel for Fremont. It should be noted that Kris Kobach and FAIR are involved in Nebraska state politics and policies more so than in other states. For example, Kobach and FAIR have lobbied for the repeal of the Nebraska state Dream Act multiple times. State Senator Charlie Janssen has also championed the repeal of the state Dream Act along with other FAIR pet-causes like de-funding the Latino-American and Native American Commissions, the repeal of the 14th Amendment and an Arizona-SB1070-style state law for Nebraska titled LB48. Kobach also worked to revoke prenatal health benefits to pregnant unauthorized immigrant mothers and brought a lawsuit on behalf of his in-laws (who are residents of Nebraska) against the state Dream Act claiming that it was a violation of their rights as taxpayers. Nebraska Republican Governor Dave Heineman, who is from Fremont and used to be on the Fremont city council years ago, supports these policy positions.

With so much support for anti-immigrant policy one would expect that Fremont had experienced some serious difficulties related to increased immigration. Fremont, Nebraska did not have challenges caused by new immigrants in 2008 and to this day they do not. In fact, the immigrant population, authorized and unauthorized remains low by national and even state averages, 4 percent in 2000, 12 percent in 2010. There was no day laborer controversy, housing overcrowding, increase in crime, or even a “Mexicanization” of the city. Instead the allegations were of Spanish spoken at the local
Wal-Mart and unfounded accusations of illegal aliens draining the resources of the hospital and public schools. Besides that there were concerns expressed about immigration in Arizona, security anxieties about the border with Mexico and economic anxieties expressed about the changes at Hormel and of becoming like neighboring meatpacking town, Schuyler, Nebraska, where according to Census 2010, over 60 percent of the population is Hispanic [See Map on p. 250].

The most striking difference between the IIRAs enacted in Hazleton and Riverside and the IIRA enacted in Fremont is the process in which it was enacted. Fremont’s Ordinance 5165 was enacted by public referendum, that an IIRA was decided by popular vote is the most interesting evolution of the ordinance. However, there are also important evolutions evident in the language of the IIRA. Fremont’s ordinance updates the rental license procedure and is the first to depend so heavily on E-Verify and other federal databases that keep track of a person’s immigration status. Fremont’s IIRA also has the most sophisticated enforcement procedures of any of the IIRA versions. Finally, it is worth noting that Fremont chose not to name its ordinance an Illegal Immigration Relief Act, even though that is clearly what it is. The IIRA brand had been tarnished since its origins in 2006, but rather than abandon the policy, Fremont’s ordinance proponents abandoned the name.

Unlike Hazleton and Riverside it is not possible to discuss the impacts four years later of the IIRA on Fremont because the city only enacted Ordinance 5165 last summer, June 2010. However, there is evidence of early impacts including more legal battles, political
changes, increased taxes, increased racism and xenophobia, further involvement with FAIR, and efforts to take the anti-immigrant agenda to the state level.

Fremont has been sued by the ACLU and MALDEF and is currently awaiting trial in April 2012, this will be the city’s second legal case related to the IIRA, the city previously went through the legal battle to prevent the public referendum and lost. In addition, to the financial costs associated with the legal cases, there have been political changes that have cost the city leadership and know-how. Fremont has experienced significant political turnover in the last year: the long-time mayor, prominent city council members including the council president all resigned. It was widely discussed in Fremont that the immigration controversy had affected Mayor Edward’s health, and former Council President Gary Bolton was open about not wanting to participate in city government if it meant having to defend Ordinance 5165. In addition, the city attorney retired, City Administrator Hartwig found employment out of state, and the director of the Fremont Chamber of Commerce left.

While the political fallout from Ordinance 5165 is clear, the economic impact is less obvious. One public official interviewed had this to say about the economic impacts, of the ordinance “cities the size of Fremont are continuously seeking economic development and the impact that this controversy will have on the city…until we get a little further down the road I don’t think we know what that impact will be or how serious it is going to be.” Nevertheless, though economic impacts like the ones seen in Riverside are
unlikely in Fremont, the estimated cost of the lawsuits has already resulted in higher
taxes and service cuts (Martinez 2011).

The most intense outcome from Fremont’s anti-immigrant ordinance is the overt racism
and xenophobia being targeted at Latinos in the city. Fremont’s IIRA, though it has never
been enforced, has impacted the Latino community more than any other group in the city.
Hate speech and harassment are serious problems in the city and there is concern that
these incidences will escalate and that racial profiling is being conducted in spite of the
ordinance having been tabled. There is also a sense among some residents and ordinance
opponents that the lack of public support for the Latino community from public officials
has given tacit permission for the racism and xenophobia. Two longtime White male
residents interviewed had this to say about the racism in Fremont:

The level of bigotry and hatred against a person that is a different color than you,
from people that I never thought would be like that and from people that should
know better, people at church and social workers, this bill is racially motivated
there is no doubt in my mind.

I am probably about as big a red neck as you are likely to see, but my mother was
a Spanish teacher…and I spent a couple summers in Mexico and I have no
problems with Mexican culture or people at all…I think it is the complexion of
the town that disturbs some (people) more than anything else in my view.

The Nebraska Advisory Committee to U.S. Commission on Civil Rights held a public
meeting in September 2010 in part to investigate accusations of civil rights violations in
Fremont. Timothy Butz with Fair Housing Center of Nebraska and Iowa, told the
committee that even though enforcement has been suspended, the center has had reports
of landlords not renting to Latinos and African refugees. Former City Administrator Bob
Hartwig put the following comment on the *Fremont Tribune* website discussion section
after the Nebraska Advisory Committee event in response to questions on the discussion board about why city officials did not attend the event and defend the city in front of the commission, “The City of Fremont did not attend the hearing based on the advice of Kris Kobach, the attorney defending the ordinance. We advised the Nebraska Advisory Committee of this several days before the meeting took place.”

One Fremont One Future reported at the meeting that between, July 6, 2010 to September 7, 2010 they collected sixty-five hand-written reports from members of the Latino community of harassment and discrimination. The group’s representatives explained that these reports showed a pattern of “intimidation and hostility that has grown in Fremont as a direct result of the past two years.” One Fremont One Future shared the incidence reports. The following is some of what they compiled:

I am afraid of what is happening. People in Fremont are seeking us very badly. They are shouting very offensive words to us in public, and treat us badly in Wal-Mart. My daughter doesn’t want to live in Fremont because the people we are treated so badly. Already she does not want play outside any more. She spends her time locked inside the house.

Three days ago, while looking out my window, I discovered my family was being fired at with BB guns. I am not afraid for me. I am afraid for my children.

They have been calling my business and telling me they’re going to set it on fire. A person pushed my nephew to the ground. I called the police, but they did nothing.

The day after the ordinance passed, an Anglo employee at Hormel said to me in the lobby, ‘You have to leave for Mexico now, no more Mexicans here.’ I am a U.S. citizen.

We believe that law is a racist law because some already are enforcing the law. Some owners of apartments are removing renters who don’t have papers even if their partner does.

The federal court will hear arguments and rule on Ordinance 5165 in 2012.
CHAPTER SIX: ON THE FUTURE OF THE IIRA AND LATINO BELONGING

Conclusion

The point of departure for this dissertation was case study research of three municipalities that enacted local immigration policies known as the Illegal Immigration Relief Act. The goal was to visit each city to conduct fieldwork, analyze the findings and draw conclusions about the agents who initiated the IIRA, what stresses these municipalities faced prior to enacting the IIRA, how the ordinance has evolved and what outcomes resulted from enacting the ordinance. Overall the research achieved its objective. While I cannot answer the question of why some cities enacted the IIRA while others did not, I have identified the political organizations pursuing these types of policies and what political organizations have emerged to prevent the trend from spreading further. I have also identified some of the political and economic repercussions of enacting the IIRA.

Hazleton was the first city in the country to enact the Illegal Immigration Relief Act, copycat ordinances then spread to other towns and cities in Pennsylvania and across the country. Other cities like Escondido, California, Farmers Branch, Texas and Valley Park, Missouri also enacted versions of the IIRA in 2006. The three case studies I focused on for this thesis were Hazleton Pennsylvania, Riverside, New Jersey, and Fremont, Nebraska. My research methodology included semi-structured interviews with key informants, direct observation as well as document analysis of Census data, government documents, legal documents, public records and media accounts.
I argue that these three cities had distinct experiences with the IIRA, but that there are also important parallels about how these ordinances came to exist and what impacts the IIRAs had on each respective city. Each of the cases has a unique local narrative surrounding the enactment of the controversial IIRA ordinance. However, these cases are more than local stories. They are part of a larger national story and political movement that have consequences for citizenship, race, and the nation-state.

In the three main case studies discussed in this dissertation the agents and forces that initiated and produced the IIRA were central to it being enacted and pursued in court. The enactment of the Illegal Immigration Relief Act was not representative of the position of all residents in Hazleton, Riverside, or Fremont, but the IIRA could not have been approved without strong local and national support. Authors Ramakrishnan and Wong in their chapter in Taking Local Control about partisanship and local immigration policy suggest case study research to determine how ordinance activity plays out in particular localities. Based on my observations in Hazleton, Riverside, and Fremont, the authors’ findings about partisanship and conservative politics appear to hold true. Hazleton and Riverside both had Republican mayors that proposed the IIRA. In Fremont the ex-city council members and residents that proposed the IIRA were Republicans as well. Ramakrishnan and Wong conclude, “It is difficult to ascertain from our dataset whether the dominant pathway for the relevance of partisanship is related to mobilization from below among conservative activists frustrated by the failure of immigration enforcement, or to mobilization from above by elected officials (Ramakrishnan and Wong 2010, 90). My findings reveal that in 2006, Hazleton and Riverside’s elected officials mobilized
support from above for the IIRA, while 2008-2010 conservative activists, (some of who were elected officials and many of who were lay citizens) pushed forward the IIRA from below. However, in all three of these cities, support for the IIRA was more complicated than just the early mobilization for it.

In Hazleton the IIRA was executed from above. Mayor Barletta made the IIRA his most important policy initiative. Since he was widely known and liked in the community and had full support from the city council, it was not difficult to have it approved quickly. Barletta did have connections to other Pennsylvania conservative politicians who may have been encouraging him to pursue this type of policy, but by and large Lou Barletta’s political ambitions seemed to drive his enthusiasm for the IIRA and the publicity that came with it. He enjoyed local political support before the IIRA then in spite of the legal challenges he enjoyed more political support after he enacted it. Barletta won re-election as Mayor of Hazleton, then he won an award for Pennsylvania Mayor of the Year in 2008 and then in 2010 he was elected to the U.S. House of Representatives.

Like Hazleton, Riverside’s IIRA was executed from above. According to one interviewee (a local Republican political insider and a former elected official) there was pressure on Mayor Charles Hilton from within the local Republican Party to bring the ordinance before the township committee. Whether the IIRA was Hilton’s idea or not he proposed the ordinance and put his political neck-on-the-line for it. Mayor Hilton had strong support from his political peers and the council’s vote was unanimous. However, unlike Barletta, the support for Mayor Hilton and the IIRA dissolved in a few months. Instead of
winning re-election and being rewarded for his efforts with the IIRA, Hilton was voted out of office and his political career ended.

Enactment of the IIRA in Fremont was more complicated and time consuming than the other two cities. The political processes to get the IIRA enacted differed greatly from Hazleton and Riverside. Though conservative activists initiated Fremont’s IIRA (known as Ordinance 5165) from below, there were also two important members of the local political establishment that were key in the ordinance’s success; Bob Warner and Charlie Janssen. The Nebraska Advisory Group was looking for a community to bring the IIRA to after their efforts to do so in Omaha were unsuccessful. According to interviewees and news reports, a resident of Fremont joined NAG and asked to have meetings there in 2007. This was the beginning of a concerted and carefully organized effort from below, over a year before Bob Warner brought the IIRA ordinance before the Fremont City Council.

When longtime Councilmember Warner did bring the ordinance before the council he was met with opposition. Though Fremont’s council members and the mayor were mainly Republicans, they were aware of the lawsuits that other cities (including Hazleton) had experienced and therefore against the risk of enacting the policy in their community. Once the council voted against it, a new wave of organizing from below began immediately. Three residents of Fremont, with the help of NAG members organized a petition, gathered signatures, overcame the city’s lawsuit against the special
election and eventually lead the successful local campaign for Ordinance 5165. This took a great deal of perseverance and lasted two years.

My findings demonstrate that in 2006 when the Illegal Immigration Relief Act first became popular it was mainly executed with political support from above from Republican leaders, consistent with Ramakrishnan and Wong’s quantitative findings. This worked in municipalities like Hazleton and Riverside because there was not yet well-organized opposition and the political leaderships’ motivations for the IIRA were trusted and supported. Once there was public information about some of the drawbacks of the ordinance (i.e. legal challenges, economic impacts) it was harder for local political leaders to bring the IIRA before a city council and not meet resistance. For this reason, it was crucial in the success of Ordinance 5165 in Fremont that there was an organized movement from below.

Besides organized political support from above or below, two other political conditions had to exist for the IIRA to be enacted in these three municipalities; 1) a highly politicized national immigration policy discussion and 2) the Federation for American Immigration Reform (FAIR) had to take an interest in the local legislation and exert their influence behind the scenes. These two conditions were central to the production of the IIRA. The third and final necessary condition for the production of the IIRA was latent racism and xenophobia.
Immigration policy was highly politicized during the summer of 2006. Congress failed to pass comprehensive immigration reform legislation. Pro-immigrant civil rights rallies were being held in cities all over the country with thousands, to hundreds of thousands of people in attendance. The highly charged immigration discourse in Congress and the media helped to create highly charged local conversations on the topic. Border-states like California, Texas, Arizona, and large cities were getting attention for their immigration “invasion.” It was in this political climate that state and local government leaders sought to earn political capital by taking a hard-line position on immigration and enforcement.

The city of Hazleton and Mayor Barletta acquired national spotlight by becoming part of this politicization. In some ways, Hazleton’s IIRA and Mayor Barletta’s high-profile media blitz contributed to bringing mainstream attention to non-traditional immigrant gateways like smaller cities and suburbs.

The residents of Riverside were already involved in a local debate about the town’s new Brazilian immigrants, but the town had not yet become part of the national conversation. In this small town with fewer than 10,000 residents, the presence of the Brazilians was more visible and felt more strongly than the immigrants in the other two cases: the *Philadelphia Inquirer* three part series published in 2005 highlighted this a year before the IIRA controversy began. Local attention and talk of the problems the Brazilians were bringing to the community included housing overcrowding and out of state license plates. Riverside was different than Hazleton in this regard because there were already local tensions that were further influenced by the national politicization. While, New Jersey is far from the border it is a traditional immigrant gateway and residents did not have to
look far for evidence of the “immigrant threat.” Additionally, pro-immigrant rallies had been held throughout New Jersey and in neighboring Philadelphia. When Mayor Hilton became aware of the Hazleton IIRA it seemed like an opportunity to make a national statement and solve a local “problem.”

By 2008, when the IIRA was introduced to the Fremont City Council the national immigration debate had subsided somewhat. It was not in the news or before Congress as it had been in 2006. Yet listening to the comments made at the Fremont City Council meeting (where the council ultimately voted ‘No’ against Ordinance 5165) it was difficult to tell that the national politicization had subsided, ordinance proponents were extremely passionate. Interestingly by the time the special election happened in 2010, there was a new highly charged immigration discourse that was stirred up by Arizona’s anti-immigrant legislation SB1070. Proponents of the ordinance in Fremont openly admitted that the news coverage of Arizona’s state law and the federal judge’s blocking of certain parts of SB1070 increased the voter turnout during the special election. They believe residents were incited to support Ordinance 5165 by the controversy surrounding Arizona’s immigration legislation and what they considered to be the lack of federal support for local and state enforcement. Due to the debate surrounding Arizona’s SB1070, the issue of the border and border security was in the forefronts of peoples’ minds. I argue that national politicization of immigration was crucial to the IIRA success in these municipalities.
One prominent institution whose name reappeared throughout my research is the Federation for American Immigration Reform and its legal offshoot the Immigration Reform Law Institute (IRLI). Just as often, the name Kris Kobach is linked to the IIRAs. FAIR is a conservative think tank and policy institute in Washington D.C. that has worked throughout the country on local and state legislation restricting and criminalizing immigrants. Kobach is head legal counsel for IRLI and FAIR’s most public and active figure. FAIR publishes policy papers on the negative impacts of immigrants and openly offers advice and support to people interested in doing something about it. FAIR’s website housed a generic version of the IIRA for interested parties to download and use as a template between approximately 2006 and 2008.

FAIR’s influence and involvement in Hazleton, Riverside, and Fremont, though kept rather quiet over the years is evident from interviews, newspaper articles, and public records. In Hazleton it is unclear when FAIR became involved with the IIRA, before or after Mayor Barletta proposed it, but by the time the ACLU and PRLDEF began their legal challenge, Kobach was assisting the mayor and city council. FAIR and Kris Kobach stepped in to re-write the original IIRA attempting to craft a more legally defensible ordinance. Since 2006, Kobach and his legal team have acted as legal counsel to the city of Hazleton, there is evidence of FAIR donating money to Small Town Defenders and participating in political events in the city. Additionally, Barletta is on FAIR’s governing board.
In Riverside, FAIR’s influence began when the ordinance was proposed. FAIR was invited by a local resident to give speeches at a public event in summer 2006 and specifically to come and “educate” the community about the ills of immigration. FAIR also offered the mayor and city council its legal services once lawsuits were filed. However, FAIR’s influence in Riverside was shorter lived than in Hazleton or Fremont because after the new township committee took office in January 2007 they rescinded the IIRA ending the need for outside legal counsel. A political insider interviewed, told me that FAIR contacted him to ask how they would be proceeding with the ordinance once that new mayor and council had taken office. He told FAIR they would rescind it and that was the last he heard from them.

FAIR’s influence in Fremont is the most entrenched. FAIR was involved in writing its original ordinance and indirectly long before that through the Nebraska Advisory Group. NAG’s leaders explained in interviews how they relied on the FAIR website for immigration information and statistics that they used to educate their local members. The Fremont City Council asked for FAIR’s assistance in writing the ordinance before it went to the first vote. FAIR offered its legal assistance as early as 2008 because they assumed that the Fremont City Council would vote in favor of the IIRA and then be sued. Instead, the city council voted against it. At this point Kobach became the legal counsel for the grassroots conservative activists, and eventually won their case in the Nebraska Supreme Court. Fremont was then forced to hold the special election. After Ordinance 5165 passed by public referendum vocal ordinance proponents pressured the city council to use Kobach as legal counsel for the inevitable lawsuit against the city’s now enacted IIRA. In
this strange turn of events, Kobach was originally legal counsel fighting against the city and is now legal counsel fighting on behalf of the city. Kobach has said himself that he has a “special relationship” with Fremont.

The Federation for American Immigration Reform (FAIR) and its legal wing the Immigration Reform Law Institute (IRLI) is a driving force in the national movement to criminalize immigrants. One of my original research goals was to identify FAIR’s pattern of intervention in municipalities that enacted the IIRA. I have concluded that FAIR was involved in each city’s decision-making; in Fremont FAIR helped to write the first version of Ordinance 5165, while in Hazleton and Riverside FAIR revised subsequent versions. Across the three case studies ordinance proponents were fairly homogeneous local Republican politicians, White middle class conservatives, with FAIR at the helm. In all three cities FAIR tried to craft legally defensible ordinances and gave legal advice before lawsuits were filed, and once the cities were sued offered to legally represent them. FAIR tried to remain an invisible partner up until litigation, but interviewees attested to their early involvement and there are records of financial contributions.

There is widespread evidence that FAIR and other conservative groups are exploring multiple policy and legal avenues to further criminalize unauthorized immigrants. Some interviewees suggested that FAIR designs anti-immigrant policies and then goes shopping for a venue. There is also some question as to whether the IIRA is a local ordinance or in fact a policy that lands on a locality through FAIR’s influence. In addition to 287(g), Secure Communities, and the IIRA, FAIR has fought hard against the Dream
Act, lobbied against national reform they characterize as “amnesty” bills, tried using racketeering laws (RICO) against employers and landlords in separate lawsuits, Kobach wrote Arizona’s controversial policies like LAWA and SB1070 and they are currently trying to spread SB1070 to other states. Thus far the courts have rejected the IIRA and large unprecedented sections of SB1070, but the question of how far the country’s laws will expand to include these types of policies is yet to be determined.

Thus far, the courts have ruled against FAIR, kept the IIRA from being implemented and the policy trend from spreading. However, legal uncertainty remains, Fremont’s case has yet to go to trial and Hazleton is appealing to the U.S. Supreme Court.

Racism and xenophobia were also prevalent in each of these cities and cannot go unmentioned as contributing to initiating and producing the IIRAs. Racism and xenophobia persist in the United States and though the IIRA avoids anything explicit about race, ethnicity or national origin, these identity classifications came up regularly when residents discussed the ordinance. Immigration status is deeply tied to the nation of origin, ethnicity and race of the people being criminalized. Additionally, though the ordinance cannot be entirely attributed to bias, ordinance proponents used residents’ fears and bigotry to create political support for it. Furthermore, people who might not be racially motivated, but saw themselves as having something to gain from the exclusionary policy had incentive to remain mute on the topic. It should also be said that while I do not think any of these cities necessarily have more racist or xenophobic residents than the average small or medium-sized American city, it is true that each of
these places housed mainly European and people of European ancestry throughout the 20th Century and remained largely racially homogenous until Caribbean, South American, Mexican and/or Central American immigrants began arriving at the beginning of the 21st Century.

According to Latino and White residents in Hazleton there was not a problem with racism or xenophobia leading up to the creation of the IIRA. Almost everyone I spoke with agreed that there was little if any tension over Dominicans moving to Hazleton. Racism and xenophobia were not the main reasons the ordinance was enacted in Hazleton, but once the IIRA was institutionalized by the city council, there were many passionate vocal supporters there at pro-ordinance rallies. Neighboring Shenandoah, which considered a Hazleton copycat ordinance in 2006, experienced a hate crime the following year bringing into full-view the consequences of sanctioning immigrant scapegoat-ing.25

Unlike in Hazleton, in Riverside there was tension surrounding the growing immigrant population before the IIRA was enacted, some White residents were upset about the Brazilians and said so. Again, while I do not think racism or xenophobia was the main motivation for the IIRA, I do think that Mayor Hilton and the township committee felt confident the town residents would support the ordinance because of growing hostility and unhappiness with the immigrant community.

25 One notable Pennsylvania town that considered but did not enact the IIRA is Shenandoah. Shenandoah made national headlines in 2008 after White teenage boys killed a Mexican immigrant while yelling racial slurs in the downtown. The trial was polarizing for the small town and evidence of a police cover-up was revealed. In 2010 the young White men were finally convicted of a federal hate crime.
The role that racism and xenophobia played in the enactment of the IIRA in Fremont is the most striking because the ordinance was approved by popular vote. Many Fremont residents stated with conviction that the ordinance was entirely about race. Most of the interviewees who held this opinion were ordinance opponents. By contrast, the ordinance proponents interviewed said the ordinance had nothing to do with race, although they acknowledged that many people made that allegation. However, the facts remain, Councilmember Bob Warner and other ordinance proponents told the media about not liking Spanish spoken at the local Wal-Mart and the city becoming too much like nearby Schyuler, Nebraska. Latinos interviewed were told to go back to Mexico or to stop speaking Spanish, everyone had been harassed or knew someone who had been. In addition to these stories, as well as the stories about the backlash against Habitat for Humanity, there were cars’ with the bumper sticker (FM = f*cking Mexicans), and locals wearing “Homeland Security” baseball caps. In this type of climate it must be acknowledged that racism and xenophobia had something to do with the enactment of the IIRA. Even if the Nebraska Advisory Group is not a White supremacist group and NAG brought the IIRA to Fremont primarily because it was looking for a location in Nebraska to test this immigration policy, by the time the special election took place, without a doubt racism and xenophobia had been incited. One Fremont resident described resident’s hysteria about Latinos best when he said that many residents saw “a ghost coming up over every hill.”

Two misconceptions about why cities enact the IIRA are rapid population growth and local stresses caused by immigrants. Hazleton, Riverside, and Fremont had stagnant
population (and even loss) for many years and all of these cities had at one time larger populations than today. The story is common to small American cities - they began losing population after their industrial jobs declined. If not for the new immigrants these cities would likely shrink. Additionally, only Riverside could make a verifiable claim that its new immigrants were putting a stress on the town (housing overcrowding) and even that was arguable. In Hazleton every problem that Barletta claimed new immigrants caused was proven during the Lozano v. the city of Hazleton trial to be unfounded including a rise in crime. Fremont has not yet gone to trial (where similar claims will likely be contested), but before the public referendum the police chief, the superintendent of schools and a representative for the city hospital all put out public reports to the task force stating that unauthorized immigrants are not draining services or causing the agencies new challenges.

Though the justifications (population explosion, crime and draining public services) used for enacting the IIRAs are exaggerated or false, these cities have undergone difficult changes. The difficult changes cannot be attributed to unauthorized or authorized immigrants, but Latino immigrants have been conflated with or scapegoated for them. These difficult changes or “stresses” are linked to the privileging of neoliberal policies on multiple scales. The outcomes of government and corporate privileging of neoliberal policy are evident in Hazleton, Riverside, and Fremont. Before the IIRA ordinance was enacted these three cities experienced changes due to local and national neoliberal policies. One historical commonality is that they all stagnated after their industrialization
period ended and now must compete against other small post-industrial cities for sources of revenue and economic development.

Authors Fleury-Steiner and Longazel make a strong case in “Neoliberalism, Community Development, and Anti-Immigrant Backlash in Hazleton, Pennsylvania” about the conspiring policies of Hazleton’s quasi-governmental economic development organization CAN DO, Pennsylvania’s promotion of free trade zones and the labor practices of the corporations that opened warehouses in the industrial district (Fleury-Steiner and Longazel 2010). Here the privileging of neoliberal policy began with the state government promoting trade initiatives to help economically troubled regions be competitive, knowing that the goods were not manufactured in the United States and that it would create mostly low skilled, non-union jobs.

Similarly, the Brazilian immigrants moved to Riverside for construction jobs. Though there was little construction going on in Riverside itself, the housing and construction boom was happening in other parts of New Jersey and Pennsylvania. Riverside with its low rents and established Portuguese community was a good location for Brazilian carpenters and laborers to live. All over the country unauthorized workers were employed as day laborers on construction sites. This workforce was common during the housing boom and fundamental to the profitability of the housing market. Interestingly, longtime Riverside residents while unhappy with the new immigrants were themselves seeking capital for local construction and economic redevelopment. There is a fantasy in Riverside that it will again be a tourist destination or at least a Philadelphia commuter
town. Riverside’s White residents longed for the benefits of globalization but resented the workers needed for this to occur, much as authors Nancy and James Duncan described in their article "Can't Live With Them; Can't Landscape Without Them: Racism and the Pastoral Aesthetic in Suburban New York" about Mount Kisco and Bedford, New York (Duncan and Duncan 2003).

Though Fremont resisted growth and opening itself up to a global or even regional economy for many years, the neoliberal restructuring of the meat packing industry brought with it economic and demographic changes. The story of Hormel (the city’s largest private employer) is the story of neoliberal progression. An American corporation that provided reliable blue-collar jobs and middle class wages for two generations, due to increased global competition cuts wages and benefits altering the socio-economic dynamics of the city forever. Though Fremont residents do not blame Latinos for taking their meatpacking plant jobs, they are a symbol of these changes that the aging White residents do not like.

After completing my case studies, I attribute the enactment of the Illegal Immigration Relief Act ordinance in Hazleton, Riverside, and Fremont to strong local political support for the IIRA, the politicization of immigration, the influence of FAIR, racism/xenophobia and the difficult adjustment to neoliberal economic changes. I do not attribute the enactment of the IIRA to rapid population growth or local stresses placed on the city by new immigrants.
My current view is that while some residents of Hazleton, Riverside, and Fremont were motivated by racism and/or xenophobia, many others were preoccupied with this construct of an individual being “illegal.” People recognize the nation’s borders as what define it and the protection of the border as one way the nation-state demonstrates its power. If the border is not “secure,” there is a rupture in the nation-state itself. The preoccupation with the security of the border (even hundreds of miles from the U.S./Mexico border like Hazleton, Riverside, and Fremont) is ultimately a concern over the decline of the nation-state.

Though historically there have been periods of intense nationalism at the same time as open borders, current conservative political discourse equates the strength of the nation-state with its ability to control its borders. Many theorists would argue that this concern with the decline of the nation-state is not hysteria but rather a direct response to the privileging of neoliberal policy over more domestic protectionist policies that many Americans benefited from (think unions, blue collar jobs with middle class incomes, etc). Furthermore, scholars like Monica Varsanyi have discussed how local immigration ordinances are a reaction to neoliberal policies. It is difficult to prove, but people do seem concerned that globalization has undermined their standard of living and social status by allowing in cheap labor. Like authors Brettel and Nibbs described in their article about Farmers Branch Texas, there were also signs of middle class anxiety about declining quality of life and a “loss of place in the American stratification system” in Hazleton, Riverside and Fremont (Brettel and Nibbs 2010, 10). Unauthorized immigrants have become a symbol of declining social status as well as a symbol of the decline of the
nation-state vis-à-vis the decline of its borders even if in actuality immigrants are neither responsible for declining social status nor the nation-state’s declining power.

This is why it is increasingly important that Latino communities are politically organized and have local and national leaders. Latino organizations also need White and African American allies so that a grassroots movement exists to combat the anti-immigrant grassroots movement. This is needed in combination with continued legal challenges.

The main objectives of the IIRA remain the same, but the language of the ordinance has evolved, as has the means of operationalizing and enforcing it. Thanks to the ACLU, MALDEF and LatinoJustice, federal judges and the United States constitution thus far enactment has not meant enforcement. One often overlooked but common finding is that though employers and landlords were directly targeted by the IIRA ordinance they are largely silent on the topic aside from a few who participated in the lawsuits. Related to this is the fact that the IIRA ordinance privileges homeowners. Regardless of the version of the IIRA, homeowners are always exempt from the city’s scrutiny and do not have to report any immigration related documentation. Interestingly at no point was attention ever drawn to this issue in the local debates. Nevertheless because the IIRA has never been enforced questions like if or how it violates federal Fair Housing laws are speculative. It would be worthwhile to research if and how the IIRA has already been de-facto enforced, including if landlords have already been screening tenants, if the police have been checking IDs, if employers have been racially profiling potential employees in particular in Fremont where the ordinance is still fresh. Obviously this would be
ambitious, laborious and time-consuming research. Based on my initial interviews and observations in Fremont it does not appear that employers, landlords, local police, or civilians, are enforcing the IIRA. However to be able to say definitively either a researcher or agencies like the Fair Housing offices and/or the Department of Justice would have to compile a great deal of information.

It is apparent that the legal decisions and the work of the ACLU, MALDEF and LatinoJustice have been critical in preventing implementation of the IIRA. It has also prevented these copycat ordinances from gaining more traction. Though there was organized opposition to the IIRA in each case site, it did not stop the IIRA from being enacted. Only court injunctions and lawsuits accomplished this. Furthermore, other cities like Carpentersville, Illinois and Summerville, South Carolina did not enact the IIRA citing fear of similar lawsuits and legal decisions as the primary reason.

If subsequent legal rulings for Hazleton and Fremont are consistent and there are no future contradictory rulings, I predict the IIRA will be completely abandoned for other kinds of local immigration policy. If the U.S. Supreme Court agrees to hear the Hazleton case, and decides in favor of the city of Hazleton or if the 8th Circuit Court of Appeals rules in favor of Fremont I predict that cities around the country that tabled the IIRA in 2006/2007 will enact the IIRA and there will be renewed IIRA activity. One Fremont ordinance proponent, who helped to secure the public referendum, explained in an interview how he has received calls from numerous other cities asking him to visit their cities as a consultant and teach them how to launch a successful campaign for an IIRA.
The city attorneys from Hazleton, Riverside, and Fremont each received calls from other cities around the country asking for copies of their IIRA. There remains interest in the IIRA, but there is also trepidation of the consequences.

Though Hazleton, Riverside and Fremont’s ordinance proponents put emphasis on the negative impacts of unauthorized immigrants in the city, I argue that the enactment of the IIRA has had more significant and lasting negative impacts. Because the IIRA has never been enforced, it is only possible to discuss the impacts of enacting the IIRA, but enactment alone has had effects. The outcomes of enacting the IIRA include spatial, legal, political and economic repercussions as well as some positive and negative socio-political consequences.

**Demographics**

Hazleton and Riverside have both experienced demographic changes since the enactment of the IIRA in 2006. Hazleton has experienced an increase in the Dominican population and Riverside has experienced a decrease in the Brazilian population. Interestingly, not one city that enacted an IIRA has a smaller Latino population than it did in 2000. While there was short-term evidence that immigrants moved out of these cities because they were afraid of the IIRA, there is not long-term decline in the percent Hispanic. Even Riverside, though it no longer has a large, visible or vibrant Brazilian community, has nevertheless had growth in its Hispanic population. Another noticeable finding is that the population density of these three cities has remained constant for 30 years, in spite of the growth of the Latino population.
I thought I would find that enacting the IIRA caused long-term brown-flight that would have had visible and lasting spatial impacts. However brown-flight is not a given from enacting the IIRA. Hazleton is the best example of this – once the court put an injunction against the IIRA more Latinos began moving there and the Dominican community is over a third of the population in Hazleton and continues to grow. Hazleton was known as the most anti-immigrant town in the country in 2006, it is now over 37 percent Hispanic, up from 5 percent in 2000 and 1 percent in 1990. How the “most anti-immigrant city in America” became a third Latino is testament to national demographic trends and the power of preventing the IIRA. Hazleton’s West Wyoming Street has many new Dominican owned businesses, Latino themed restaurants and shops. There are also new Spanish-language churches in previously vacant storefronts and in ex-European orthodox Christian churches around town.

By contrast Riverside did experience brown-flight and has suffered culturally and economically from the absence of the Brazilians since 2007. Riverside lost Brazilian restaurants, other businesses, and street life. Fremont implemented its IIRA in 2010, so it is too early to tell if there will be lasting impacts from the ordinance. In spite of an unwelcoming climate in Fremont it has also seen an increase in the Hispanic population between 2000 and 2010. However, it should be said, that if the IIRA is enforced in the future, it will likely result in brown-flight.
Spatial impacts are generally connected to demographic changes: where residents live, their housing, commercial establishments, population density, use of public space, etc. Another related finding is that there is minimal housing segregation between Whites and Latinos in these cities as the maps in the Appendix demonstrate. Because of the “parallel universe” phenomena, Whites and Latinos lead separate lives and interacting infrequently in the day to day. It was surprising then to find that Whites and Latinos are neighbors. The American Community Survey data 2005-2009 shows that while Hispanics are more likely to live in areas with higher percent Renter Occupied Housing, overall residential segregation is low. The direct observation I conducted in Hazleton, Riverside, and Fremont revealed the same. In each of these cases there are parts of each city where Hispanics cluster, but not overwhelmingly. In Fremont for example, Hispanics live in greater numbers in the areas inside (and outside) Fremont with higher percent Mobile Home housing stock, but there are also Hispanics living throughout the city. This is significant because of the controversial harboring and housing provision in the IIRA. If the IIRA were implemented it would criminalize rental housing and likely increase residential segregation in these communities.

**Lawsuits**

Hazleton is the first and most advanced legal dispute about the IIRA. The city is currently petitioning the U.S. Supreme Court to review *Lozano v. the City of Hazleton*. Both the United States District Court for the Middle District of Pennsylvania and the Unites States Court of Appeals for the Third Circuit have ruled against the city of Hazleton and wrote decisions that express the ways in which the ordinance is unconstitutional. Hazleton also
had a lawsuit with its insurance provider, it was decided that the insurance provider would not be responsible for any related legal fees. In all Hazleton owes at least $2.4 million to the plaintiffs and will have to pay it eventually assuming the U.S. Supreme Court does not agree to hear Hazleton’s appeal. Some estimate Hazleton’s costs related to the IIRA as high as $5 million (Martinez 2011). The Hazleton “Small town defenders” coffers had over $400,000 in it, which was used to pay Kobach and IRLI up until this point. It is unclear where the money will come from to pay the plaintiffs fees. Unlike Hazleton, Riverside never went to trial because they rescinded their ordinance beforehand. However, they did have to pay legal fees for going to court about the injunction and other expenses. Riverside spent $80,000+ in one year trying to defend against early legal challenges (Martinez 2011).

Fremont went to the Dodge County District Court and Nebraska Supreme Court to stop the special election. Once this tactic failed the city was forced to hold the special election, which cost an estimated $14,000. Fremont is awaiting the upcoming trial in April 2012 to be held in the United States District Court for the District of Nebraska. In anticipation of the cost of the trial next year, the city has raised taxes by over $100 for an average $200,000 homeowner. In spite of being represented pro-bono by Kobach, Fremont’s city government estimates legal expenses between $750,000 and $1 million a year to defend the IIRA, similar to the costs in Hazleton and Farmers Branch (Martinez 2011).
Economic and/or Political repercussions

Thus far Hazleton has “gotten off easy” – the economic impacts have been nil and the political repercussions have been minor. There have been no major changes in government since the IIRA was passed and the only reason there is a new mayor is because Barletta resigned to go to the U.S. House of Representatives from Pennsylvania’s 11th congressional district. Barletta achieved his political ambition of being a congressperson, but otherwise the political makeup of the city has remained. The effects of the legal bills have not been felt by “Main Street” yet. Eventually Hazleton will have to confront its massive debt from the trial and legal appeals.

By contrast Riverside has had economic impacts though it is difficult to measure how much. There are store vacancies and diminished retail customers to the stores that remain in the downtown. Most business owners interviewed agreed that the Brazilian community was an asset to the town’s economy, which was lost. Immigrant owned businesses in particular have been hurt financially. Meanwhile, the investment of private capital and economic development that Riverside’s leaders had hoped for has still not materialized and the “organic” economic development that the immigrants were generating stopped in 2006/2007 and has yet to recover. There was also political turnover related to the IIRA – the mayor and another city councilmember were voted out, but since the ordinance was rescinded there has not been any further political change.

Besides the rise in taxes and cuts in services in preparation for the lengthy legal fight, it is still too early to make claims about the economic impacts on Fremont. One landlord in
the downtown did explain in an interview how he had lost Latino commercial tenants because they did not want to do business in Fremont after the ordinance passed, but to my knowledge that was an isolated incident. The Fremont Chamber of Commerce and some political insiders expressed concern over loosing future contracts because of the bad publicity nationally, but it is too soon to know. On the other hand, there have been severe political ramifications of the outcome of the special election. Longtime (and beloved) Mayor Skip Edwards resigned, as did numerous other longtime public officials. Some city residents consider this a good thing because the political establishment needed new blood, but others consider it a major loss to the local government because the years of experience, level of dedication, and continuity those people provided will be hard to replicate.

The most straightforward research finding is that enacting the IIRA attracts lawsuits and these legal challenges are expensive. Hazleton is a good example of the many lawsuits that are a result of this local policy experiment and the major financial liability. Conversely Riverside corroborates this, after Riverside lost its thriving immigrant community, it rescinded its IIRA. Rescinding was a good decision for Riverside it stopped the lawsuits and prevented further economic damage from going to court. Not surprisingly it was much easier to enact the IIRA before people knew the legal or fiscal consequences. Fremont’s IIRA controversy began in 2008, but the ordinance was not enacted until 2010. Fremont illustrates how much more work it takes to enact the IIRA since 2007, now that city governments have information about the legal and fiscal
consequences. City councils and mayors, even Republican and conservative, are more likely to avoid this ordinance today than they were in 2006.

Evidence of the impacts of the IIRA discourages cities from proceeding with it. A small pro-immigrant grassroots movement in Summerville, South Carolina stopped a Fremont copycat ordinance in 2010 from passing in the city council using information about the cost of lawsuits and with a simple message from the landlord association about the burden of the rental regulations. Information about the negative impacts of local immigration policy should continue to be disseminated because it is a powerful deterrent.

**Unexpected consequences**

One unexpected political repercussion of the IIRA is that the Latino communities had an issue to galvanize against and awakened to the importance of their political involvement and voice in the city. This did not occur in Riverside because most of the new immigrants fled the town and most of the activists/ordinance opponents were from outside the town.

By contrast in Hazleton and Fremont there have been efforts to create a new local pro-immigrant grassroots political movement. Ordinance opponents proved more heterogeneous than their counterparts and are trying a variety of means to organize against anti-immigrant policies as well as organize the Latino community more generally.

In Hazleton organizing happened in response to the IIRA, but once the ordinance went to court that subsided. However, the IIRA and the support for it in Hazleton made it obvious to some Latinos that they needed organizations to represent their issues and concerns.
The organization Concerned Parents was formed in 2007 to provide education resources and advocacy for immigrant children and the children of immigrants. The Spanish language newspaper, *El Mensajero*, is another important political and social institution in Hazleton. Named “the messenger” it is a vehicle for the dissemination of information in the community and a forum for political discussions. This past year, the founder and head of the newspaper organized and held the first ever Latin-Fest, a day of celebration, music, food, and entertainment from multiple Latin American countries.

In Fremont, One Fremont One Future was founded to stop Ordinance 5165 from being passed by public referendum. After the special election was over the group chose to start anew as One Fremont with Dignity. Whereas White activists founded One Fremont One Future, One Fremont with Dignity’s leadership is Latino. The Latino leaders together with its members are working to come up with an agenda for what they would like to accomplish going forward. Professor Lourdes Gouveia of the University of Nebraska and other trained organizers from the Office of Latino/Latin American Studies of the Great Plains (OLLAS) did a workshop with One Fremont with Dignity, trying to help establish goals and new leaders. In the meantime, Kristin Ostrom, the founder of One Fremont One Future, has been instrumental in documenting reports of hate speech, violence and harassment and notifying federal and state agencies to alert them to the bias environment in Fremont during and after the special election. The importance of galvanizing the Latino community in Fremont was best expressed by a resident:

A gentleman stood up the other night [at the meeting] and he said whether we like it or not we are all Mexican right now. It doesn’t matter if you were born here, doesn’t matter if you came here from Guatemala, Honduras, Nicaragua, El Salvador, where ever you are from we are all Mexican and we are all illegal in the
eyes of the people that are judging us. That was his challenge to everyone to say we have to come together and have a united voice.

Another unexpected consequence of enacting the IIRA is that it can slow down or even halt the immigrant integration process. Interviewees responded to the question “where do Whites and Latinos mix?” with an interesting and unexpected variety of answers. Some people interpreted “mixing” to mean where Whites and Latinos come into visual contact with each other. Others interpreted it to mean more direct contact like working at the same business or having children in the same elementary school class. Finally, some people (in particular many Latinos) interpreted “mixing” to mean socializing and getting to know one another. These distinctions reveal a great deal about how people imagine integration and whether it is important to them. In all three of these municipalities, when asked where Latino and White adults interact, interviewees both Whites and Latinos had few examples. Sadly, most residents responded to the question with blank stares, long silent pauses and then the most common answer “they don’t.”

The integration of new and longtime residents is a challenging process in any community, but is exacerbated by exclusionary policies. One subtle but important finding from my research is that the IIRA brings fragile and early signs of immigrant integration to a standstill because of the tension and distrust it agitates in both Whites and Latinos. In Riverside in the early 2000s for example some White young-adults had begun taking Capoeira classes and many Brazilians were taking English courses, but when the ordinance was enacted and large numbers of Brazilians moved away, the Capoeira and English-language schools closed and these early signs of integration halted. Riverside had
had the most advanced signs of integration because it had the largest ratio of immigrants to its total population and because some Brazilians were well established.

One thing that stood out when interviewing in Riverside in 2010 was that residents were very unwilling to discuss the IIRA or its history. There is an unofficial embargo on speaking about the ordinance or anything to do with race or ethnicity. Public officials either refused to talk or just wanted to emphasize that they treat everyone “the same.” I gathered this was because residents believed there had already been enough bad publicity surrounding the incident and they didn’t want more negative attention. For this reason Riverside was the most difficult place to do interviews in spite of the fact that it was the one municipality to rescind the ordinance. There is an important distinction to be made here, regretting the ordinance or being ashamed of it is not the same as welcoming newcomers or integrating the immigrants that remain or returned.

Hazleton did not have as many early signs of White and Latino integration before 2006 because it had a smaller less visible immigrant community. One interviewee did tell me that Latinos stopped participating in Funfest for two years after the IIRA was enacted because they no longer felt welcomed to participate in city-sponsored events. Now that there are more Latinos in Hazleton and the tension surrounding the IIRA has subsided there are new signs of integration. One interviewee told me about a Latin dance class (La Diva) that has many White attendees and another interviewee explained that the city’s Little League has about six hundred new kids this year most of whom are Dominican or Dominican American. The Little League also has its first Hispanic coach and the new
vice president of the league is Puerto Rican. Meanwhile, Concerned Parents has an ethnically integrated board and a growing number of White volunteers. Latinos are again participating in Funfest and this year a few Whites (in particular local politicians) attended Latin-Fest. Finally, one last interesting sign of integration, former mayor (now Congressman) Lou Barletta’s first grandson is half White (Italian American) and half Dominican.

Meanwhile, with the exception of the Habitat for Humanity housing dedication ceremonies and the “Nebraska is Home” picnic and dance (2009), the integration process has not begun in Fremont. Fremont is at the same integration stage that Hazleton was in 2006. In the midst of the current climate of fear and open hostility it is hard to imagine how integration could progress. Fremont revealed that a city government that did not want the IIRA (voted ‘No’ on it and tried to stop the special election) is not the same as a city government that is welcoming to immigrants, or takes action to support the immigrant community. This is an important distinction when considering what can be done to promote immigrant integration.

Most White residents in Fremont have no connections to the Latino community or Latino friends. Latinos have relationships with their White employers and sometimes their religious leaders, but there are few connections beyond those. In general interviewees described segregated restaurants, segregated job sites, segregated church services and segregated lives. There are three places in Fremont I identified as potential sites of integration: the school district, Hormel and Fremont Beef, and within the religious
institutions. The White union leaders and ESL teachers described how they have been to quinceaneras and baptismos. If integration were to occur this would be the norm rather than an anomaly. Integration is preferable to criminalization, but how to convince the pro-ordinance Fremont voters and residents like them around the country of this is the future challenge.

**In Closing**

Ultimately, the Illegal Immigration Relief Act is an attempt to transform the city into a legally defensible site of immigration enforcement. It would legitimate local governments having jurisdiction over immigrants’ legal status while simultaneously criminalizing their day to day survival. Leo Chavez has described how the anti-immigrant movement focuses on reducing rights and privileges to immigrants. As this thesis has shown the IIRA originates with anti-immigrant organizations and acts to reduce immigrants’ rights and privileges. Anti-immigrant sentiment is again pervasive among American Whites and as has been the case historically the major connection with urban planning occurs with residential controls. However, it should also be acknowledged that placing the burden of the surveillance of labor authorization on municipalities will also have connections to urban planning.

This dissertation makes contributions to the literature by demonstrating how the IIRA is an extension of and a reconstituting of laws that have shaped the countries ideas and practices about citizenship, race, and the nation-state. The legal geography literature is lacking scholarship on how the legal and spatial inform immigration policy and vice
versa. Historically national immigration policy has privileged restriction and territoriality (Ngai 2004). The Illegal Immigration Relief Act follows these policy norms and justifies these new restrictions by quoting language from existing national immigration statutes. If enforced it would extend restrictions on housing and employment to unauthorized immigrants. The IIRA territorializes space as well, but with an important distinction, it does so at the municipal scale rather than the national scale.

Part of the power of the IIRA is that the ordinance while enforced at the municipal scale would impact multiple scales of people’s lives and political governance. The domestic scale will be impacted because immigrant families would likely face eviction orders and have trouble finding adequate housing. The national scale would be altered because there would be, in addition to the U.S./Mexico border, an invisible local political border between Hazleton and the next town over.

There is a history of municipal scale exclusionary and discriminatory laws. Instead of Jim Crow era “Whites only” spaces, IIRA ordinances have the potential to refashion the city as “Legals only” spaces. Many of the Jim Crow laws were decidedly spatial, directly barring African Americans, Mexicans, and other immigrants from particular spaces. In Texas for example Jim Crow laws excluded Mexicans from swimming pools, theaters, restaurants, and important public institutions like schools. Unlike the Jim Crow laws the IIRA does not directly bar unauthorized immigrants from specific spaces in the city. Nevertheless it would spatially segregate workplaces and residential areas. Rather than
the boundaries of belonging being constructed around race as they were under Jim Crow laws, the IIRA will construct a new boundary of belonging around immigration status.

It is challenging to talk about race in this dissertation because Latino is not a racial category and each of the three case study cities had a different nationality/immigrant community in the majority. Census 2010 data reflects that Latinos marked a variety of racial categories including; White, mixed race, other race, Black, and Native American. There is racial diversity within the Latino community as well as longstanding ambiguity towards racial categories. To complicate matters further, all of the countries represented in the case study sites have their own histories of “mixed race” people. Hazleton’s Latinos are primarily Caribbean; Dominicans and Puerto Ricans. Riverside had mainly Brazilian residents and though they are not technically Latino, they are similar to people from the Caribbean in that they have had a long history of European, African, and Indigenous miscegenation. Fremont houses a mostly Mexican community. Mexicans are the largest immigrant population and the largest group of unauthorized workers in the United States. However as Ngai points out Mexicans have an unfixed racial identity and have been categorized as both White and non-White at different points in the country’s history.

Though “illegal” is not a racial category it is being constructed in the same way. Racial categories are a complex legal and social construction reinforced by laws (Ngai 2004). The same can be said for the categories of citizen and illegal. They are also complex legal and social constructions reinforced by laws. Even without having been implemented the
IIRA has helped to solidify this categorization of illegal in Hazleton, Riverside and Fremont.

Though the relationship between race and Latino are shifting constantly, authors like Otto Santa Ana and Leo Chavez have discussed how illegal has been collapsed (through discourse and visual culture) with Mexican and/or Latino. This was evident in Hazleton, Riverside, and Fremont respectively, where the classification of Dominican, Brazilian, and Mexican appeared to have collapsed with illegal alien in the minds of most White residents interviewed.

Historically immigration laws solidified the boundaries of the White race (Ngai 2004). There are signs that this is reoccurring with the IIRA and other state and municipal laws. The IIRA seeks to solidify the boundaries of “legal,” which would simultaneously solidify cultural and racial boundaries. The privileging of home ownership by the IIRA is one example of this. Authorized and unauthorized residents who own homes under the IIRA will not be subjected to exclusion because the housing restrictions only apply to rental units. Similarly, “where Mexicans held land, they were far less likely to be excluded from schools and other public accommodations and ‘Mexican’ was less likely to be a racialized identity” (Gross 2006).

Besides having historical precedent the Illegal Immigration Relief Act’s purported goals have a great deal in common with contemporary anti-homeless municipal restrictions. Don Mitchell’s framework for how anti-homeless laws annihilate the homeless
population can be applied to the potential damage of the IIRA on immigrant communities. Employment and housing are necessary for an immigrant’s survival. Enforce restrictions and regulations on the ability to find work or rental housing and immigrants’ self-imposed displacement and segregation is guaranteed, as was the case in Riverside.

There is more to be said about what these policy strategies share. Mitchell states that the reasons for the anti-homeless laws “revolve around insecurity in an unstable global market and a rather truncated sense of aesthetics developed to support the pursuits of capital” (Mitchell 2001, 9). My findings show that the IIRA is also linked to the economic insecurity of longtime residents, seeking new economic development strategies that do not necessarily benefit longtime residents.

The research shows that Whites and Latinos lived in parallel universes within these three cities before the IIRA was enacted, but it also shows that residents are not spatially segregated. Additionally, even though Whites and Latinos did not have a lot of interaction, the Latino communities were increasingly visible. It seems then that separate social, economic, and cultural universes were not enough. Many Whites (in particular in Fremont) wanted institutionalized spatial segregation. The IIRA preserves parallel universes by increasing distrust among the two groups, reduces the visibility of Latinos by driving them out of town or into hiding (staying inside more, not wanting to risk being in public, etc.), and would institutionalizes spatial segregation.
Future Research

The Illegal Immigration Relief Act is part of a national movement to criminalize immigrants living and working in the United States, with special emphasis on unauthorized immigrants. Local immigration policies may be abandoned for another anti-immigrant strategy like state scale policies or more likely these types of policies will spread until there is a decisive blow from the U.S. Supreme Court or new federal immigration policy. To take this study further one could gather more “hard” data from these and other municipalities that enacted the IIRA like commercial property revenue, tax revenue, voting records, and the number of occupied rental properties to make stronger claims about the long-term economic and political impacts of the IIRA.

Another possibility for future research would be to look more closely at the SB1070 copycat state bills, and research the political and economic fallout from those bills, or the political movements that worked for and against these bills in individual states. There are many interesting parallels between the IIRAs and the SB1070-like laws. Both the IIRA and SB1070 copycat state bills would give local governments more power to decide who can live and work in a city based on investigation into their immigration status. For now it is uncertain what the legal decisions will be made about these local laws. What is certain is that these policies even if never enacted have impacts on communities and form and shape our understanding of what it means to be a citizen, and who belongs.
APPENDIX A: Interview Questions

Could you tell me about a personal event or relationship that made immigration issues important to you?

Could you tell me what you feel happened in X city that made immigration so important to residents here?

Where have you seen immigrants and native-born residents in X city interact? Does that happen often? How would you describe those interactions?

How would you say X city has changed since 2000? What exactly has changed since then? How have those changes occurred? Population size, age, prosperity generally, economic opportunity, types of jobs,

How would you say X city has changed since the ordinance was introduced? Since it was passed? Have you seen interactions between immigrant and native-born residents change?

Who would you describe as the most important leaders, groups or organizations in X city today? What do you feel is the source of their power?

Thinking back to 2000, who would you describe as the most important leaders, groups or organizations then?

Are there others who may be less visible and that haven’t been mentioned but that you feel may be important behind the scenes?

Who would you describe as the key leaders around immigration issues?

Could you describe the process that led to the defeat of the city council immigration ordinance, and what the key events or people that kept it from getting passed?

Could you describe the process that led to the passage of the referendum and what the key events or people that contributed to its passage?

Why now? Why X city?
For Pro-Ordinance
Could you tell us the 3 main objectives you hope that the immigration ordinance will achieve?
How did housing become a focus of the ordinance? Employment?

What are some the strengths you feel local governments (as opposed to the federal government) have in responding to immigration? What are some of the weaknesses?

For Anti-Ordinance
What are the main concerns or fears residents have about what the ordinance will do?
How did people respond when they heard it was going to be introduced? What leadership emerged to combat it and how did that leadership emerge?
APPENDIX B: HAZLETON MAPS

Hazleton is in Luzerne County Pennsylvania. This map shows that the concentration of Latinos in Hazleton is not the norm for the county.

This map demonstrates the growing number of Latinos in Hazleton and the residential distribution throughout the city.
This map demonstrates the percentage and distribution of Latinos in Hazleton in 2000. Compared to the map on page 215 there has been a large increase in Latino residents.

This map demonstrates the percentage and distribution of Latinos in Hazleton in 1990. Compared to maps on page 215-216 there has been a large increase in Latino residents.
American Community Survey data 2005-2009 shows an increase in the foreign born population from 2000 in Hazleton.

In 2000 the foreign born population only made up 1%-5% of Hazleton’s population.
This map demonstrates the large Latin American population in Hazleton as compared to surrounding towns.

In 2000 the foreign born population from Latin America was less than 1000 resident.
This map demonstrates the large Dominican population in Hazleton as compared to surrounding towns.

American Community Survey data 2005-2009 shows a smaller percentage of non-citizens than foreign born population in Hazleton.
Comparing these two maps demonstrates that there was minimal increase in population density between 2000 and 2010.
There is a higher percentage of renter occupied housing in Hazleton than in the surrounding region.

This map shows that the regions with the most Latin Americans have lower age averages than the regions with the least have higher age averages.
These two maps of Central and Southern New Jersey and the greater Philadelphia area demonstrate that there is a sizable Hispanic population in and around Philadelphia and Camden. Riverside is located in this region.
These two maps of Riverside and the surrounding area show where the foreign born population is located.
These two maps of Riverside and the surrounding area show where the Brazilian born population is located.
These two maps of Riverside and the surrounding area show where the Portuguese born population is located.
Riverside has a higher percentage of non-citizens than surrounding areas.

The majority of foreign born in Riverside are from Latin America.
Comparing these two maps demonstrates that there was minimal increase in population density between 2000 and 2010 in Riverside NJ.
APPENDIX D: FREMONT MAPS

2010 Census Tract (PL94) - % Hispanic 2010

These maps show the areas within Nebraska and surrounding Nebraska with the most sizable Hispanic populations.
Fremont is the only city in the county with a sizable Hispanic population. The population increased between 2000 and 2010. Nearby Schuyler Nebraska has a larger percentage of Hispanics.
The percentage of Hispanics has grown in Fremont in the last ten years.
This map shows where the largest percentage of Hispanics has settled since 2000.
According to Census tract data there was no population density change over 20 years.
The foreign born population has grown in the last 10 years, but not dramatically.
Latin Americans make up the vast majority of the foreign born population.
Of the foreign born population in Fremont the majority are from Mexico.
The median age of Fremont residents has increased in the last ten years. The areas with the youngest median age have the largest percentage of Hispanics living there.
10-15% of housing in and around Fremont (with the exception of the downtown) is mobile homes.

According to the American Community Survey data 5% or less of the population in and around Fremont is not a citizen.
**APPENDIX E: Frequently Used Acronyms**

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>IIRA</td>
<td>Illegal Immigration Relief Act</td>
</tr>
<tr>
<td>FAIR</td>
<td>Federation of American Immigration Reform</td>
</tr>
<tr>
<td>IRLI</td>
<td>Immigration Reform Law Institute</td>
</tr>
<tr>
<td>ICE</td>
<td>Immigration and Customs Enforcement</td>
</tr>
<tr>
<td>ACLU</td>
<td>American Civil Liberties Union</td>
</tr>
<tr>
<td>PRLDEF</td>
<td>Puerto Rican Legal Defense and Education Fund (now LatinoJustice)</td>
</tr>
<tr>
<td>MALDEF</td>
<td>Mexican American Legal Defense and Education Fund</td>
</tr>
<tr>
<td>SB1070</td>
<td>Arizona State Bill 1070</td>
</tr>
<tr>
<td>LAWA</td>
<td>Legal Arizona Workers Act</td>
</tr>
</tbody>
</table>
Bibliography


Bowen, Don. 2006. “City’s leaders, merchants work to draw customers downtown.” Fremont Tribune, April 8.


Ellis, Brett. 2010. “Even Census data can’t provide accurate number.” *Fremont Tribune*, June 14.


Hovey, Art. 2009. “Immigration turmoil hits Fremont; Citizens argue both for and against crackdown on people who can’t prove legal status.” Lincoln Journal Star, September 27.


Hovey, Art. 2010. “Court clears way for vote in Fremont; Measure would outlaw knowingly renting to illegal immigrants.” Lincoln Journal Star, April 24.


Jackson, Kent. 2006. “A small Missouri city that adopted Hazleton’s Illegal Immigration Relief Act also faces a legal challenge.” Standard-Speaker, November 3.


Malcolm, Wade. 2006. “Both sides take a step back in Hazleton debate City will not enforce illegal immigration law; plaintiffs will not file for an injunction.” Citizen’s Voice, September 2.


McHale, Todd. 2006. “Riverside OKs illegal-alien law Cultures class as hundreds turn out to support ordinance.” Burlington County Times, July 27.


McHale, Todd. 2006. “Latino group won’t be in Riverside for first day of school But coalition may add a town, $90 million to suit.” *Burlington County Times*, August 31.


McHale, Todd. 2006. “Riverside’s law is official today but enforcement is still on hold as immigration debate continues.” *Burlington County Times*, November 28.


McHale, Todd. 2007. “Mayor plans to pick panel in Riverside another official questions need to study illegal-immigration law.” *Burlington County Times*, February 16.

McHale, Todd. 2007. “Federal court rejects bid by Riverside to move suit One case will remain in the Superior Court.” *Burlington County Times*, February 28.


McHale, Todd. 2007. “Riverside officials say there’s no plan to repeal law.” Burlington County Times, August 16.


Mocarsky, Steve. 2006. “Citizens reaction to suit as varied as the population.” Times Leader, August 16.


Mocarsky, Steve. 2007. “Barletta grilled on views Hazleton mayor sticks to main arguments about problems linked to illegal residents.” Times Leader, March 15.


Mocarsky, Steve. 2007. “Registration fees a major issue at trial if immigration ordinance is passed in Hazleton, occupancy permits would cost $10.” Times Leader, March 17.

Mocarsky, Steve. 2009. “County tops in Hispanic population growth much of growth is in Hazleton, where Hispanics make up about one-third of city’s population.” *Times Leader*, September 9.


Paris, Adam. 2006. “Mayor Lou Barletta’s Illegal Immigration Relief Act Ordinance is accruing more national media attention this week, as the proposal becomes a new facet in the nation’s charged immigration debate.” *Standard-Speaker*, June 22.


ARIANNA MARTINEZ

EDUCATION

PhD Rutgers University, Interdisciplinary: Geography & Urban Planning
New Brunswick, NJ, October 2011

MA The New School, International Affairs
New York, NY, January 2005

BA Purchase College, The State University of New York
Purchase, NY, May 2002

ACADEMIC AND PROFESSIONAL EXPERIENCE

Center for Comparative Immigration Studies, University of California, San Diego, July – August 2011
Visiting Graduate Student

LaGuardia Community College, Long Island City, September 2007-
Instructor

Latinos and Planning, American Planning Association Division, September 2006 – May 2010
Conference Coordinator

Queens College, Flushing NY, August 2006-August 2007
Adjunct Professor

Rutgers University, New Brunswick NJ, January 2006-May 2007
Part-time Lecturer, Teaching Assistant

Projects for Public Spaces, New York NY, May 2004-August 2006
Public Markets Consultant, Intern Coordinator

El Ceibo Cooperative, Buenos Aires Argentina, June 2003-August 2003
Development Intern

TEACHING EXPERIENCE

Urban Sociology, LaGuardia Community College, City University of New York, Long Island City, NY

World Geography, LaGuardia Community College, City University of New York, Long Island City, NY

Sociology of Women, Queens College, City University of New York, Flushing, NY, Fall 2006, Spring 2007, Summer Session 2007

Gender & Education: Senior Seminar, Queens College, CUNY, Flushing, NY, Spring 2007

Poverty in Developing Nations, Bloustein School of Planning and Public Policy, Rutgers University, New Brunswick, NJ, Spring 2007

Globalization: Social and Geographic Perspectives, Queens College, CUNY, Flushing, NY, Fall 2006

Introduction to Planning, Public Policy and Public Health, Bloustein School of Planning and Public Policy, Rutgers University, New Brunswick, NJ, Spring 2006, Fall 2006