



start a new life will doubtless hesitate if he knows that he must risk making the move without the possibility of falling back on state welfare assistance during his first year of residence, when his need may be most acute. But the purpose of inhibiting migration by needy persons into the State is constitutionally impermissible.”), *overruled in part on other grounds by Edelman v. Jordan*, 415 U.S. 651 (1974). The Supreme Court has unwaveringly held that any law that is enacted with the purpose of deterring in-migration faces insurmountable constitutional difficulties. *Hooper v. Bernalillo Cty. Assessor*, 472 U.S. 612, 620 n. 9 (1985) (quoting *Zobel v. Williams*, 457 U.S. 55, 62 n.9 (1982)); *see also Saenz v. Roe*, 526 U.S. 489, 506 (1999) (“[S]uch a purpose would be unequivocally impermissible[.]”); *Memorial Hosp. v. Maricopa Cty.*, 415 U.S. 250, 263-64 (1974); *Shapiro v. Thompson*, 394 U.S. 618, 629 (1969).

Your office may also recall a similar case that the ACLU brought against the City & County in 2005, in which the United States District Court granted the Plaintiff’s Motion for Preliminary Injunction in a case challenging pre-employment residency requirements for City & County employees. *Walsh v. City & County of Honolulu*, 423 F. Supp. 2d 1094 (D. Haw. 2006). The City and County cannot condition the receipt of essential benefits to the length of residence. *See Saenz*, 526 U.S. at 505-506 (striking as unconstitutional a California law that denied TANF benefits to recent arrivals in the State).

Although IHS implements the rules that result in these unconstitutional deprivations to new arrivals, the City & County cannot abdicate its constitutional responsibilities by contracting with a private entity to violate the law in this manner.

We ask that your office take immediate steps to end these practices, and that the City & County ensure that all future contracts make clear that contractors may not discriminate against recent arrivals to our State. We ask that your office contact us no later than Friday, February 13, to discuss the remedies we have set forth herein.

Please feel free to contact me at 522-5908 or [dgluck@acluhawaii.org](mailto:dgluck@acluhawaii.org). Thank you for your prompt attention to this matter.

Sincerely yours,



Daniel M. Gluck  
Legal Director

Attch.

cc: Dawn Spurlin (by email/with attch.)



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