



C. Ray Drew, Executive Director • Mark Silverstein, Legal Director

July 28, 2011

Dave Ruechel
Postal Supervisor
Gypsum Post Office
100 Oakridge Ct.
Gypsum, Colorado 81637

Via Fax (970-524-7658) and U.S. Mail

Dear Mr. Ruechel,

We write now to follow up on our April 22, 2011, letter, which you have not answered. Our April letter described several reports the American Civil Liberties Union of Colorado (ACLU) received that the Gypsum Post Office is targeting Latino residents of Gypsum for discriminatory treatment by improperly denying them the right to rent a post office box. Specifically, we have received reports that the Gypsum Post Office has been refusing post office boxes to Latino residents of the town who have presented clearly valid and legally sufficient identification (“ID”) on the grounds that the IDs are not “local” or are not “from here.”

While it is unclear precisely what you regard as a “local” ID or an ID “from here,” postal regulations contain no requirement that applicants for a post office box present “local” ID. To the contrary, applicants need only present a document showing proof of local residency and one photo ID that “contain[s] sufficient information to confirm that the applicant is who he or she claims to be.” *See Mailing Standards of the U.S. Postal Service Domestic Mail Manual, Sec. 508.4.3.2., available at <http://pe.usps.com/text/dmm300/508htm#wp1052479>.* Yet, the ACLU has received reports that Latinos who are able to present documentation showing proof of residency in Gypsum – including rent receipts and bank statements – have nonetheless been denied a Gypsum post office box because their photo ID – including passports from Latin American countries, United States issued visas, and IDs issued by the Mexican consulate and the Mexican Federal Election Institute – are not “local.” These photo IDs, however, clearly satisfy Postal Service regulations because they “contain sufficient information to confirm that the applicant is who he or she claims to be.”

In order to allow us to thoroughly investigate this matter, our April letter asked that you provide us the following information: (1) criteria applied by Gypsum postal service employees when determining whether a photo ID supporting an application for a post office box is acceptable to “confirm that the applicant is who he or she claims to be,” *see Mailing Standards of the United States Postal Service Domestic Mail Manual, 4.3.2;*

(2) the specific authority from which these criteria are derived; (3) whether or not the Gypsum Post Office will accept such photo IDs as a Mexican passport, a United States B1/B2 visa; a Mexican Consulate card; and/or a Mexican Federal Election Institute card as sufficient to support an application for a post office box; and (4) if the Gypsum Post Office does *not* accept any one of these forms of ID, I asked that you identify the specific authority on which the refusal to accept the ID is based. Since we sent the letter – over three months ago – our office has received no substantive response from the Gypsum Post Office.

Given your lack of response, the ACLU has no choice but to move on from simply requesting information to demanding action – namely, the prompt provision of a post office box to Griselda Duarte, a Gypsum resident who has already provided the Gypsum Post Office with documents that clearly satisfy the Postal Service regulations.

Ms. Duarte resides in Gypsum, and she has rented a post office box in Gypsum on several occasions without incident until this year. In a letter dated July 1, 2010, you demanded that Ms. Duarte personally present “two types of acceptable identification, one bearing [her] photograph,” in order to renew her post office box. *See Attach. 1, July 1, 2010 Letter.* In January 2011, Ms. Duarte dutifully complied with your request. She came to the Gypsum Post Office and presented two forms of current photo ID, as well as two documents indicating her current address in Gypsum. Attached hereto, you will find the documents that Ms. Duarte presented: (1) a current B1/B2 Visa issued by the United States government and bearing Ms. Duarte’s birthdate, nationality and photograph; (2) a photo ID issued by the Mexican Federal Election Institute; (3) a January, 2011, receipt for payment of rent for Ms. Duarte’s Gypsum apartment, indicating her local address; and (4) an IRS Address Inquiry form related to Ms. Duarte’s bank account, also noting her local address. *See Attach. 2, Duarte Documents.*

Clearly, these documents are more than sufficient for the Gypsum Post Office to confirm that Ms. Duarte resides in Gypsum and is who she claims to be. Nevertheless, two Gypsum postal employees rejected Ms. Duarte’s IDs. They told her that her IDs were not acceptable because they were not “from here.” As explained above, postal regulations contain no requirements that a post office box applicant provide ID “from here,” whatever that means. To the contrary, applicants need only provide sufficient documents to show that they are local residents and that they are who they claim to be. Ms. Duarte did that. She complied fully with the regulation. Yet, she was denied a post office box.

Because she clearly complied with postal regulations, there must be some other reason for the Gypsum Post Office rejecting her IDs. Ms. Duarte was born in Mexico, appears Mexican, and speaks with a Mexican accent. Based on the ACLU’s investigation, it appears that the Gypsum Post Office is illegally discriminating on the basis of perceived race or national origin. As the ACLU noted in its unanswered April letter, we obtained confirmatory evidence of this discriminatory practice when an ACLU intern contacted the Gypsum Post Office on April 6, 2011. She asked, in her British accent, whether her B1/B2 visa would suffice as a photo ID to support an application for

a post office box. She was told that, indeed, this document was sufficient. Thus, a B1/B2 visa was acceptable when the applicant spoke with a British accent, but apparently unacceptable when Ms. Duarte, speaking with a Mexican accent, presented the identical document.

This discriminatory refusal to rent post office boxes to Latinos denies Gypsum residents like Ms. Duarte equal protection of the laws – a constitutional right that applies regardless of national origin. As the federal appeals court of the District of Columbia has explained: “[The federal government] is without the power to extend the benefits of the postal service to one class of persons and deny them to another of the same class” *Pine v. Walker*, 121 F.2d 37, 39 (D.C. Cir. 1941).

This denial of access to post office boxes is particularly concerning in Gypsum, Colorado, a small mountain community that has no home mail delivery. As a result, when the Gypsum Post Office denies Gypsum residents access to a post office box, it denies them access to *all* written correspondence with family, health care providers, schools, jobs and much more. Thus, the apparent policy of the Gypsum Post Office of discriminatorily denying Latino residents of Gypsum post office boxes works a severe infringement upon these individuals’ First Amendment right to receive correspondence. *See Lamont v. Postmaster General*, 381 U.S. 301, 305 (1965) (“[T]he use of the mails is almost as much a part of free speech as the right to use our tongues.”).

Based on the foregoing and your failure to respond to our earlier letter asking for an explanation, it appears that the Gypsum Post Office is intentionally discriminating against Latino residents in violation of federal law and postal regulations. To even begin to address this issue, the Gypsum Post Office must promptly grant Ms. Duarte’s application for a post office box. Because her rights are violated with each day that passes during which cannot receive written correspondence, we ask that you contact our office by August 8, 2011, to inform us whether or not the Gypsum Post Office intends to comply with the law and postal regulations by granting Ms. Duarte access to a post office box. If we do not hear from you by that date, we will presume that the Gypsum Post Office’s denial of Ms. Duarte’s post office box application is still in effect, and will consider appropriate next steps against you and the Gypsum Post Office.

If you have questions, or would like to discuss this issue in more detail, please contact Rebecca Wallace at (303) 777-5482, ext. 104.

Sincerely,



Rebecca T. Wallace
Staff Attorney, ACLU of Colorado



Mark Silverstein
Legal Director, ACLU of Colorado