

2023/07/03 APA Justice Monthly Meeting

**APA Justice Meeting – Monday, 2023/07/03
1:55 pm Eastern Time / 10:55 am Pacific Time**

1. Remarks by Congressman Al Green



Speaker: **Al Green**, Member, U.S. House of Representatives; Member of the Executive Board and Chair of Housing Task Force, CAPAC

Congressman Al Green represents Texas's 9th congressional district, an area including Houston. He currently serves on the Financial Services Committee and the Committee on Homeland Security. Green also serves on the Executive Board of CAPAC, and as the CAPAC Housing Taskforce Chair.

Congressman Green emphasized the importance of not allowing the Supreme Court's affirmative action ruling to become a wedge issue. We will each have our share of challenges. The case does not mark the end of the issue.

He stated that a multicultural advocacy coalition is forming in Houston. It is a powerful movement since problems cannot be isolated and addressed within cultural groups by themselves. We truly need help from each other. The Texas Multicultural Advocacy Coalition alongside other supporters took a firm stand and prevented Senate Bill (SB)147 from passing the legislature this session, a success that should be celebrated.

Congressman Green then reviewed two historical court cases legalizing discrimination against Asian people, dating as far back as 1854, and called for unity among those who have experienced discrimination.

He and Congresswoman Judy Chu have filed legislation to prevent the state from barring property ownership or purchase of real property based on citizenship. Green cautioned that the

bill may not be passed immediately, but that a vote upon this bill will reveal those who support it. Green called upon us to vote despite obstacles, as the upper courts of the country have the power to overturn laws.

He submitted an article and summarized it, stating that many Asian Americans support affirmative action but whose sentiments have been obscured by the Supreme Court ruling. Much work still needs to be done, especially concerning legacy admissions.

Commenting on the upcoming 60th anniversary of Dr. Martin Luther King Jr.'s March on Washington, Congressman Green suggested that seeing and hearing us working together is exceedingly important. Optics are important.

Cindy Tsai, Interim President and Executive Director of the Committee of 100, explained the background of the Yellow Whistle and its symbolism and transformation from a personal safety device into a sign of unity and a way to be loud and to be heard against Asian American stereotype and discrimination. C100 stands firmly behind all communities of color and want to work together to ensure that all Americans are included in the American Dream.

2. CAPAC Updates

Speaker: Nisha Ramachandran, Executive Director, Congressional Asian Pacific American Caucus,

Nisha echoes Congressman Green's comments on affirmative action.

CAPAC has been working closely with the Congressional Black Caucus and the Congressional Hispanic Caucus to issue separate and joint statements on the Supreme Court ruling. CAPAC expresses their continued support for affirmative action, as well as the importance of working with all members of the three caucuses.

The land ownership bills are not a one-party issue in Congress. Many such bills are currently being introduced and amended, including the farm bill. CAPAC expects to see more bills specifically targeting individuals from certain countries, including China, owning agricultural land or land around military installations.

CAPAC's largest concern is that almost none of the bills are narrowly tailored enough to avoid potentially harming the civil rights of our communities. This activity is occurring at a federal level. CAPAC members are pushing back against such legislation and against narratives that the Chinese government is buying farmland without facts and context.

CAPAC has been involved in negotiations around what became the CHIPS and Science Act and was able to keep a number of provisions harmful to the civil rights and civil liberties out, but there is a resurgence of some of these provisions.

CAPAC has also worked with Senate leadership to prevent other harmful bill provisions and bills from being introduced. CAPAC continues to monitor these activities closely.

3. Anti-Profiling, Civil Rights & National Security Program - Asian Americans Advancing Justice | AAJC

Speaker: John Yang 杨重远, President and Executive Director, Advancing Justice | AAJC

John Yang was on travel and did not attend the meeting.

4. Update from Asian American Scholar Forum

Speaker: Gisela Kusakawa, Executive Director, Asian American Scholar Forum (AASF), gpkusakawa@aasforum.org

The long-term battle for AASF is to shift the narrative that Asian Americans are somehow threats in this country, that they are foreign and not American, which have led to many of the anti-Asian laws and policies.

Part of that effort is to make sure that different sectors of the Asian American community have a seat at the table. AASF has recently become a task force member for the Friends of the National Asian Pacific American Smithsonian Museum. A pioneering project is a long-term, joint educational effort.

The first video series is with the US National Science Foundation to lift up American inventors. AASF will be covering other sectors in our society to lift up Asian American women for the next video series.

AASF genuinely believes that with collaboration, shared stories across the country, and making this history is known will teach compassion and unity on many of these issues. AASF encourages partnership in future video series.

AASF is also continuing to educate federal agencies, including a teach-in with Mike German at the Brennan Center to demystify the FBI. There is such fear right now in our community when it comes to intelligence and law enforcement that AASF wants to make sure that the community has as much resources and information as needed.

AASF has an upcoming in-person panel that is led by OCA National with AASF member, Dr. Xiaoxing Xi, a Chinese American scientist who was wrongfully prosecuted and has now filed a civil lawsuit to hold the government accountable.

5. Update on Florida Alien Land Bill Lawsuit

Speaker: **Clay Zhu 朱可亮**, Partner, DeHeng Law Offices 德恒律师事务所; Founder, Chinese American Legal Defense Alliance (CALDA) 华美维权同盟

The Florida governor signed the alien land bill into law on May 8.

Two weeks later, CALDA, ACLU, and AALDEF – three non-profit organizations – filed a lawsuit in a federal court in Florida on behalf of a group of four Chinese citizens and a real estate brokerage firm in Florida against Senate Bill (SB) 264. They work on the case pro bono. The state law became effective two days ago on July 1.

Since the APA Justice monthly meeting in June, there have been five major developments.

First, the plaintiffs filed a motion for preliminary injunction. The goal is to seek a ruling so that the law can be declared unconstitutional and stopped. More than 10 lawyers worked on the motion with tremendous teamwork.

Second, Quinn Emanuel Urquhart, one of the most respected litigation law firms in the country, has joined the case pro bono.

Third, 19 diverse groups including racial justice centers, bar associations, and civil rights organizations filed a joint amicus brief. This issue is not just for Chinese Americans. The brief focuses on the sad history of how Asian immigrants have been treated in this country more than a hundred years ago until now. It also includes a great discussion on the alien land laws that were passed and in place more than 100 years ago in many states.

Fourth, after the lawsuit was filed, the Department of Justice filed a statement of interest to support the motion for preliminary injunction.

Finally, the judge has decided on the timetable for the motion of a preliminary injunction. The Florida state government will file its opposition today (July 3). The plaintiffs will file a reply the following week. The judge will hold a hearing on July 18. Ashley Gorski of ACLU and Clay will appear at the hearing.

Regardless of who loses the motion, Clay expects the losing party will appeal.

6. National Fair Housing Alliance on Alien Land Bills

Speaker: Scott Chang, Senior Counsel, National Fair Housing Alliance (NFHA)

Founded in 1988, NFHA is the only national civil rights organization dedicated solely to addressing housing discrimination.

NFHA has a number of programs on education and outreach, public policy and advocacy, housing and community development, consulting and compliance, and enforcement.

NFHA has members and about 200 member organizations all over the country, member organizations all over the country.

NFHA first learned about the Florida bill from one of our member organizations in Florida, and then bills in Louisiana and Alabama from the members.

Since then NFHA has been actively monitoring those bills throughout the country and are considering whether or not there should be some public policy initiatives or possibly enforcing initiatives against some of the bills throughout the country. In particular, NFHA has been investigating SB 264.

NFHA is working with one of its longtime partners, Relman Colfax PLLC, a civil rights firm in Washington DC, as well as some Asian American legal organizations. It is looking into whether it should bring another lawsuit against SB 264.

NFHA has also been talking and coordinating with ACLU. If NFHA did bring such a lawsuit, it would focus on the Fair Housing Act claims, including equal protection and preemption claims. As the Department of Justice statement of interest indicated, SB 264 likely violates the Fair Housing Act.

NFHA is also looking at whether or not it is possible to file a lawsuit in a different district and get a different judge.

7. National Asian Pacific American Bar Association on Alien Land Bills

Speaker: Edgar Chen, Special Policy Advisor, National Asian Pacific American Bar Association (NAPABA)

Started in 1989, NAPABA is the nation's largest Asian Pacific American membership organization representing the interests of 60,000 attorneys, judges, law professors, and law students. It has a network of nearly 90 affiliates across the country, including in Ohio which is the most recent state to introduce discriminatory alien land laws.

It is through the state and local chapters that NAPABA has been privileged to help lead advocacy efforts to combat these new alien land laws. As the saying goes, all politics are local.

We need local voices on the ground - who know the local political climate, who are members of the affected communities, and whose fight this really is, since a lot of this is at the state legislative level.

For the Asian American communities, that often means local Asian American attorneys are the ambassadors and interpreters for the legal system.

NAPABA has three affiliates in Texas - Dallas, Houston, and Austin. There are four affiliates in Florida - Tampa Bay, Southern Florida, Jacksonville, and Orlando. In Louisiana and Alabama, there are NAPABA attorneys who live and practice law there. They are able to step up and engage.

NAPABA knows from experience that there is no one-size-fits-all solution to address such legislation in terms of advocacy approaches.

What works in Texas might not work in neighboring Louisiana. In Louisiana where HB 537 did pass, there were 2 other bills - HB 125 which was a blanket ban on foreign ownership of agricultural land and SB 91 which would cover even renting or leasing property within 50 miles of a military base. Thus, basically all of Louisiana's habitable areas would be off limits to many people.

Those two bills did not pass, but HB 537 did. NAPABA, along with the local affiliates - the Louisiana Asian Pacific American Bar and the Alabama Asian Bar Association – issued strongly worded statements.

Those statements are not just to condemn the discriminatory effects. They also provide a legal analysis of what they actually do.

The Louisiana bill had a phrase called “connected to the Chinese Communist Party.” What does that mean? It could mean anyone who is under contract or whose policy could be affected or “changed” by the government.

Chevron has huge operations in Venezuela. Exxon Mobil is in the consortium with Russia for a gas pipeline in Kazakhstan.

NAPABA’s job is to help identify legal problems even beyond civil rights concerns.

Local knowledge is critical. The economic argument will be much more compelling than a civil rights argument in places like Alabama.

Some attorneys have immigration law background including Edgar himself.

Modifications and amendments to these bills to exclude green card holders are not good enough. In Alabama and Louisiana, they changed language to having a valid visa. That is not good enough either because oftentimes, refugees do not necessarily have visas. So they changed it to “lawfully present” and that is not appropriate either because you can have a valid visa and be overseas but the term “lawfully present” means physically present in the United States.

Some legislators whose job it is to write these laws seem to not know what they are doing.

This has been especially problematic when state legislators attempt to write laws that affect federal interests, including on immigration, national security, and foreign policy.

The Florida law puts restrictions on any person who is a member of a political party from any of the 7 adversary countries.

This would bar opposition leaders from Venezuela or Russia from purchasing certain properties. This is another example of how thoughtless, backward, and counterproductive these bills are when it comes to their purported goal of combating authoritarian regimes.

That is another reason why the preemption bill by Representatives Chu and Green is so appropriate and to have APA justices track these bills.

We must hold our legislators accountable and keep up this feedback because they're writing laws in the vacuum. NAPABA's job along with advocates and local affiliate members is to fill that vacuum with information, facts, and legal analysis to keep legislators honest and hold their feet to the fire.

Edgar is happy to see the response from the Asian American immigrant community stepping forward and participating in a democratic process.

While these bills are designed on their face to combat authoritarianism, the response has been one of supporting democracy.

It is also heartening to see community members acknowledge the shared pain of discrimination faced with the black communities and other marginalized communities and for them to witness African American legislators in places like Alabama and Louisiana where we do not have someone like Texas Representative Gene Wu standing up for them in defense of their rights.

8. Updates from Committee of 100

Speaker: **Cindy Tsai**, Interim President and Executive Director, Committee of 100 (C100)

Founded by I.M. Pei 貝聿銘, Yo-Yo Ma 马友友, Henry S. Tang 鄧兆祥, Oscar Tang 唐骝千, Shirley Young 杨雪兰 and Chien-Shiung Wu 吴健雄 in 1990, the Committee of 100's purpose is to provide leadership and act as a constructive force in the dual mission of (a) promoting the full participation of all Chinese Americans in American society and acting as a public policy resource for the Chinese-American community and (b) advancing constructive dialogue and relationships between the peoples and leaders of the United States and Greater China.

Cindy underscores the importance of empowering local communities to address state and municipal laws restricting land purchases.

Currently, C100 is working with a coalition of individuals and experts to provide a guidebook for local communities and organizations as they consider next steps. Although one-size-fits-all solutions cannot guarantee success, C100 hopes to provide information and context so that situations can be evaluated locally.

C100 is also working on an interactive map, as laws are changing daily. The map will outline proposed legislation, their restrictions, their jurisdictions, and government officials to contact about concerns.

A second area of focus for C100 is addressing anti-Asian hate. We are currently developing a standardized platform to report incidents of anti-Asian hate crimes or incidents. Media attention toward anti-Asian hate has decreased since 2020, but as U.S.-China tensions continue to rise, anti-Asian sentiment is likely to intensify. It is not going to go away.

The community needs to do a better job at reporting incidents of hate. Some have expressed dissatisfaction by law enforcement's response in handling prior incidents. But we cannot be discouraged by a few missteps. Government policies and resources are often driven by data. Without the data, we are unlikely to be able to get the government resources we need. We are partnering with the Yellow Whistle Campaign to help drive awareness.

The third area of focus is AAPI education and creating an AAPI curriculum to be taught in schools. C100 is tracking individual state legislation pushing for AAPI education. Similar to the land restriction laws, this is another area that is state specific and should be mobilized by local communities and organizations. C100's role is to be a resource with the local groups.

The final area of focus is supporting individuals unfairly targeted by actions such as the "China Initiative." C100 fully supports government initiatives maintaining national security, but such initiatives cannot come at the cost of Asian Americans. A legal defense fund enables C100 to support impacted individuals.

Additionally, C100 is speaking with FBI field offices about our communities in efforts to encourage law enforcement to be more mindful in their investigation. This would reduce unlawful targeting and help achieve more success in addressing true threats toward national security.