

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

JH.

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CLERK-ALBUQUERQUE

THE AMERICAN CIVIL LIBERTIES  
UNION OF NEW MEXICO; THE LEAGUE  
OF WOMEN VOTERS OF ALBUQUERQUE/  
BERNALILLO COUNTY, INC.; SAGE COUNCIL;  
NEW MEXICO COALITION TO END HOMELESSNESS;  
ANNE KASS, ALEXANDRA KAZARAS and  
BARBARA GROTHUS,

Plaintiffs,

vs.

CIV 05-1136 MCA/WDS

MILLIE U. SANTILLANES, ALBUQUERQUE  
CITY CLERK,

Defendant.

DEFENDANT MILLIE U. SANTILLANES' ANSWER TO  
FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

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Defendant Millie U. Santillanes, Albuquerque City Clerk (hereinafter  
"Defendant"), by and through Assistant City Attorney Paula I. Forney, answers  
plaintiffs' first amended complaint for declaratory and injunctive relief (hereinafter  
"complaint") and affirmatively defends:

1. Defendant is without knowledge or information sufficient to form a belief  
as to the truth of the allegations contained in paragraph 1 of the complaint and  
therefore deny them.

2. Defendant is without knowledge or information sufficient to form a belief  
as to the truth of the allegations contained in paragraph 2 of the complaint and  
therefore deny them.

3. Defendant is without knowledge or information sufficient to form a belief  
as to the truth of the allegations contained in paragraph 3 of the complaint and  
therefore deny them.

4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the complaint and therefore deny them.

5. The allegations contained in paragraph 5 of the complaint are legal conclusions which therefore require no response.

6. The allegations contained in paragraph 6 of the complaint are legal conclusions which therefore require no response.

A. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6A of the complaint and therefore deny them.

B. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6B of the complaint and therefore deny them.

7. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the complaint and therefore deny them.

8. Defendant admits the allegations contained in paragraph 8 of the complaint.

9. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the complaint and therefore deny them.

#### JURISDICTION AND VENUE

10. The allegations contained in paragraph 10 of the complaint are legal conclusions which therefore require no response.

11. The allegations contained in paragraph 11 of the complaint are legal conclusions which therefore require no response.

12. The allegations contained in paragraph 12 of the complaint are legal conclusions which therefore require no response.

13. The allegations contained in paragraph 13 of the complaint are legal conclusions which therefore require no response.

#### ALLEGATIONS COMMON TO ALL COUNTS

14. Defendant admits the allegations contained in paragraph 14 of the complaint.

15. In response to the allegations contained in paragraph 15 of the complaint, Defendant denies that the City Clerk acted pursuant to a custom of policy. As to the remaining allegations, the Defendant states that the document speaks for itself and therefore no response is required.

16. In response to the allegations contained in paragraph 16 of the complaint, the Defendant states that the document speaks for itself and therefore no response is required.

17. In response to the allegations contained in paragraph 17 of the complaint, the Defendant states that the document speaks for itself and therefore no response is required.

18. In response to the allegations contained in paragraph 18 of the complaint, the Defendant states that the document speaks for itself and therefore no response is required.

19. In response to the allegations contained in paragraph 19 of the complaint, the Defendant states that the document speaks for itself and therefore no response is required.

#### COUNT I

#### Undue, Discriminatory Burden on the Fundamental Right to Vote In Violation of the Right to Equal Protection of the Law

20. Defendant incorporates herein by reference the responses to the foregoing allegations.

21. Defendant denies the allegations contained in paragraph 21 of the complaint.

22. Defendant denies the allegations contained in paragraph 22 of the complaint.

23. Defendant denies the allegations contained in paragraph 23 of the complaint.

As to the allegations contained in plaintiffs' paragraph beginning "WHEREFORE", Defendant denies that plaintiffs are entitled to any relief under the facts and circumstances of this case.

## COUNT II

### Undue, Discriminatory Burden on the Fundamental Right to Vote In Violation of the Right to Equal Protection of the Law—Unconstitutional Requirements Demonstrating Affluence and Gender Discrimination

24. Defendant incorporates herein by reference the responses to the foregoing allegations.

25. Defendant denies the allegations contained in paragraph 25 and subpart A of the complaint. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in subparts B through G of paragraph 9 of the complaint and therefore deny them.

26. Defendant denies the allegations contained in paragraph 26 of the complaint.

27. Defendant denies the allegations contained in paragraph 27 of the complaint.

28. Defendant denies the allegations contained in paragraph 28 of the complaint.

29. Defendant denies the allegations contained in paragraph 29 of the complaint.

As to the allegations contained in plaintiffs' paragraph beginning "WHEREFORE", Defendant denies that plaintiffs are entitled to any relief under the facts and circumstances of this case.

COUNT III

Violation of the Civil Rights Act of 1964,  
42 U.S.C. § 1971(a)(2)(A)

30. Defendant incorporates herein by reference the responses to the foregoing allegations.

31. In response to the allegations contained in paragraph 31 of the complaint, the Defendant states that the document speaks for itself and therefore no response is required.

32. Defendant denies the allegations contained in paragraph 32 of the complaint.

As to the allegations contained in plaintiffs' paragraph beginning "WHEREFORE", Defendant denies that plaintiffs are entitled to any relief under the facts and circumstances of this case.

COUNT IV

Violation of the Civil Rights Act of 1964,  
42 U.S.C. § 1971(a)(2)(B)

33. Defendant incorporates herein by reference the responses to the foregoing allegations.

34. In response to the allegations contained in paragraph 34 of the complaint, the Defendant states that the document speaks for itself and therefore no response is required.

35. Defendant denies the allegations contained in paragraph 35 of the complaint.

As to the allegations contained in plaintiffs' paragraph beginning "WHEREFORE", Defendant denies that plaintiffs are entitled to any relief under the facts and circumstances of this case.

COUNT V

Section 2 of the Voting Rights Act of 1965  
42 U.S.C. § 1973(a)

36. Defendant incorporates herein by reference the responses to the foregoing allegations.

37. In response to the allegations contained in paragraph 37 of the complaint, the Defendant states that the document speaks for itself and therefore no response is required.

38. Defendant denies the allegations contained in paragraph 38 of the complaint.

39. Defendant denies the allegations contained in paragraph 39 of the complaint.

40. Defendant denies the allegations contained in paragraph 40 of the complaint.

As to the allegations contained in plaintiffs' paragraph beginning "WHEREFORE", Defendant denies that plaintiffs are entitled to any relief under the facts and circumstances of this case.

All allegations in plaintiffs' complaint not admitted or denied above are hereby specifically denied.

AFFIRMATIVE DEFENSES

1. All similarly situated individuals were treated equally.

2. Affluence or lack of affluence are not protected classifications for purposes of the Equal Protection Clause.

3. Affluence or lack of affluence are not suspect classifications for purposes of the Equal Protection Clause.

4. Defendant had a rational basis for its actions.

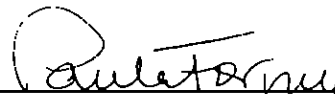
5. Defendant had legitimate, non discriminatory reasons for its actions.

6. Defendant's actions did not impose an undue burden on any fundamental right.

7. The actions of defendant furthered legitimate governmental interests.

Respectfully submitted,

CITY OF ALBUQUERQUE  
Robert M. White  
City Attorney



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I hereby certify that a true copy  
of the foregoing was mailed  
to the following:


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on this 18<sup>th</sup> day of January, 2006.

  
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Paula I. Forney  
Assistant City Attorney