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NO. A05-0912

State of Minnesota
In Supreme Court

All Parks Alliance for Change,

Petitioner,

v.

Uniprop Manufactured Housing Communities Income Fund, d/b/a Ardmor Village,

Respondent.

BRIEF OF *AMICUS CURIAE* AMERICAN CIVIL LIBERTIES UNION OF MINNESOTA

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Martin v. City of Struthers, 319 U.S. 141, 143 (1943) 1

Vieth v. Jubelirer, 541 U.S. 267 (2004) 12

Secondary Sources:

All Parks Alliance for Change, http://www.allparksallianceforchange.org/ (accessed on June 29, 2006 5

Charles Louis Kincannon, Director, *Statistical Abstract of the United States 2006*, US Census Bureau: The National Data Book, 629 (125th ed., 2005) 5

Elana Schor, *Older Workers Make AARP and Chamber an Odd Couple*, The Hill, http://www.hillnews.com/thehill/export/TheHill/Business/061505.html (June 15, 2005) 13

Encyclopedia of American Industries, *4th Edition, Volume 2: Service and Non-Manufacturing Industries*, 1018-19 (Lynn M. Pearce, ed., 2005) 6

Foremost Insurance Company, *Trends in Manufactured Housing, Manufactured Homes: The Market Facts, 2002 Report,* http://cp.foremost.com/market_facts 2002/trends.htm (accessed June 29, 2006) 6

John Fraser Hart, Michelle J. Rhodes, & John T. Morgan, *The Unknown World of the Mobile Home* 84 (2002) 5, 6, 7, 8, 9

Julia O. Beamish, Rosemary C. Goss, Jorge H. Atiles, & Youngjoo Kim, *Not a Trailer Anymore: Perceptions of Manufactured Housing*, 12 Housing Policy Debate 2, 381 (2001), http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1202_beamish.pdf 7, 8

Richard Genz, *Why Advocates Need to Rethink Manufactured Housing*, 12 Housing Policy Debate 2, 395 (2001), http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1202_genz.pdf 7, 8, 9, 10, 11

Good Will, *What We Do*, http://www.goodwill.org/page/guest/about/whatwedo (accessed June 29, 2006) 16

Girl Scouts of America, http://www.girlscouts.org (accessed June 29, 2006) 16

Girl Scout Council of Greater Minneapolis, http://www.girlscoutsmpls.org/whoweare.html (accessed June 29, 2006).....17

Girl Scouts of America, *Frequently Asked Questions,* http://www.girlscouts.org/program/gs_cookies/faqs.asp (accessed June 29, 2006).....17

Mike Hatch, *The Manufactured Home Parks Handbook*, https://www.ag.state.mn.us/Brochures/ManufacturedHomeParks.pdf (May 2003).....19

Minnesota Association for Volunteer Administration, *About Us*, http://www.mavanetwork.org/aboutus.htm (accessed June 29, 2006) 12, 14

Robert B. Archibald and David H. Feldman, *State Higher Education Spending and the Tax Revolt*, 77.4 Journal of Higher Education, 618-647 (2006).....18

UNICEF, *TOT Total By Giving Districts*, http://www.keyclub.org/keyclub/service/tottotals.asp (last updated May 31, 2006) 19

United States Department of Housing and Urban Development, *Income Limits: Minnesota*, http://www.huduser.org/Datasets/IL/IL06/mn_fy2006.pdf.....7

INTRODUCTION[1]

"The [framers of our Constitution] knew that novel and unconventional ideas might disturb the complacent, but they chose to encourage a freedom which they believed essential if vigorous enlightenment was ever to triumph over slothful ignorance."[2]

This case is about a mobile home park owner paternalistically protecting homeowners from receiving information. This is a case about whether it is reasonable for a mobile home park to make rules that deny certain homeowners the opportunity to be educated, to debate, and to effectuate change in matters of importance to them and their home ownership. This case is about whether homeowners who live in mobile home parks should have less exposure to information than traditional homeowners have, or whether the legislature intended them to be treated similarly with respect to freedom of expression. This is a case about whether the mere type of home one is able to afford should affect the rights he or she is entitled to as a citizen of this nation.

Minnesota Statute § 327C.13, Freedom of Expression, was enacted to protect the rights of those citizens engaging in noncommercial speech in mobile home parks while still enabling park owners to impose reasonable time, place, and manner restrictions on noncommercial speech.

Under the auspices of the authority granted to park owners through this statute, Respondent promulgated certain restrictions whereby leafleting, canvassing and door-to-

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[1] The Amicus Brief was authored by the American Civil Liberties Union-Minnesota and its counsel, with significant authorship by Gretchen Seymour, law student. No other persons or entities made any monetary contributions to the preparation or submission of the brief.

[2] *Martin v. City of Struthers*, 319 U.S. 141, 143 (1943).

door solicitation[3] is permitted Monday through Friday between the hours of 11:00 a.m. and 6:00 p.m. only. Even with the extended hours imposed by the lower courts, there is no leafleting, canvassing, or door-to-door solicitation, whatsoever, permitted on Sunday.[4] As an additional restriction, Respondent's also maintains a "No Contact" list. Contact with those parties identified on the list via door-to-door solicitation, canvassing or leafleting is prohibited, regardless of message promoted through such activities.[5] This means that prior to engaging in leafleting, canvassing, or door-to-door solicitation, all groups or individuals are required to first obtain the "No Contact" list. It is only by obtaining this list that compliance with all of the applicable restrictions may be ensured.

At first blush, one might think that it would be a good thing for residents of the mobile home park to be protected from solicitors because "most people" don't wish to be bothered and the very idea of "solicitors" calling can trigger memories of times when our own dinners have been disrupted by callers. However, freedom to impart and receive information, even information that we might be reluctant to receive, is a vital part of the

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[3] Respondent's limitation on speech reads that "leafleting and canvassing is permitted on Monday through Friday between the hours of 11:00 a.m. and 6:00 p.m. in the Ardmor Village. No leafleting, canvassing or door to door solicitation for any purposes is permitted in the Ardmor Village community on the homes sites or at the residences of those community residents that have signed the "No Contact" list." Although the first sentence does not include the limitation that door to door solicitation is permitted only between 11:00 a.m. and 6:00 p.m., the second sentence of the rule does include door-to-door solicitation as a restricted activity. For purposes of this brief, we assumed that the absence of door-to-door solicitation from the first sentence was an oversight, not deliberate, and was intended to be included in the restriction because the remainder of the rule includes the three activities as one unit.

[4] Trial Ex. 5; A. 116 of Pl.'s Brief and Appendix of Petitioner All Parks Alliance for Change.

[5] *Id.*

history and fabric of the United States. The very essence of our democracy requires citizens have an opportunity to be informed.

For a host of reasons, this Court should analyze the question before it today on the basis of what is sound public policy. Under such an analysis, the limitations imposed by Respondent would be found to be too unsound, overly restrictive and generally unreasonable. In addition to affecting the individual Petitioner, the outcome of this case will have a significant impact on the free expression rights of all of Minnesota's mobile home park residents and the people who wish to communicate with them. The practical consequences of these limitations are substantial and unreasonable obstacles to engaging in core political speech activities such as campaigning for political or judicial office; outreach of advocacy and non-profit groups; and traditional cultural events like school fund-raising and trick-or-treating. The broad scope and rigorous nature of these restrictions are unreasonable both on constitutional grounds as previously asserted by Petitioner, All Parks Alliance for Change, as well as on practical policy grounds.

We urge this Court to find that the interests of the purveyors of information to have access to these homeowners and the interests of the homeowners to control their own access to this information far outweigh any property interests of the mobile home park owner.

I. The American Civil Liberties of Minnesota Possesses a Strong Interest in This Case

The American Civil Liberties Union of Minnesota ("ACLU-MN") is a not-for-profit, non-partisan, membership-supported organization dedicated to the protection of civil liberties. It is the statewide affiliate of the American Civil Liberties Union and has more than 8,000 members in the state of Minnesota. Its purpose is to protect the rights and liberties guaranteed to all Minnesotans by the Minnesota and United States Constitutions as well as state and federal laws. Among those rights most ardently protected is the right to freedom of expression.

The ACLU-MN supports the Petitioner's argument that the application of Minnesota Statute, § 327C.13, should be in the context of established free speech jurisprudence. Without the guidance of the longstanding and well-established legal precedents governing questions of whether speech restrictions are valid time, place and manner regulations under the First Amendment, park owners will be free to adopt their own restrictive rules without any real litmus test for determining what is and is not "reasonable." Consequently, individuals wishing to engage in speech activities in a particular manufactured home parks will be forced to initiate individual legal actions to determine, on a case-by-case basis, whether the particular rules in question are reasonable.

The ACLU-MN also supports the Petitioner's argument that the rules imposed by the Respondent are not reasonable regulations under the statute. The Court of Appeals held that First Amendment principles were not relevant to the application of Minnesota

Statute, § 327C.13, and that the restrictions were reasonable. In so holding, the Court of Appeals failed to provide any standard as to what is "reasonable" under the statute.[6] The ACLU-MN believes that this Court should provide clear guidance for lower courts in evaluating restrictions on the right to freedom of expression; the very rights this statute is intended to protect.

II. Factual Overview of Mobile Home Parks and Mobile Home Park Population

Three and one-half percent of housing units in Minnesota are manufactured homes.[7] Currently, there are 180,000 residents in Minnesota's 950 mobile home parks. Thus, there are 180,000 residents in Minnesota who could be affected by the outcome of this case.[8]

In 1998, the Metropolitan council area had eighty-nine mobile home parks with an average of 175 spaces per park. These statistics have remained nearly static in the last two decades. However, demand for space in the parks is still strong so that park space is chronically in short supply.[9] Despite demand, there is little development of new parks because of increasing land prices and the difficulty of finding sites where parks are allowed.[10] Pervasive perceptions of community residents are that these parks are housing

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[6] *All Parks Alliance for Change v. Uniprop Manufactured Housing Communities Income Fund*, 2006 WL 618932 (Minn. App. Mar. 14, 2006) (affirming the District Court's holding on the basis that "people should have the right to be left alone").
[7] Charles Louis Kincannon, Director, *Statistical Abstract of the United States 2006*, US Census Bureau: The National Data Book, 629 (125th ed., 2005).
[8] All Parks Alliance for Change, http://www.allparksallianceforchange.org/ (accessed June 29, 2006).
[9] John Fraser Hart, Michelle J. Rhodes, & John T. Morgan, *The Unknown World of the Mobile Home* 84 (2002).
[10] *Id.*

undesirables which negatively affect home values and tax bases.[11] Consequently, development of new parks has all but completely halted.

Unfortunately, for the population that needs affordable housing mobile home parks rank somewhere in the neighborhood of junkyards on a scale of general social acceptability. However, in this instance the junkyards are for people rather than for automobiles. These sentiments describe the way many Americans assume the residents of mobile homes are seriously deficient: deficient in income, deficient in education, deficient in intelligence and deficient in moral fiber.[12] These perceptions, however, are not accurate.

Studies reveal the following data regarding average age, education, and family size. Traditional residents of mobile home communities are either first-time homebuyers, between the ages of twenty-five and forty-four or elderly retired people.[13] However, the average age continues to rise.[14] In fact, in 2002, the average age of the homeowner was 54.1.[15] Forty seven percent of mobile home owners have some college education while eighteen percent have a college degree.[16] The majority of households are married

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[11] *Id.*
[12] John Fraser Hart, Michelle J. Rhodes, & John T. Morgan, *The Unknown World of the Mobile Home* 2 (2002).
[13] Encyclopedia of American Industries, *4th Edition, Volume 2: Service and Non-Manufacturing Industries*, 1018-19 (Lynn M. Pearce, ed., 2005).
[14] Foremost Insurance Company, *Trends in Manufactured Housing, Manufactured Homes: The Market Facts, 2002 Report,* http://cp.foremost.com/market_facts 2002/trends.htm (accessed June 29, 2006) (revealing statistics of a survey which included owners and/or residents of mobile homes in both mobile home parks and on lots owned by residents).
[15] *Id.*
[16] *Id.*

couples and the average household size is 2.3 people.[17] The small, two-parent family is the dominant household type for residents of mobile homes.[18]

In addition, most mobile home residents are employed. Fifty nine percent are employed full-time.[19] Over half of residents of mobile homes had income over $20,000.[20] The mean income for people buying new mobile homes in 1999 was $30,000, compared with the U.S. median of $40,000.[21] Newer mobile home parks, generally in southern states, offer larger lots and many amenities and attract higher income retirees, but more traditional urban mobile home parks in states like Minnesota are comprised primarily of lower-income residents. In fact, eighty percent of Minnesota's mobile home park residents qualify as low to very low income based on HUD guidelines.[22]

Mobile home parks are perforce semipublic places. Living in a mobile home park, whether utilitarian or upscale, requires a special kind of gregariousness.[23] The lots are so small that there is less privacy and more social interaction than in conventional

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[17] *Id.*
[18] Julia O. Beamish, Rosemary C. Goss, Jorge H. Atiles, & Youngjoo Kim, *Not a Trailer Anymore: Perceptions of Manufactured Housing*, 12 Housing Policy Debate 2, 381 (2001), http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1202_beamish.pdf.
[19] *Id.*
[20] *Id.* at 383.
[21] Richard Genz, *Why Advocates Need to Rethink Manufactured Housing*, 12 Housing Policy Debate 2, 395 (2001), http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1202_genz.pdf.
[22] United States Department of Housing and Urban Development, *Income Limits: Minnesota*, http://www.huduser.org/Datasets/IL/IL06/mn_fy2006.pdf (last updated 2006).
[23] John Fraser Hart, Michelle J. Rhodes, & John T. Morgan, *The Unknown World of the Mobile Home* 130 (2002).

residential suburbs.[24] Residents are generally neighborly folk, open and out-going, curious about everyone else's business, and open about their own affairs. A mobile home park is no place for a misanthrope or a recluse, or for those who treasure their privacy.[25]

Another unfair perception of mobile home park residents is that they do not have roots in the community.[26] Like so many of the perceptions about this population, it too is inaccurate. Six out of ten residents have lived in manufactured homes for more than ten years.[27]

III. A Substantial Power Disparity Exists Between Mobile-Park Residents and Mobile Park Owners Making Residents Vulnerable to Abuse

A. Because Mobile Home Are a Scarce Commodity that Are in High Demand and Because of the Immobility of the Homes, Owners of Parks Possess Great Power Over Tenants

Most existing mobile home parks are fully occupied, with waiting lists. The difficulty of developing new parks, the shortage of rental sites, and the immobility of units have given park owners considerable license in setting rules, rents, fees and other conditions of tenancy.[28] Mobile home owners are captives of the parks in which they are located. While they own their homes, they lease the lot on which their homes are located.

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[24] *Id.* at 81.
[25] John Fraser Hart, Michelle J. Rhodes, & John T. Morgan, *The Unknown World of the Mobile Home* 130 (2002).
[26] Julia O. Beamish, Rosemary C. Goss, Jorge H. Atiles, & Youngjoo Kim, *Not a Trailer Anymore: Perceptions of Manufactured Housing*, 12 Housing Policy Debate 2, 378 (2001), http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1202_beamish.pdf.
[27] Richard Genz, *Why Advocates Need to Rethink Manufactured Housing*, 12 Housing Policy Debate 2, 394 (2001), http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1202_genz.pdf.
[28] John Fraser Hart, Michelle J. Rhodes, & John T. Morgan, *The Unknown World of the Mobile Home* 79-80 (2002).

The term mobile homes is an oxymoron because mobile homes are nearly impossible to move. It costs thousands of dollars to move a unit and owners risk serious damage to their homes in transit.[29] As a result, owners will sell their homes and start over if they dislike the park or the terms of the lot rental.

Generally, residents of mobile home parks work full-time in relatively low-paying jobs, or are retired and living on fixed incomes. Once situated in a park, these people have few options if they are unhappy about the conditions of the park or the rules imposed by the park owner. This is especially true because the median net worth for owners of mobile homes is just over half the median net worth of all homeowners.[30] Thus, the mobile homeowner, in most instances, does not have the financial wherewithal to escape from the park once situated.

B. Mobile Home Owners are a Population Particularly in Need of Information

"Attention to manufactured housing from the consumer's point of view is a scarce commodity."[31] Moreover, "[t]here is a shortage of consumer information on important issues like comparative quality, financing options, fair market value of new and resale homes, values of developed lots, and factors contributing to equity building."[32] These gaps in consumer protection put the mobile home owner on tenuous ground from the word go.

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[29] *Id.* at 80.
[30] Richard Genz, *Why Advocates Need to Rethink Manufactured Housing*, 12 Housing Policy Debate 2, 395 (2001), http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1202_genz.pdf.
[31] *Id.*
[32] *Id.*

Because of the way society views mobile home living, mobile home owners have limited access to housing subsidies, tax benefits, resale institutions, financing and legal protections that site-built owners take for granted.[33] For example, because mobile homes are generally categorized as personal property for loans, they are subject to relatively rapid repossession proceedings.[34] Because the homes are located on leased land, the park owner can keep or sell the home after a relatively short period if there is a violation of the terms of the lot lease.[35]

Buyers of manufactured homes pay two to five percentage points in higher interest than do conventional homebuyers.[36] It is not clear whether sub-prime rates are justified or are the result of lack of competition caused by lack of consumer advocacy and information within this community. They are not protected by the Real Estate Settlement Procedures Act which requires disclosures of settlement costs and prohibits kickbacks or referral fees for loan closing service providers.[37] There are virtually no buyer education programs for manufactured home buyers like the hundreds of programs that have evolved for conventional homebuyers.[38]

Too many mobile home owners accept the conventional wisdom that their form of housing is uniquely handicapped in its potential for

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[33] Richard Genz, *Why Advocates Need to Rethink Manufactured Housing*, 12 Housing Policy Debate 2, 409 (2001), http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1202_genz.pdf.
[34] *Id.*
[35] *Id.*
[36] *Id.* at 393.
[37] *Id.*
[38] *Id.* at 404.

appreciation. The perception of manufactured housing as non-equity building contributes to a self-fulfilling prophecy about the long-term value by discouraging maintenance, deterring legal conversion to real estate and making long-term leases or permanent interaction with the site uninteresting.[39] In addition, because most real estate brokers sell only real estate, most mobile home owners have to sell their homes themselves.[40] This also depresses the resale values of mobile homes.

The level of consumer advocacy aimed at mobile home owners is very low considering the scale of the mobile home sector.[41] Government, nonprofit, and philanthropic involvement is strikingly less than in the world of "real homes".[42] While grassroots organizations are strong in some states, including California, Florida, and Michigan, they have not made such inroads in Minnesota.[43] All in all, this population is one that would particularly benefit from increased access to information and one that is particularly at risk when this information is limited.

IV. Respondent's Limitations on Canvassing, Leafleting and Door-to-Door Solicitations are Unreasonable on Policy Grounds

A. The Restrictions Imposed by Respondent are Unreasonable on Policy Grounds Because Such Restrictions Detrimentally Limit Pure Political Speech by Severely Restricting Time Available For Judicial and Political Canvassing, Leafleting, and Door-to-Door Campaigning

Mobile home residents represent a challenged segment of society. Severe obstructions on efforts to educate this segment, to enable them to advocate and take

[39] *Id.* at 411.
[40] *Id.*
[41] *Id.* at 399.
[42] *Id.*
[43] *Id.*

advantage of their rights and opportunities, is unreasonable. However, it is not just critical advocacy groups such as All Parks Alliance for Change that are being confronted with substantial hurdles to free expression aimed at aiding mobile home owners, but also groups like campaign workers for political and judicial candidates. Thus, enforcement of Respondent's limitation on door-to-door solicitation, canvassing, and leafleting unreasonably restricts this plethora of protected political speech as well.[44]

Volunteers comprise a large percentage of any political campaign effort. The Minnesota Association for Volunteer Administration[45] indicates that in 2005, approximately sixty-seven percent of Minnesotans volunteered in one capacity or another.[46] Of the sixty-seven percent of the population engaged in volunteer activities, twenty-two percent or 528,000 people volunteer for community action or political campaigns.[47] The demographic represented by this body of volunteers is largely that of citizens under the age of fifty-four. Seventy-four percent of people between the ages of thirty-five and forty-four while sixty nine percent of people betweens the ages of forty-

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[44] *Vieth v. Jubelirer,* 541 U.S. 267, 124 S.Ct. 1769 (2004) (quoting *Elrod v. Burns,* 427 U.S. 347, 356) (holding "political belief and association constitute the core of those activities protected by the First Amendment")).

[45] Minnesota Association for Volunteer Administration, *About Us*, http://www.mavanetwork.org/aboutus.htm (accessed June 29, 2006) (stating it is the "largest professional membership association for leaders and volunteers in the state of Minnesota").

[46] *Id.* at http://www.mavanetwork.org/documents/2005MNFactSheet.Graphs.doc.

[47] *Id.*

five and fifty-four volunteer.[48] The dollar value attributable to the collective community action or political campaign volunteer services is estimated at 1.738 billon. [49]

For Americans, the current average age of retirement is sixty-two.[50] In consideration of the age groups represented by the community action/political campaign volunteer population and the average retirement age in the United States, the statistical reality is that many campaign/community action volunteers are likely to be working adults who may be employed on a full-time basis during regular business hours. If it is assumed that regular business hours span the period of 9:00 a.m. to 5:00 p.m, then a typical campaign/community action volunteer engaged in leafleting, canvassing, or door-to-door solicitation would be left with only ***one*** hour per day, Monday through Friday, and seven hours on Saturday in which to engage in such activities. In total, the time allotted equals a meager eight hours per week. This period accounts for a paltry seven percent of a seven-day period consisting of 168 total hours. In other words, a volunteer campaign or community action worker who also maintains full-time employment is denied engagement in these constitutionally protected activities for ninety-three percent of the week.

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[48] *Id.*

[49] *See, Id.* (2004 estimates are published by the Minnesota Association for Volunteer Administration. Dollar value of volunteer services are based on an assumption of a average non-agricultural wage in combination with 12% benefits estimate for an overall wage average of $12.55 for a total value of 7.9 billon. We have estimated that 22% of 7.9 billon accounts for services provided by political action and campaign volunteers to derive 1.738 billon).

[50] Elana Schor, *Older Workers Make AARP and Chamber an Odd Couple*, The Hill, http://www.hillnews.com/thehill/export/TheHill/Business/061505.html (June 15, 2005).

Moreover, the impact of these restrictions can also be evaluated in terms of dollars. As stated above, the dollar value attributed to these volunteer services is estimated at 1.738 billon. [51] If these volunteer opportunities were restricted, there would be a relative decline in the real dollar value represented by the services of the volunteer population.

The consequence of these drastic restrictions is that opportunities for participation in the democratic process would be robbed from otherwise engaged citizens. Further, a decline in the real dollar value of volunteer services would be suffered by the whole of society. Restricting these historically protected activities to a mere eight hours per week is far from reasonable under any standard. To suggest otherwise is an affront to Constitutional principles, First Amendment jurisprudence, and the very concept of democracy.

B. The "No Contact" List Has a Chilling Effect on Freedom of Expression Within a Mobile Home Park and Is Not Reasonable

It may appear on its face that a no-contact list would be a reasonable means to prevent bothersome solicitation of those who do not wish to be disturbed. However, this facet of the park's rule must be viewed in the context of life within a mobile home park.

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[51] *See,* Minnesota Association for Volunteer Administration, *2005 Fact Sheet on Volunteerism*, http://www.mavanetwork.org/documents/2005MNFactSheet.Graphs.doc (accessed June 29, 2006) (stating that 2004 estimates are published by the Minnesota Association for Volunteer Administration. Dollar value of volunteer services are based on an assumption of a average non-agricultural wage in combination with 12% benefits estimate for an overall wage average of $12.55).

As noted above, there is a significant power differential between the individual living in a mobile home park and the park itself. Because of this differential of power, individuals in the community will not wish to be viewed by the park as trouble-makers.

If a park imposes unreasonable rules or raises rent exorbitantly or fails to maintain the park conditions, residents may wish to form a resident association. A resident association can bring park residents together and serve as an effective outlet to voice concerns and take action against unfair park rules. In order for an individual in the park to garner enough support for such an association, he or she must be able to speak to other residents about the issues.

To do this type of outreach, the individual in Respondent's park must go to the park office to obtain the "No Contact" list. Because it is such a small community, the park manager will notice who is asking for the list and it would be likely that the manager may ask what the resident is planning to do. This question may be asked in order to intimidate the resident or it may be asked innocently as conversation. In either case, because the resident has so much to lose because of his unique living situation, he may be reluctant to go through this process.

In addition, because the no-contact-list provision requires a person or group to stop in the office before contacting residents, and because the office is not open during all the hours specified for solicitations, it further limits the number of hours available for this type of activity.

As noted above, mobile park residents, because of tight quarters within each unit and within the park are, by necessity, more social and less likely to be recluses than the

general population. It would be far less of a burden to freedom of expression to require residents who do not wish to be contacted to indicate that on their doors or by not answering their doors, than to require solicitors to have to obtain a "No Contact" list.

C. The Restrictions Imposed by Respondent Detrimentally Interfere and Restrict Activities of Many Non-Profit Organizations and Advocacy Groups that Provide Critical Public Services

In addition to the chilling effect on the aforementioned speech, a wide array of additional public service groups are unreasonably constrained by these highly restrictive limitations. For example, non-profit organizations like the Good Will[52] and the Girl Scouts of America[53] must comply with these time limitations which substantially restrict, and in many instances, nearly extinguish, their opportunities for educational outreach and fundraising activities.

The Girl Scouts is an international organization founded in 1912 with the objective of supporting young women in their development of leadership skills, strong values and social conscience, and conviction about their own worth and potential.[54] These underlying objectives may account for why sixty-six percent of the female members of Congress have been members of the Girl Scouts.[55] The organization now boasts over 2.6 million members in the United States. In the Twin Cities area alone, there are

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[52] Good Will, *What We Do*, http://www.goodwill.org/page/guest/about/whatwedo (accessed June 29, 2006) (Good Will is a nonprofit provider of training, education, and career services "for people with disadvantages, such as welfare dependency, homelessness, and lack of education or work experience, as well as those with physical, mental and emotional disabilities").

[53] Girl Scouts of America, http://www.girlscouts.org (accessed June 29, 2006).

[54] *Id.*

[55] *Id.*

approximately 20,000 members.[56] Members are girls of ages ranging from five to seventeen.[57]

One of the quintessential Girl Scout activities is the annual Girl Scout cookie sale. This event is one of the primary revenue generators for the organization. Seventy percent of the proceeds generated by the Girl Scout cookie sales goes directly to the local Girl Scout organizations and are relied upon as organization-sustaining funds.[58]

In the same way that the *actual* time for campaigning/community action activities are much more limited than the time allotted by Respondent, so too are the hours available to the Girl Scouts to sell their cookies. As noted above, the Girls Scout members range in ages five to seventeen. If it is assumed that this demographic attends school during the general hours of 8:00 a.m. to 3:00 p.m., that leaves approximately twenty-two hours per week to sell cookies. In other words, out of 168 total hours per week, only thirteen percent is unrestricted for these essential, organization-sustaining activities.

Thirteen percent may be a generous estimation. In order to actually utilize the twenty-two hours that would be available, these members must be positioned to take advantage of the limited time between the hours of 3:00 p.m. and 6:00 p.m. In many instances, it is probable that younger children would be unlikely to engage in these

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[56] Girl Scout Council of Greater Minneapolis, http://www.girlscoutsmpls.org/whoweare.html (accessed June 29, 2006).
[57] *Id.*
[58] Girl Scouts of America, *Frequently Asked Questions,* http://www.girlscouts.org/program/gs_cookies/faqs.asp (accessed June 29, 2006).

activities without the accompaniment of adults. The actual available time for the activities for younger children is consequently diminished even further.

As yet another obstacle to these activities, the Girl Scouts would also be required to obtain the "No Contact" list before they are even permitted to engage in their cookie selling activities. These restrictions are overtly restrictive and unreasonable.

The Girl Scouts provide essential community services by fostering positive learning opportunities for young women who become future leaders of America. Due to Respondent's unreasonable time restrictions, non-profit organizations which provide essential community services, like the Girl Scouts, would be unduly burdened. If restrictions such as those promulgated by Respondent are found to be enforceable, they may contribute to the destruction of American institutions like the Girl Scouts and other critical public service groups.

D. The Restrictions Imposed by Respondent Will Impose Restrictions Inapposite to American Traditions such as Trick-or-Treating and School Fund-Raising

Even innocuous traditional activities such as trick-or-treating and school fund-raisers are negatively impacted and constrained by these restrictions. With the continuous reductions in state funded academic programs,[59] public schools are turning their efforts to individual fund-raising activities to ensure that programs that would otherwise be eliminated for lack of funding may continue. Many of these fundraising activities involve door-to-door sales of pizzas, candy bars, and holiday wrapping paper.

[59] *See*, Robert B. Archibald and David H. Feldman, *State Higher Education Spending and the Tax Revolt*, 77.4 Journal of Higher Education, 618-647 (2006) (discussing the decline of funding of public education in the last twenty-five years).

Like political canvassing and leafleting, these school fundraising activities would be substantially constrained by Respondent's rule thereby creating yet another roadblock to the continuation of critical school activities which are essential for the development and education of the nation's children.

In the same way these restrictions would apply to school fundraising so too would they apply to innocent activities like trick-or-treating. Trick-or-treating[60] has been a long-time tradition of the people of the state of Minnesota. Children of all ages anxiously anticipate and engage in this festive annual event. Is it reasonable to expect small children to first contact Respondent's office to obtain the "No Contact" list before they participate in trick-or-treating activities? What if Halloween were to fall on a Sunday? Would trick-or-treating be banned in its entirety? The Minnesota Attorney General's "Manufactured Home Parks Handbook" indicates that a park may attempt to evict a resident for violating a new or amended rule.[61] Under Respondent's new "No Contact" rule, could a resident be evicted for trick or treating or soliciting his/her neighbors for school fundraising? In practice, this is a harsh and unreasonable penalty that can be enforced on park residents for violating the "No Contact" rule.

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[60] UNICEF, *TOT Total By Giving Districts*, http://www.keyclub.org/keyclub/service/tottotals.asp (last updated May 31, 2006) (In addition to the general pleasure derived from these time immemorial traditions, other non-profit groups have leveraged these activities to further promote their policy and political objectives. For example, in 2005 UNICEF's trick-or-treat campaign raised approximately $9,000 through the efforts of trick-or-treaters in the Minnesota-North Dakota region. UNICEF was incepted in 1946 and serves the interests of children globally through the provision of health and education services).

[61] Mike Hatch, *The Manufactured Home Parks Handbook*, https://www.ag.state.mn.us/Brochures/ManufacturedHomeParks.pdf (May 2003).

It is clear that, taken to the logical extreme, these restrictions are unreasonable. Limitations on school-fundraising events and time honored cultural activities have a strong potential of preventing children from benefiting opportunities they would otherwise have but for the severely limiting restrictions now sought to be enforced by Respondent.

CONCLUSION

Respondent seeks to enforce unreasonable limitations not only on the freedom expression of both the vulnerable population represented by the mobile home park residents as well as on those groups that would seek to lift this population from its vulnerable state, but also on other political groups, public interest associations and private citizens engaged in cultural activities. The only appropriate legal standard to be applied in consideration of these facts, is that standard established by First Amendment jurisprudence. Respondent's severe limitations is not reasonable under any Constitutional standard nor on the basis of any sound public policy. For the welfare of society and for the protection of all of our First Amendment rights, we, therefore urge this court, to apply First Amendment standards and hold that the rules imposed in this case are unreasonable.

Dated: June 30, 2006

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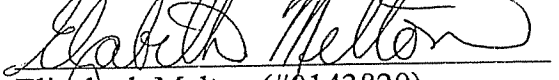
By: 

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CERTIFICATION OF BRIEF LENGTH

I hereby certify that this brief conforms to the requirements of Minn. R. Civ. App. P. 132.01, subds. 1 and 3, for a brief produced with a proportional font. The length of this brief is 5,292 words. The brief was prepared using Microsoft Office Word 2003.

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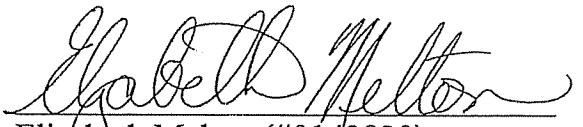
By: 

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