

Brennan Center and Coalition of Public Interest Groups Join with City of Berkeley in Defending Living Wage Law

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Today the Brennan Center for Justice at New York University School of Law filed an amicus brief in the U.S. Court of Appeals in San Francisco to help the City of Berkeley defend its “living wage” law. The challenged city ordinance, made effective in October 2000, helps some of the hardest working members of the Berkeley community feed their children and pay the rent.

The appeal arises from a precedent-setting decision of the federal district court for the Northern District of California in *RUI One Corp v. City of Berkeley & Hotel Employees and Restaurant Employees Local 2850*, handed down in March 2002.

Joining the Brennan Center’s brief urging the Court of Appeals for the

Ninth Circuit to uphold the lower court's ruling are numerous civil rights, worker rights, and environmental groups: the Los Angeles Alliance for a New Economy (LAANE), the NAACP Legal Defense & Educational Fund, Inc. (LDF), the Disability Rights Education and Defense Fund (DREDF), the Legal Aid Society – Employment Law Center (LAS-ELC), the Center on Race, Poverty & the Environment (CRPE), the Asian Pacific Environmental Network (APEN) and Communities for a Better Environment (CBE).

The district court's ruling ensures that local governments can continue to play an important role, together with the state and federal governments, in protecting the economic well-being of working families. The Brennan Center's brief filed with the Ninth Circuit explains that a reversal of the lower court would have dangerous and far-reaching implications and could limit the power of local, state and federal governments to ensure workplace safety, protect the environment, and safeguard civil rights.

“Mayors and city councils across the nation are concluding that living wage laws are an important tool for helping the working poor in their communities,” explains Brennan Center associate counsel Paul Sonn. “The ruling by the district court properly recognized the importance of this trend in local governance.”

The living wage ordinance enacted by the Berkeley City Council requires employers that lease prime city-owned property, or that receive large city contracts, to pay their employees a living wage – set initially at \$9.75 per hour and updated annually for inflation – plus health benefits. The living wage law applies specifically to Berkeley's Marina district, an attractive tourist destination developed with taxpayer dollars. In adopting the living wage law, the Berkeley City Council asserted that businesses operating in the Marina district and benefiting from city investment must provide decent jobs and pay employees a family-sustaining wage.

A central legal issue addressed by the district court concerns whether ongoing lease agreements with the city should trump the public interest expressed in Berkeley's living wage ordinance. Leading the effort to undermine the will of the Berkeley City Council is RUI One Corp., a national restaurant conglomerate and parent corporation of one of the Marina district's restaurants.

In siding with the City of Berkeley on this issue, the district court relied, in part, on arguments made by the coalition represented by the Brennan Center. "The idea that an employer receiving large taxpayer-funded benefits should be exempt from having to pay a living wage because it holds a long-term lease or contract with the government is unprecedented," said Mr. Sonn. "Such a limitation would restrict the power of city, state and federal governments to adopt legislation on a range of vitally important issues."

The Center's amicus brief in the Ninth Circuit places the Berkeley ordinance in a national and historical perspective, explaining that for nearly a century federal, state and local governments have shared responsibility for ensuring decent living standards for our nation's low-wage workforce. The role of cities and states in that partnership has become more important in recent years as the value of the federal minimum wage has been allowed to erode.

The brief also outlines recent economic research, which has found that increases in minimum wage rates have not forced employers to eliminate jobs in order to cut costs, as critics have sometimes predicted.

The Brennan Center's Economic Justice Project seeks to expand access to family-sustaining jobs to combat our nation's widening economic inequality. The Economic Justice Project assists lawmakers and reform coalitions in cities across the country in designing living wage laws and other reform legislation tailored to local needs.

For more information, a copy of the brief or to arrange for an interview, please contact Amanda Cooper at 212.998.6736.