

## **USING SENSIBLE LEGAL STRATEGIES AND UNLIKELY ALLIANCES TO ACHIEVE FAIRNESS FOR IMMIGRANTS IN NEBRASKA**

Nebraska Appleseed Center for Law in the Public Interest  
Lincoln, NE

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**SUMMARY:** Since the mid-1990s, **Milo Mumgaard** and his colleagues at the Nebraska Appleseed Center have established themselves as honest brokers for doing the right thing on behalf of **immigrants** in the nation’s heartland. Their track record encompasses significant victories in public policy, from immigration to welfare. They also give individuals and community groups the **legal tools** they need to win on housing, labor and other struggles. Mumgaard and his colleagues adhere to the following principles:

- **Frame Issues in Terms of What is Fair and Just:** Nebraska Appleseed takes on tough policy and legal stands, but always in a reasoned and even-handed way.
- **Engage Issues Where Those Directly Impacted Can Take on the Fight:** Since they cannot accept every case that comes their way, Mumgaard and his colleagues choose those where immigrants use technical, legal knowledge to solve their own problems. This creates community activists and enables the center to reserve major litigation for more sweeping cases.
- **Win Change, Whenever Possible, In the Court of Public Opinion:** The center uses media, for example, as well as sensible policy solutions, to sway public opinion and policy makers. They view courts of law as the last resort.
- **Focus Not on What Divides Interests, But on What Binds Them:** Nebraska Appleseed brings parties together, even those with largely divergent interests. They focus on commonalities and get results.

The following case examples explore how Milo Mumgaard and his colleagues are achieving justice for immigrants through a strategic, common sense approach.

## **A REASONED VOICE WILL TAKE YOU FAR**

### **Nebraska Appleseed Center for Law in the Public Interest**

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The scene was described simply as "horrible:" Dozens of Immigration and Naturalization Service agents descending on a meat packing plant in Grand Island, Nebraska, for a sweep of illegal aliens. "It was like a military operation," says an executive director of a Nebraska-based Mexican American organization. "They had barricaded people inside the building. They had helicopters, dogs, law enforcement everywhere. It was just a really horrible situation."

The Grand Island incident, which took place in the early 1990s, was symbolic of the growing tension that the Midwest was beginning to experience, as thousands of immigrants had poured in to accept jobs in the heartland's vast cattle and meat producing industry. And it was actions and attitudes such as those displayed by the INS at Grand Island that in 1996 led in part to the creation of the Nebraska Appleseed Center for Law in the Public Interest. Since its inception, the Center has been leading legal voice in public policy disputes involving a variety of issues that touch the lives of immigrants, from immigration policy to welfare policies.

But because Nebraska Appleseed focuses on justice and the law and not on ideology, it had established itself as an honest broker for a simple principle: doing the right thing. Consequently, when the INS mounted a similar operation to its Grand Island raid-- Operation Vanguard (1999), which involved the entire Nebraska and Iowa meatpacking industry and led to the loss of 4,500 jobs--Nebraska Appleseed was able to do something that a more ideological group couldn't have: It convened a series of meetings with INS officials, meat packing plant owners, cattle ranchers and immigrant rights advocates to figure out a less harsh and confrontational way of doing business. In convening those meetings--which led directly to the creation of a task force appointed by the Governor and a report strongly endorsing changes in how the INS acts in the state--Nebraska Appleseed was addressing a central question around how it could be most effective: How can a legal rights group work with an ever-shifting set of ad hoc partners—sometimes very unlikely partners—in order to make sensible changes in law and policy?

#### **A reasoned voice for fairness**

It is not that Nebraska Appleseed is unwilling to take tough policy and legal stands, say those who have followed the organization's advocacy work. It is that Nebraska Appleseed goes about such action in a very reasoned and even-handed way, consistently framing all the issues it tackles in terms of what is fair and just.

For example, when a group of elderly and disabled minorities and new immigrants were threatened with immediate eviction from a Lincoln trailer park that was going to be redeveloped, Nebraska Appleseed successfully appealed to the city council to make required development approvals contingent on giving the residents time to find other places to live. "Initially the city council was coming at it from a property rights point of view," says Milo Mumgaard, executive director and founder of Nebraska Appleseed. "They said that we were challenging the property rights of the trailer park owner. And we said, 'No, we're not challenging anything of the sort.

There's a problem here that needs to be fixed. These people need time.' And then even the conservative Republicans on the council saw it the same way we did."

At the same time, Nebraska Appleseed encouraged the trailer park's residents to carry on as much of the fight as possible, says a social worker from the Center. "The minute a lawyer gets involved people want him to do all the talking for them," she says. "But Milo told them, 'Look, you don't need me at every meeting. I'm just providing you with the legal stuff that you wouldn't know yourself, but you're doing a good job representing yourselves.'" It's part of Nebraska Appleseed's standing philosophy as it decides which issues to get involved with and how to approach each one: is it an issue where those directly impacted can carry the fight? In that way, says Mumgaard, the center is seeding new activists community-wide rather than setting up the center as the solution to all problems.

### **Pushing back the power**

It's also an approach to legal advocacy that Nebraska Appleseed would prefer: give individuals the technical, legal knowledge they need to help themselves—particularly when dealing with routine problems--while saving major litigation for more sweeping issues with wider impact. "Nebraska Appleseed can't fight every battle that comes its way," says a social worker from the Center. "A lot of people think, 'Well, I'm just going to call a lawyer and he's going to fix everything.' And I think it's important to educate people that they can do things for themselves."

The center publishes a variety of materials aimed at helping people help themselves, she says, including such brochures as *Understanding Your Rights*, which lays out issues of welfare eligibility rules and requirements. She says she has seen numerous instances where individuals seeking legal help from Nebraska Appleseed have been able to work out problems on their own with minimal guidance from the center. Recently, a woman who was being threatened with eviction for non-payment of rent called the center for help in fighting the eviction. When this social worker learned that rent money was short because the woman's food stamps had been cutoff—and she'd been spending rent money to feed herself and her kids--"I told her, you have a very straightforward case, just call the food stamp administrator and work it out. All a lawsuit is going to do is drag the process out and make the whole thing more complicated and in the meantime you're going to be evicted."

That strategy can pay huge benefits, says a staff attorney with the Equal Justice Clearinghouse, which offers free on-line legal advice to low-income Nebraskans, and is a project of Nebraska Appleseed. "A lot of these people are so downtrodden that one of the best things you can do is give them the self confidence to tackle some of these problems on their own."

### **Court as last resort**

In fact, going to courts of law tends to be viewed as a tactic of last resort by Nebraska Appleseed; they would much rather win change in the court of public opinion. For example, in an effort to expose the untenable working conditions faced by immigrants in Nebraska's meatpacking plants, the center set up meetings between a reporter from the *Lincoln Journal Star*, meatpacking plant workers and the health care workers who treated their all-too-frequent and frequently severe injuries. The resulting series of articles sent shockwaves through the state's

political establishment and led to the official creation of a *Meatpacking Workers Bill of Rights*, a copy of which all meatpacking employers are required to now provide to new workers.

Nebraska Appleseed also led a coalition of labor and community interests in winning a living wage ordinance for Omaha. The local law required that the city and all its contractors pay workers several dollars more than the official federal minimum wage. Again, says Mumgaard, the campaign wasn't based on some ideological divide between business and labor, but on appealing to the general public's sense of fairness. "We just framed it in terms of being good policy- it makes more sense to pay people enough to live on than use tax dollars to pay for health care, child care, and other basic needs," says Mumgaard.

### **Not afraid to fight... and win**

When it has to, though, Nebraska Appleseed will go to court. But it makes such decisions only after careful deliberation, and only after all other possible avenues of recourse have been exhausted. "The road to the courthouse is well-worn," says a Nebraska Appleseed board member. "So it's wise to choose your cases carefully."

It is Nebraska Appleseed's ability to pick and frame cases that makes it such an effective legal organization, say those who have watched and worked with Mumgaard and his colleagues. "We could be working on 20 or 30 cases at once," says Mumgaard. "Instead we choose those four or five that we know we're going to win."

For example, Nebraska Appleseed's recent lawsuit challenging millions of dollars in tax incentives to meatpacking plants might have been interpreted as either an attack on tax incentives or on meat packing plants, but it was neither, says Mumgaard. It was an attack on the process: all decisions about where huge tax incentive dollars were being invested was being done behind closed doors- without public input on the wisdom of this use of tax dollars. "This is about open and accountable government," says Mumgaard. As far as picking cases for broad leverage, the tax incentive case is also a perfect example, adds a Nebraska Appleseed board member, "After this case, no one in Nebraska is ever again going to hand out tax incentives without having an open meeting on it first."

And because Nebraska Appleseed frames their cases in a non-ideological way, they're frequently able to bring in organizations as allies that wouldn't normally be found in the same room together. For example, the legal work that Nebraska Appleseed has done around eliminating or at least modifying the cap on benefits for welfare mothers who have additional children hinged on getting the liberal leaning American Civil Liberties Union and the fairly conservative Catholic Conference to see where their interests on the issue converged and join forces with the center. For the ACLU, the policy was simply unjust; for the Catholic Conference, not only was the policy questionable from a fairness standpoint, but there was also a chance it might also encourage women to terminate pregnancies. "It's probably the only issue that they'll ever see the same side of," says social worker from Nebraska Appleseed. "But they were willing to work together to fight this." People can have honest disagreements over highly ideological issues, says a Nebraska Appleseed board member "but what you can't argue too much about is a family that is applying for welfare and being denied benefits because of some crazy rule." And that's where Nebraska Appleseed brings pressure to bear, leveraging its legal muscle to bring all organizations with any potential interest in an issue together to press for more sensible, just

policies. "You bring different constituencies together to see where there's a possibility for change, and then you frame the problem as American as apple pie," the board member says.

### **"Where the game is played"**

This negotiation of interests is easy to articulate, but not simple to do. Yet Nebraska Appleseed has been able to maintain its credibility with very diverse interests by hewing to its operating philosophy of focusing on the narrow legal questions at hand, and also on what is fair. It's an approach that taps directly into the sensibilities of Nebraskans, says a board member. "Nebraskans are, in the main, conservative. But concepts such as hunger, pain, discrimination, they don't want to be associated with."

Which is how, in the wake of the massive "Operation Vanguard," Nebraska Appleseed was able to help convene the Governor's task force on INS enforcement, a very unlikely collaboration of meat producers, ranchers and immigrant rights advocates, who joined forces to discuss a kinder, gentler—more humane—way of addressing immigration law violations in partnership with INS officials. And while the INS hasn't committed to wholesale abandonment of raids, "Operation Vanguard" was ceased and the numbers of raids dropped dramatically. This effort led to the creation of the Immigrant Rights Network of Iowa and Nebraska, which continues to work as unlikely allies seeking greater fairness and justice for the area's new immigrants.

Mumgaard sees it as a perfect example of focusing not on what divides interests, but on what binds them. "This is not a liberal cause or a conservative cause," says Mumgaard. "It's the common sense thing to do. It's a family issue and it's a business issue. So let's talk about why we should approach [immigration related] issues from a sense of shared interest. Obviously the cattlemen are interested in the immigration issue from a particular angle. The Mexican American Commission is interested in it from their angle. Finding where the commonality lies is where you play the game."

Nebraska Appleseed has taken and will take strong positions on controversial issues, but its strategies always include the commitment to finding a practical way to make it happen, putting aside ideology and trying to find the common elements in the various parties' positions. This strategy has proved to be effective for mobilizing an amazing range of diverse interests to fight for what is right, and win.

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