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December 16, 2022

VIA FIRST CLASS MAIL
Mr. Christopher J. Caso
City Attorney
City of Dallas
1500 Marilla Street
Room 7DN
Dallas, Texas 75201

Re: Dallas' proposed STR ordinance is an unlawful taking of an established property right if it does not "grandfather" existing STRs.

Dear Mr. Caso:

I write as a citizen, a short-term rental owner, and a lawyer. I hope that Dallas will pass and enforce effective STR regulation. However, such regulation cannot take away the right to short-term lease from existing STR rentals. Failing to exempt existing STRs from the ordinance will constitute an unlawful taking.

This is not an argument with two sides. Every single Texas court to examine the issue has held as follows: When a municipality removes the right to short-term lease from existing STRs it is an illegal taking.[1]

Because the law is crystal clear on this issue, failing to exempt existing STRs would waste taxpayer resources, needlessly harass STR owners, and fail to resolve the debate on STRs in Dallas. Dallas would do better to avoid protracted, unwinnable litigation and instead then focus public resources on enforcement.

A. Short-term renting is an established right in "single family" and "residential only" zoning.

Since 2018, there can be no doubt that STRs are permitted in "single family" and "residential only" zoning. The Texas Supreme Court definitively settled this issue in 2018 in the case of *Tarr v. Timberwood*, defining short-term renting to be a residential use in both zoning and

[1] I have attached a summary of every STR case in Texas to this letter as an appendix.

deed restriction situations. If zoning is for "single family residence" or "residential-only" use, the Supreme Court held that STRs are allowed.

The explanation given by the Supreme Court, which is not new, is that renting has historically been deemed a residential use. In a rented property, the use of the property is to provide lodging. The Supreme Court held that because the use of the property by the renters was residential, the use was allowed in "single family residence" or "residential-only" areas.

In the words of the Supreme Court: "The relevant inquiry [is] the conduct taking place on the physical property itself (as opposed to how the owner is using the property)." *Id.*, 556 S.W.3d at 289. In light of this case, it's settled law that STRs are allowed under single family/residential-only use zoning.

The STR opponents raised a lot of good issues in this case. However, the Texas Supreme Court rejected all of them:

1. Does paying hotel tax or occupancy tax mean a STR is not a "single family residence"? No. *Id.*, at 277.

2. Does creating a LLC to manage a STR mean it is not a "single family residence"? No. *Id.*, at 278.

3. Does the fact that multiple families or unrelated people rented a STR together mean it's not a "single family residence"? No. *Id.*, at 277, 285-87.

4. Does the fact that the stays are temporary, meaning one family after another stays at the property, mean a STR is not a "single family residence"? No. *Id.*, at 277.

5. Does an owner have to live on the property (permanently or for a certain amount of time) for it to be a single family residence? No. *Id.*, at 288.

If it was an open question, people could reach a different conclusion than that of our Texas Supreme Court. But the law is what the courts say it is. We have to be able to rely on what courts say, especially when it's the Texas Supreme Court and the ruling is just a few years ago. Here, there is just no question that short-term renting is a recognized, permitted use of single-family residential property under Texas law.

B. If the City bans STR use for existing STRs, it commits an illegal taking.

The City Council exists to pass ordinances that govern the city. Some of those ordinances will change the status quo. In most cases the City Council is free to pass whatever ordinances it sees fit. However, changes affecting property law have limits.

Under existing case law, a zoning change that takes aways a property right is a prohibited "taking" under the Takings Clause. Again, I am writing only of STRs in existence prior to the passage of the proposed ordinance. If the City Council fails to exempt existing STRs, the City will be sued and lose.

This is what happened to Grapevine in *City of Grapevine v. Mins,* 651 S.W.3d 317 (Tex. App. – Fort Worth 2021). Prior to 2018, Grapevine had the same "single family residential" zoning that Dallas has. Adopting a Keep-It-Simple approach, Grapevine banned STRs in 2018. Grapevine argued that because zoning law never expressly permitted STRs, it could ban them without triggering the Takings Clause. The Court's description may sound similar to issues facing Dallas:

> The City contends that because the Zoning Ordinance does not expressly allow STRs, they have never been a permitted use in the City. But for several years before the STR Ordinance's 2018 passage, the Homeowners had rented out their Grapevine properties on a short-term basis without interference from the City. In fact, when some of the Homeowners contacted the City's Planning and Zoning Department to ask about any restrictions on STRs, City employees told them that the City had no restrictions, regulations, or permit requirements for STRs. Based on these representations and the existing Zoning Ordinance, the Homeowners invested money to purchase or to improve Grapevine homes for use as furnished STRs.

Id., at 326.

> After intense lobbying, Grapevine passed a ban on STRs:
>
> After hearing citizens' comments, the city council passed the STR Ordinance, which (1) defines a "single-family dwelling transient rental" as "[t]he rental or offer for rental of any dwelling or any portion of a dwelling for a period of less than 30 days" and (2) expressly prohibits them in the City.

Id., at 327.

Again, Grapevine's ordinance sounds a lot like the KIS ban at issue in Dallas. The Court noted that STR owners had been renting out their properties under the previous zoning, and that the new ordinance took this right away. In doing so, the ordinance overreached and became a prohibited regulatory taking:

> Because the Homeowners have a vested property interest in the properties themselves and claim that the City has unreasonably interfered with their rights to use and enjoy their properties by passing the STR Ordinance, we conclude that they have identified a property right sufficient at this stage to allege a regulatory-takings claim.

Id., at 338.

The Court further found that Grapevine's action violated substantive-due-course-of-law rights:

> Private property ownership is a fundamental right. *Hearts Bluff*, 381 S.W.3d at 476 (citing *Severance v. Patterson*, 370 S.W.3d 705, 709 (Tex. 2012) (op. on reh'g)); *Severance*, 370 S.W.3d at 709 ("Private property rights have been described 'as fundamental, natural, inherent, inalienable, not derived from the legislature[,] and as pre-existing even constitutions.' " (quoting *Eggemeyer v. Eggemeyer*, 554 S.W.2d 137, 140 (Tex. 1977))). Property ownership includes the right to lease to others. *See Calcasieu Lumber Co. v. Harris*, 77 Tex. 18, 13 S.W. 453, 454 (1890) ("The ownership of land, when the estate is a fee, carries with it the right to use the land in any manner not hurtful to others; and the right to lease it to others, and therefore derive profit, is an incident of such ownership."); *see also Terrace*, 263 U.S. at 215, 44 S. Ct. at 17–18 (noting that "essential attributes of property" include "the right to use, lease[,] and dispose of it for lawful purposes"). The right to lease is a stick within a property owner's metaphorical bundle of rights. *See* Emily M. Speier, Comment, *Embracing Airbnb: How Cities Can Champion Private Property Rights Without Compromising the Health and Welfare of the Community*, 44 PEPP. L. REV. 387, 395–97 (2017).
>
> Given the nature of real-property rights, we conclude that the Homeowners have a vested right to lease their properties and that this right is sufficient to support a viable due-course-of law claim. *Cf. Zaatari*, 615 S.W.3d at 191 (concluding that, in analyzing retroactivity claim, property owners had a "settled interest" in their right to lease their properties short term and that the issue is not about the "property owners' right to use their property in a certain way," but about the owners "retaining their well-settled right to lease their property"); *Vill. of Tiki Island*, 463 S.W.3d at 587 (holding that, in analyzing whether an STR owner had proved an irreparable injury to a vested right necessary to support an order temporarily enjoining an ordinance banning STRs, STR owner had a narrow vested right to continue operating existing STR after city passed ordinance banning STRs but grandfathering in existing STRs).

Id., at 346-47.

So here you have the decision of an appellate court with the same issue presented by the Dallas ordinance. The definition of insanity is to do the same thing over and expect a different result. This is especially true in the legal settling where courts are bound by precedent. I would expect a court reviewing the Dallas ordinance to reach the same conclusions as the *Grapevine* case.

Other cases with the same holding and conclusion as *Grapevine* include *Village of Tiki Island v. Ronquille*, 463 S.W.3d 562 (Tex. App. – Houston (1st Dist.) 2015) and *Zaatari v. City of Austin*, 615 S.W.3d 172 (Tex. App. – Austin 2019). Compare favorably the case of *Draper v. City of Arlington*, 629 S.W.3d 777 (Tex. App. – Fort Worth 2021). In *Draper*, a ban was upheld but

only because the STR owners failed to make a Takings claim: "The State of Texas's amicus brief similarly discusses *Tiki Island* and the Zoning Ordinance's economic effects, expressly arguing that the Zoning Ordinance is a regulatory taking. *But the Homeowners have not pleaded a regulatory-takings claim.*" *Id.*, at 785 n. 8 (emphasis added). Thus every single court case in Texas to actually examine the takings issue holds that a municipal ban on existing STRs is an illegal taking.

C. Conclusion

For people like me, banning existing STRs will be financially devastating. I spent ten months living in STRs during the pandemic. I fell in love with the idea of preserving charming houses, having them redecorated, and welcoming visitors to the city I love. I spend no time running my STRs because the Airbnb model allows me to turn everything over to a full-time property manager. I know of no such automation for long-term rentals. Indeed, the management fees for long-term renting make such a hand-free arrangement unprofitable.

I purchased my properties when interest rates were as low as 2.25%, I cannot sell these properties in a 7% (or more) interest rate market. I cannot recoup the renovations and the furniture. I have never been interested in long-term renting. Like many STR owners, I followed the rules and I invested in my city. Now I'm left with the feeling I'd have been better off investing in Austin, Houston, or anywhere else.

I hope that Dallas will do the right thing. I hope that Dallas will exempt existing STRs from any ban – as the law requires. How Dallas choses to handle STRs in the future is a policy question for City Council. But Dallas cannot play calvinball with established property rights and established investment.

Thank you for your time and consideration of this matter. If you have any questions or if I can be of further assistance, please do not hesitate to contact me.

Sincerely yours,

Robert J. Wiley

encl: Appendix of STR Cases in Texas (originally prepared as a volunteer for the Short Term Rental Alliance)

cc: Hon. Eric Johnson, Mayor of Dallas
Hon. City Council Members
Dallas Short Term Rental Association

Appendix of STR Cases in Texas

A. STR Wins in Texas

Tarr v. Timberwood Park Owners Assoc., Inc., 556 S.W.3d 274 (Tex. 2018)

This case comes from the Texas Supreme Court. It holds that general requirements that property be a "single family residence" or "for residential use" are in line with use as an STR.

If you read only one case on STR law, it should be this one. It is the most recent Supreme Court case addressing the central issues of (1) how STR leasing fits into the bundle of rights that come with property ownership, and (2) how STR activity, which generates money, complies with residential-only use.

Primary Questions:

1. Are STRs permitted in property zoned as "single-family residence"? Yes.
2. Are STRs permitted if the deed restricts the property to "residential use"? Yes.

Secondary Questions:

6. Does paying hotel tax or occupancy tax mean a STR is not a "single family residence"? No. *277
7. Does creating a LLC to manage a STR mean it is not a "single family residence"? No. *278
8. Does the fact that multiple families or unrelated people rented a STR together mean it's not a "single family residence"? No. *277, 285-87
9. Does the fact that the stays are temporary, meaning one family after another stays at the property, mean a STR is not a "single family residence"? No. *277
10. Does an owner have to live on the property (permanently or for a certain amount of time) for it to be a single family residence? No. *288
11. How should you determine if a property is residential? "The relevant inquiry [is] the conduct taking place on the physical property itself (as opposed to how the owner is using the property)." *289

City of Grapevine v. Mins, 651 S.W.3d 317 (Tex. App. – Fort Worth Dec. 23, 2021)

Grapevine passed a municipal ordinance banning STRs. STR-owners sued based on illegal retroactivity, due-course-of-law, and takings.

Grapevine claimed this was not a change to the law because STRs had never been previously or specifically addressed. Grapevine argued that it just "clarified and affirmed that the Zoning Ordinance did not allow STRs."

The trial court issued an injunction preventing the city from enforcing the ban, and the city appealed. The court of appeals ruled strongly for the STR-owners.

Primary Questions:

1. Did the STR-owners have to go through the city's administrative process before filing in court (a technicality that would deliver a win to the city)? No. *6-9
2. Were STRs in fact allowed under Grapevine ordinances before the ban? Yes. *9-11
3. Did the STR-owners err because they did not challenge the ordinance before the ban? No. *11
4. Was the city's ban a regulatory "taking" for which STR-owners could sue for damages and other relief? Yes. *12-15
5. Does language in the State Tax and Property Codes forbid (preempt) STR regulation? No. *15-16
6. Was the city's STR ban an unconstitutional retroactive law? Yes. *17
7. Was the city's STR ban an unconstitutional violation of substantive-due-course-of-law rights? Yes. *18-19

Secondary questions:

1. Does zoning for "single-family detached dwelling" prohibit STRs? No. *9-10
2. Are the STRs a business service? No, because business service is a person occupying the premises engaged in transactions for money (i.e. a business) and here the STR-owners weren't occupying the property (i.e. running a business out of their homes). *11
3. Did a zoning change to allow bed and breakfasts decades before mean Airbnb-style STRs are prohibited? No, such language would have to be more specific. *11
4. Did STR-owners have a vested property interest in their properties? Yes:

   > Because the Homeowners have a vested property interest in the properties themselves and claim that the City has unreasonably interfered with their rights to use and enjoy their properties by passing the STR Ordinance, we conclude that they have identified a property right sufficient at this stage to allege a regulatory-takings claim. We further note the unremarkable and well-established notion that private-property ownership is a fundamental right, *see Hearts Bluff*, 381 S.W.3d at 476, that embraces such "essential attributes" as "the right to use, lease[,] and dispose of it for lawful purposes," *Terrace v. Thompson*, 263 U.S. 197, 215, 44 S. Ct. 15, 17–18, 68 L.Ed. 255 (1923).

5. Did the city's STR ban ordinance cause damages to STR-owners. Yes, because the ban was a change to the law. *12-13
6. Did the STR-owners have actual loss since they could still lease their homes on a long term basis? Yes, evidence showed short term rentals generate more money than longer term rentals. *14
7. Did the STR ban interfere with STR-owners reasonable investment expectations? Yes. *14
8. Do state laws in the Tax or Property Codes preempt a city's STR ban. No. Just because provisions in these codes contemplate STRs, state law doesn't prohibit home-rule.
9. Was the ban illegally retroactive? Yes, because the ban took away settled and fundamental property rights

10. Did the STR-owners have a vested right to lease, with substantive-due-course-of-law rights? Kind of, while the court does say that STR-owners had a vested right to lease, whether this is long term leasing or short term leasing requires further proceedings.
11. Did the STR-owners have a fundamental property right to lease, with substantive-due-course-of-law rights? Yes, absolutely, it is a fundamental part of property ownership. *19
12. Did government immunity bar injunctive relief? No, because STR-owners properly challenged the law.

Village of Tiki Island v. Ronquille,
463 S.W.3d 562 (Tex. App. – Houston (1st Dist.) 2015)

1. Was the ordinance prohibiting use as an STR a regulatory "taking"? Yes
2. Was the STR-owner entitled to an injunction against the law? Yes

Secondary

1. Did the STR-owner plead sufficient facts to demonstrate a taking? Yes:
   (1) she researched the permissible uses of her house before committing to buy it, ascertaining that short-term rentals were permissible, (2) she relied upon Village officials assurances that short-term rentals were permitted, (3) the ability to rent short term was a major part of her decision to purchase her house, (4) she engaged in short-term rentals before Ordinance No. 05–14–02 was passed, (5) she is contractually obligated for future short-term rentals, (6) the ability to rent short-term enhances the value of her property, and (7) the prohibition on short-term rental decreases the value of her property.
2. Did the STR-owner plead sufficient facts to demonstrate economic impact? Yes. *579
3. Did the STR-owner show the ordinance impacted investment backed expectation? Yes. *579-80
4. Does the fact that a property was built as a single family, residential home preclude investment expectations of using it as a STR? No. First, the two uses are not incompatible and second, the test is "existing and permitted uses" that formed the expectation. *580
5. Could the STR-owners pursue declaratory judgment in addition to taking claims? No. The declaratory judgment claim mirrored the takings claim, and was dismissed for merely restating the taking claims. *583
6. Was the STR-owner entitled to an injunction against the ordinance? Yes. The ordinance foreclosed her existing investment use of the property without an avenue for recoupment. *587

Zaatari v. City of Austin,
615 S.W.3d 172 (Tex. App. – Austin 2019)

Austin banned short-term rentals of non-homestead properties and restricted types of assembly at short-term rental properties. In a twist, the State of Texas intervened on behalf of the STR-owners.

1. Was the Austin ordinance a regulatory taking? Yes.
2. Did the restrictions on use of STR properties infringe of the right to assemble? Yes.

3. Was the ordinance unconstitutionally retroactive? Yes. Because it would "eliminate well-established and settled property rights that existed before the ordinance's adoption."

Other issues

1. Did the State of Texas have standing to intervene. Yes, it's literally spelled out in the Texas Civil Practices and Remedies Code.
2. Can the STR-owners bring freedom of assembly claims on behalf of tenants? No, but they dodged a bullet because one of the STR-owners also happened to also be a tenant so they got lucky and were able to proceed with this claim.
3. Could the STR-owners bring suit before the effective date of 2022 (*n.b.*: this is a 2019 case)? Yes, because there was a reasonable degree of certainty that the harm would come to pass.
4. Did the city have governmental immunity? No, because a regulatory "taking" is a violation of a constitutional right.
5. Did the ordinance have a compelling public interest? No:

> Relatedly, nothing in the record shows that these issues have been problems with or specific to short-term rentals in the past. To the contrary, the record shows that, in the four years preceding the adoption of the ordinance, the City did not issue a single citation to a licensed short-term rental owner or guest for violating the City's noise, trash, or parking ordinances. And during this same four-year period, the City issued notices of violations—not citations—to licensed short-term rentals only ten times: seven for alleged overoccupancy, two for failure to remove trash receptacles from the curb in a timely manner, one for debris in the yard, and none for noise or parking issues. And the City has not initiated a single proceeding to remove a property owner's short-term rental license in response to complaints about parties. Further, the record shows that short-term rentals do not receive a disproportionate number of complaints from neighbors. In fact, as the City acknowledges, "short-term rental properties have significantly fewer 311 calls and significantly fewer 911 calls than other single-family properties." *189-90

6. Did the ordinance infringe on a settled right? Yes:

> And as for the specific right at issue here—i.e., to lease one's property on a short-term basis—the City acknowledges that Austinites have long exercised their right to lease their property by housing short-term tenants. In fact, the City admits, and the record establishes, that short-term rentals are an "established practice" and a "historically ... allowable use." The record also shows that property owners, including some of the appellants here, who rented their individual properties as type-2 short-term rentals before the City's adoption of the provision eliminating those types of rentals did so after investing significant time and money into the property for that purpose. The record also shows that the City's ban on type-2 short-term rentals will result in a loss of income for the property owners.

7. How significant is the impact of the ordinance on the owners' property rights? Significant because:

> The effect of the ordinance on the property right at issue here is clear—the City's ordinance eliminates the right to rent property short term if the property owner

does not occupy the property. The elimination of a right plainly has a significant impact on that right.

8. What concerned the court about the right to assemble? The court was concerned about regulating peaceful assemble on private property, which the ordinance did by limiting purpose, time, and number of people:

> But if Thomas Jefferson, Patrick Henry, and other revolutionary patriots had lived in this modern day and chosen a short-term rental instead of the Raleigh Tavern—as they may well have given the nature of modern society—to assemble and discuss concepts of freedom and liberty, the Cityof Austin's ordinance would impose burdensome and significant restrictions on their abilities to do so. *200-201

Boatner v. Reitz,
2017 WL 3902614 (Tex. App. – Austin Aug. 22, 2017)

The issue was whether 1970s deed restrictions limiting property to residence purposes only, and not for business and requiring property to be a single family dwelling prohibited STRs. The trial court ruled against the STR-owner and they appealed. The appeals court found this language to be too ambiguous to prohibit using the property as STR rentals.

Schack v. Prop. Owners Ass'n of Sunset Bay,
555 S.W.3d 339 (Tex. App. – Corpus Christi-Edinburg 2018)

This appeal followed a jury trial in which the jury found for the STR-owner. A neighbor had sued to prevent the STR-owner from renting out the property, because of language in the subdivision's covenants, conditions, and restrictions. The language spoke to being a single family dwelling and occupancy limited to residents being related. The appeals court found that language about "living as a household unit" or "residential purposes" are merely a means to distinguish use from business or commercial purposes *350. The appeals court found the STR use to be consistent with residential purposes, approving the trial court's analysis:

> Most importantly, the court went on to state that in general, the term "residential purposes" does not specifically forbid short-term rentals because "property is used for 'residential purposes' when those occupying it do so for ordinary *living purposes.* So long as the renters continue to relax, eat, sleep, bathe, and engage in other incidental activities, they are using the cabin for residential purposes." (emphasis added) (editorial marks omitted).
>
> To us, this parallel resolves the matter. Generally speaking, "residential purposes" are equivalent to living purposes, and because the term "residential purposes" does not prohibit short-term rentals, neither does the term "living as a household unit."

*350 (citations to the trial court record omitted).

Garrett v. Sympson,
523 S.W.3d 862 (Tex. App. – Fort Worth 2017)

Yet another case where a neighbor alleges that using a property for a STR violates a restriction against "commercial/business" purposes. Yet another case where the court affirms that STR use is a residential purpose.

Zgabay v. NBRC Property Owners Ass'n,
2015 WL 5097116 (Tex. App. – Austin Aug. 28, 2015)

A neighbor and the HOA sued to prevent use of a property as a STR. In this case, the restrictive covenant allowed the leasing of a home but do not specify duration. Therefore, there was no prohibition on use of the house as a STR.

Friedman v. Rozzlle,
2013 WL 6175318 (Tex. App. – Corpus Christi-Edinburg Nov. 21, 2013)

A homeowners association had a prohibition against STRs, but it was not enforced for at least 10 years and owners openly listed property as STRs. Use it or lose it (they lost it): "The homeowners' acquiescence in these substantial violations of this provision amounted to an abandonment of the provision or a waiver of the right to enforce it." *5

Riley v. Caridas,
2020 WL 7702183 (Tex. App. – Houston (1st Dist.) Dec. 29, 2020)

This is a crazy case where the STR-owner represented himself – and won. Here the condominium association had its own STR rental program limited to 40% of the owners. Owners who rented outside the program were charged extra fees. The court held that these provisions violated the condo association's own rules. There were other disputes, but this is the main holding: a condo association has to follow its own rules.

B. STR Losses in Texas

Anding v. City of Austin,
202 WL 2048255 (Tex. App. – Austin Apr. 29, 2020)

The STR-owners sought to circumvent Austin's STR regulations which only apply to rentals of less than 30 days. The STR-owners combined different stays by different renters together to make it look like 30 days on paper. But in reality, various tenants moved in an out for short stays – a week here a weekend there. It's a fairly obvious scam and the court ruled against them.

In re Nguyen,
2022 WL 71867 (Tex. App. – Dallas Jan. 7, 2022)

The trial court refused to intervene to prevent homeowners association from enforcing prohibition against short term rentals.

Draper v. City of Arlington,
629 S.W.3d 777 (Tex. App. – Fort Worth 2021)

This case shows how not to win if you're challenging an ordinance. Here the STR-owners "maintain that [Arlington's] STR limitations are not rationally related to a legitimate governmental interest." *785. That's just a non-starter for courts because practically any law passes the "rational basis" test. This was the wrong argument to make, and frankly, even a first year law student could have seen this coming. Similarly, the STR owners argued that the ordinance violated their "equal protection," essentially arguing that they were discriminated against. This argument too was a non-starter. The Court also held that STR-owners lack standing to bring a freedom of assembly action on behalf of tenants.

My notes: On the one hand, this case is a ruling against STRs. On the other hand, the winning arguments advanced in other cases were not present here. This case shows why it is necessary to hire a qualified, experienced attorney to argue your case. ("The State of Texas's amicus brief similarly discusses *Tiki Island* and the Zoning Ordinance's economic effects, expressly arguing that the Zoning Ordinance is a regulatory taking. But the Homeowners have not pleaded a regulatory-takings claim." *Id.*, at 785 n. 8.)

JBrice Holdings LLC v. Wilcrest Walk Townhomes Ass'n, Inc.,
--- S.W.3d ---- (Tex. App. – Houston (14th Dist.) 2020)

The HOA board adopted rules specifically baring STRs. The court found that it was within the power of the HOA to adopt such rules. Specifically, Tex. Prop. Code § 204.010 grants HOAs the authority to regulate townhomes. Therefore, in accordance with the HOA's own rules, the HOA could pass a rule banning STRs.

Prewett v. Canyon Lake Isl. Prop. Owners Ass'n,
2019 WL 6974993 (Tex. App. – Austin Dec. 20, 2019)

This is a procedural case where the STR-owners filed suit in County Court which hears claims up to $200,000. The parties disputed the amount at issue, but ultimately the court found it was over $200,000 which meant the suit had been filed in the wrong court. (The correct court would be District Court.) The case was therefore dismissed.

Ridgepoint Rentals, LLC v. McGrath,
2017 WL 6072290 (Tex. App. – Beaumont 2017)

In this case deed restrictions required residential purposes only and expressly prohibited hotel use. The court found STR was not a residential purpose and that by paying hotel tax it was considered a hotel.

My notes: This is clearly overruled by *Tarr v. Timberwood Park Owners Assoc., Inc.*, 556 S.W.3d 274 (Tex. 2018) and no longer good law.