

No. 25-0748

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**In the Supreme Court of Texas**

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**CITY OF DALLAS,**  
Petitioner,  
v.

**DALLAS SHORT-TERM RENTAL ALLIANCE, et al.,**  
Respondents.

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On Petition for Review from the  
Fifth Court of Appeals of Texas at Dallas  
No. 05-23-01309-CV

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**PETITION FOR REVIEW AND APPENDIX**

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## TABLE OF CONTENTS

|                                                                                                                                                                                                                                        |    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| IDENTITIES OF PARTIES AND COUNSEL .....                                                                                                                                                                                                | 2  |
| INDEX OF AUTHORITIES .....                                                                                                                                                                                                             | 7  |
| STATEMENT OF THE CASE .....                                                                                                                                                                                                            | 10 |
| STATEMENT OF JURISDICTION .....                                                                                                                                                                                                        | 11 |
| ISSUES PRESENTED .....                                                                                                                                                                                                                 | 12 |
| 1. The courts below abused their discretion in entering and affirming a temporary injunction enjoining the City’s enforcement of the Zoning Ordinance and Registration Ordinance.                                                      |    |
| 2. The court of appeals abused its discretion in affirming the trial court’s temporary injunction on due course of law grounds.                                                                                                        |    |
| a. The court of appeals erred in holding Respondents demonstrated a probable right to relief without determining whether Respondents have a vested property right in the interest they assert—operating STRs in residential districts. |    |
| b. The court of appeals erred in holding Respondents demonstrated a probable right to relief because neither the Zoning Ordinance nor the Registration Ordinance denies Respondents due course of law.                                 |    |
| c. <i>Unbriefed sub-issue.</i> The court of appeals erred in holding Respondents demonstrated a probable, imminent, and irreparable injury because all harm Respondents assert is redressable by damages or compensation.              |    |

3. *Unbriefed issue.* The trial court abused its discretion in holding Respondents demonstrated a probable right to relief on their alternative constitutional claims on retroactivity, takings, and equal protection grounds.
4. *Unbriefed issue.* The trial court abused its discretion in holding Respondents demonstrated a probable right to relief on their claim under the Zoning Enabling Act.
5. *Unbriefed issue.* The trial court abused its discretion in holding that the ordinances are likely preempted under the Texas Regulatory Consistency Act.

|                                                                                                                                                |    |
|------------------------------------------------------------------------------------------------------------------------------------------------|----|
| INTRODUCTION.....                                                                                                                              | 13 |
| STATEMENT OF FACTS .....                                                                                                                       | 16 |
| SUMMARY OF ARGUMENT: REVIEW IS WARRANTED .....                                                                                                 | 20 |
| ARGUMENT .....                                                                                                                                 | 23 |
| I. Respondents’ due course claim fails as to both ordinances because they do not implicate a constitutionally protected property interest..... | 24 |
| II. Respondents’ claim fails because the ordinances do not deny them due course of law.....                                                    | 29 |
| A. The Zoning Ordinance.....                                                                                                                   | 29 |
| B. The Registration Ordinance.....                                                                                                             | 33 |
| PRAYER .....                                                                                                                                   | 35 |
| CERTIFICATE OF COMPLIANCE.....                                                                                                                 | 37 |
| APPENDIX                                                                                                                                       |    |

|                                                                                                                                                                                                             |       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| <i>City of Dallas v. Dall. Short-Term Rental All.</i> ,<br>No. 05-23-01309, 2025 WL 2022063 (Tex. App.—Dallas<br>July 18, 2025, pet. filed) (mem. op. on reh’g) .....                                       | Tab 1 |
| Temporary Injunction Order, signed December 6, 2023<br>(CR:698-707) .....                                                                                                                                   | Tab 2 |
| TEX. CONST. art. I, § 19.....                                                                                                                                                                               | Tab 3 |
| DALLAS, TEX., ORDINANCE 32482 (the “Zoning Ordinance”)<br>(RR:258-71) .....                                                                                                                                 | Tab 4 |
| DALLAS, TEX., ORDINANCE 32473 (the “Registration Ordinance”)<br>(RR:272-89) .....                                                                                                                           | Tab 5 |
| Final Judgment, <i>Kelray LLC v. City of Fort Worth</i> ,<br>No. 352-342969-23 (352nd District Ct., Tarrant County<br>June 24, 2025), <i>on appeal</i> , No. 02-25-00275-CV<br>(Tex. App.—Fort Worth) ..... | Tab 6 |
| Final Judgment, <i>Morrissey v. City of Grapevine</i> ,<br>No. 348-303736-18 (348th District Ct., Tarrant County<br>Mar. 21, 2025), <i>on appeal</i> , No. 02-25-00369-CV<br>(Tex. App.—Fort Worth) .....   | Tab 7 |

## INDEX OF AUTHORITIES

### CASES

|                                                                                                                                                                                                                                                                             |                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| <i>City of Dallas v. Dall. Short-Term Rental All.</i> ,<br>No. 05-23-01309-CV, 2025 WL 428514 (Tex. App.—<br>Dallas Feb. 7, 2025) (mem. op.), <i>withdrawn &amp;</i><br><i>superseded</i> , 2025 WL 2022063 (Tex. App.—Dallas July<br>18, 2025, pet. filed) (mem. op) ..... | 19                         |
| <i>City of Dallas v. Dall. Short-Term Rental Alliance</i> ,<br>No. 05-23-01309-CV, 2025 WL 2022063 (Tex. App.—<br>Dallas July 18, 2025, pet. filed) (mem. op.<br>on reh'g) .....                                                                                            | 10, 20, 25, 29, 30, 33, 35 |
| <i>City of Grapevine v. Muns</i> ,<br>651 S.W.3d 317 (Tex. App.—Fort Worth 2021, pet.<br>denied) .....                                                                                                                                                                      | 17, 27                     |
| <i>City of Grapevine v. Muns</i> ,<br>671 S.W.3d 675 (Tex. 2023) (Young, J., concurring in<br>denial of review) .....                                                                                                                                                       | 15                         |
| <i>City of Houston v. Bates</i> ,<br>406 S.W.3d 539 (Tex. 2013).....                                                                                                                                                                                                        | 34                         |
| <i>City of University Park v. Benners</i> ,<br>485 S.W.2d 773 (Tex. 1972).....                                                                                                                                                                                              | 27                         |
| <i>Draper v. City of Arlington</i> ,<br>629 S.W.3d 777 (Tex. App.—Fort Worth 2021, pet.<br>denied) .....                                                                                                                                                                    | 15, 17, 30                 |
| <i>Garrett v. Tex. State Bd. of Pharmacy</i> ,<br>No. 03-21-00039-CV, 2023 WL 376900 (Tex. App.—<br>Austin Jan. 25, 2023, pet. denied) (mem. op.) .....                                                                                                                     | 32                         |
| <i>Hignell-Stark v. City of New Orleans</i> ,<br>__ F.4th __, 2025 WL 2832636, at *1 (5th Cir. 2025) .....                                                                                                                                                                  | 17, 28                     |

|                                                                                                                                                                                                                                                                                                                                 |                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| <i>Klumb v. Hous. Mun. Emps. Pension Sys.</i> ,<br>458 S.W.3d 1 (Tex. 2015).....                                                                                                                                                                                                                                                | 24, 27, 31     |
| <i>Marfil v. City of New Braunfels</i> ,<br>No. 6:20-CV-00248-ADA-JCM, 2021 WL 8082644<br>(W.D. Tex. July 29, 2021), <i>report and recommendation</i><br><i>adopted</i> , No. 6:20-CV-00248-ADA-JCM, 2022 WL<br>18034356 (W.D. Tex. Sept. 15, 2022), <i>vacated and</i><br><i>remanded</i> , 70 F.4th 893 (5th Cir. 2023) ..... | 28             |
| <i>Mayhew v. Town of Sunnyvale</i> ,<br>964 S.W.2d 922 (Tex. 1998).....                                                                                                                                                                                                                                                         | 30, 31         |
| <i>Patel v. Tex. Dep’t of Licensing &amp; Regul.</i> ,<br>469 S.W.3d 69 (Tex. 2015).....                                                                                                                                                                                                                                        | 29, 30, 31, 32 |
| <i>Rose v. Doctors Hosp.</i> ,<br>801 S.W.2d 841 (Tex. 1990).....                                                                                                                                                                                                                                                               | 34             |
| <i>State v. Loe</i> ,<br>692 S.W.3d 215 (2024).....                                                                                                                                                                                                                                                                             | 23, 24, 25     |
| <i>Tex. Dep’t of State Health Servs. v. Crown Distrib. LLC</i> ,<br>647 S.W.3d 648 (Tex. 2022).....                                                                                                                                                                                                                             | 24, 26, 30, 32 |
| <i>Village of Euclid v. Ambler Realty Co.</i> ,<br>272 U.S. 365 (1926) .....                                                                                                                                                                                                                                                    | 26, 28         |
| <i>Walker v. Packer</i> ,<br>827 S.W.2d 833 (Tex. 1992).....                                                                                                                                                                                                                                                                    | 23             |
| <i>Washington v. Glucksberg</i> ,<br>521 U.S. 702 (1997) .....                                                                                                                                                                                                                                                                  | 25             |

## STATUTES

|                                |    |
|--------------------------------|----|
| TEX. GOV’T CODE § 22.001.....  | 11 |
| TEX. GOV’T CODE § 311.032..... | 34 |



## **ORDINANCES**

DALLAS, TEX., ORDINANCE 32473

(June 14, 2023) ..... 13, 14, 18, 19, 25, 34

DALLAS, TEX., ORDINANCE 32482

(June 14, 2023) ..... 13, 14, 18, 19, 25, 26, 32

## **RULES**

TEX. R. EVID. 201 .....17

## STATEMENT OF THE CASE

*Nature of the case.* This is a suit for declaratory relief challenging the validity of two ordinances regulating short-term rentals (“STRs”) in the City of Dallas (the “City”). The ordinances, which the City adopted on June 14, 2023, regulate the permissible location and standards of operation for STRs within the City. (CR:47-59, 61-77.) Respondents, the Dallas Short-Term Rental Alliance, Sammy Aflalo, Vera Elkins, Danielle Lindsey, and Denise Lowry sued the City, asserting the ordinances were unconstitutional, amounted to a regulatory taking, and were preempted by Local Government Code sections 211.003 and 211.004. (CR:9-45.)

*The trial court.* 95th District Court, Dallas County, the Honorable Monica Purdy presiding.

*The disposition of the trial court.* The trial court granted Respondents’ application for a temporary injunction, enjoining the City from enforcing the ordinances. (CR:698-707.)

*Proceedings in the court of appeals.* The City appealed the temporary injunction to the Fifth Court of Appeals. (CR:384-85.) The City was the appellant, and Respondents were the appellees.

*The opinion of the court of appeals.* The panel that decided the case was composed of Justices Craig Smith, Dennise Garcia, and Yvonne Rodriguez (ret., sitting by assignment). The court of appeals issued a memorandum opinion and judgment affirming the temporary injunction on February 7, 2025. After the City filed a motion for rehearing en banc, the court of appeals withdrew its original memorandum opinion, issued a new memorandum opinion and judgment, and dismissed the City’s motion for rehearing en banc as moot. Justice Rodriguez authored the memorandum opinion. The court of appeals’ memorandum opinion can be found at *City of Dallas v. Dall. Short-Term Rental Alliance*, No. 05-23-01309-CV, 2025 WL 2022063 (Tex. App.—Dallas July 18, 2025, pet. filed) (mem. op. on reh’g).

*The judgment of the court of appeals.* The court of appeals affirmed in part and reversed in part the temporary injunction.

## **STATEMENT OF JURISDICTION**

The Court has jurisdiction over this appeal because it presents questions of law that are important to the jurisprudence of the state. TEX. GOV'T CODE § 22.001(a). Among other issues, this case involves the extent to which cities, consistent with the constitution's due course of law clause, may balance the competing interests of residents and businesses operating STRs through local regulation—an issue that raises an important public question the resolution of which will affect more than the parties to this case.

## ISSUES PRESENTED

1. The courts below abused their discretion in entering and affirming a temporary injunction enjoining the City's enforcement of the Zoning Ordinance and Registration Ordinance.

2. The court of appeals abused its discretion in affirming the trial court's temporary injunction on due course of law grounds.

a. The court of appeals erred in holding Respondents demonstrated a probable right to relief without determining whether Respondents have a vested property right in the interest they assert—operating STRs in residential districts.

b. The court of appeals erred in holding Respondents demonstrated a probable right to relief because neither the Zoning Ordinance nor the Registration Ordinance denies Respondents due course of law.

c. *Unbriefed sub-issue.* The court of appeals erred in holding Respondents demonstrated a probable, imminent, and irreparable injury because all harm Respondents assert is redressable by damages or compensation.

3. *Unbriefed issue.* The trial court abused its discretion in holding Respondents demonstrated a probable right to relief on their alternative constitutional claims on retroactivity, takings, and equal protection grounds.

4. *Unbriefed issue.* The trial court abused its discretion in holding Respondents demonstrated a probable right to relief on their claim under the Zoning Enabling Act.

5. *Unbriefed issue.* The trial court abused its discretion in holding that the ordinances are likely preempted under the Texas Regulatory Consistency Act.

**In the Supreme Court of Texas**

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CITY OF DALLAS,

Petitioner,

v.

DALLAS SHORT-TERM RENTAL ALLIANCE, et al.,

Respondents.

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**PETITION FOR REVIEW**

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TO THE HONORABLE SUPREME COURT OF TEXAS:

**INTRODUCTION**

The advent of websites such as Airbnb and Vrbo has resulted in an explosion in the number of short-term rentals (“STRs”)<sup>1</sup> statewide. But as the STR industry has flourished, so too have tensions with neighboring residents, particularly those in single-family residential neighborhoods. Texans across the state have petitioned their local governments to

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<sup>1</sup> An STR is “a full or partial rentable unit containing one or more kitchens, one or more bathrooms, and one or more bedrooms that is rented to occupy for fewer than 30 consecutive days.” DALLAS, TEX., ORDINANCE 32482 §§ 1, 17 (June 14, 2023); DALLAS, TEX., ORDINANCE 32473 § 1 (June 14, 2023).

address the deleterious effects STRs have on residential neighborhoods—including, but not limited to, noise disturbances, congestion of residential streets, parking issues, trash, raucous parties, and even criminal conduct.

The City’s experience has been no different. As the number of STRs exponentially increased, residents organized and implored the City to take action to address the foregoing nuisances and preserve the residential character of their neighborhoods.<sup>2</sup> These entreaties led to a years-long legislative process, during which the City received input from stakeholders (both pro- and anti-STR), three task forces, and City commissions and committees. This culminated in the City’s adoption of two ordinances: (1) Ordinance No. 32482 (the “Zoning Ordinance”), which defines STRs as a commercial lodging use and authorizes them to operate in appropriate multi-family and commercial districts, and (2) Ordinance No. 32473 (the “Registration Ordinance”), which sets forth procedures for owners to obtain and maintain a permit to operate an STR.

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<sup>2</sup> See, e.g., Olive Talley, *Dall. Must End Airbnb Nightmare*, The Dall. Morning News, Apr. 1, 2023, <https://www.dallasnews.com/opinion/commentary/2023/04/01/dallas-must-end-airbnb-nightmare/> (last visited Oct. 16, 2025).

Respondents sued the City and obtained a temporary injunction prohibiting the City from enforcing the ordinances. The court of appeals affirmed on the theory that Respondents demonstrated a probable right to relief on their claim that the ordinances offend the constitution’s due course of law clause. But in so holding, the court of appeals misapplied the law, thereby abusing its discretion.

This Court should grant the petition to correct the lower courts’ error for several reasons. *First*, as members of this Court have already recognized, the extent to which cities can constitutionally regulate STRs is a question of “increasing and demonstrable importance.”<sup>3</sup> *Second*, the court of appeals’ holding on this important issue is at odds with that of other Texas courts, which have refused to enjoin enforcement of similar ordinances<sup>4</sup> and even held that such ordinances do not violate due course on the merits.<sup>5</sup> *Finally*, time is of the essence. The world will soon

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<sup>3</sup> *City of Grapevine v. Muns*, 671 S.W.3d 675, 676 (Tex. 2023) (Young, J., concurring in denial of review).

<sup>4</sup> *Draper v. City of Arlington*, 629 S.W.3d 777, 785-89 (Tex. App.—Fort Worth 2021, pet. denied) (affirming denial of temporary injunction in challenge against a similar STR ordinance on due course grounds).

<sup>5</sup> Final Judgment, *Kelray LLC v. City of Fort Worth*, No. 352-342969-23 (352nd District Ct., Tarrant County June 24, 2025) (App. Tab 6) (entering final summary

converge upon Dallas for the 2026 FIFA World Cup.<sup>6</sup> STRs will be in high demand. And with the ordinances erroneously enjoined, it will be more difficult for the City to proactively ensure the health, safety, and quality of life for residents and visitors alike.

The Court should grant this petition to address the important issues it presents and to vacate the temporary injunction.

### STATEMENT OF FACTS

The rise of online hosting platforms has led to rapid, unregulated growth in the STR market. This growth has challenged cities across the country with formulating a regulatory response that balances the interests of both long-term residents and STR operators. (*See* RR:327-30, 334-36, 383-85 [summarizing City staff's research concerning other cities' regulations].) The concerns over STRs expressed by Dallas residents

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judgment against due course challenge to similar STR ordinance), *on appeal*, No. 02-25-00275-CV (Tex. App.—Fort Worth); Final Judgment, *Morrissey v. City of Grapevine*, No. 348-303736-18 (348th District Ct., Tarrant County Mar. 21, 2025) (App. Tab 7) (same), *on appeal*, No. 02-25-00369-CV (Tex. App.—Fort Worth).

<sup>6</sup> Everton Bailey, *Dall. Secures Main Broadcast Hub for 2026 FIFA World Cup*, The Dall. Morning News, Mar. 5, 2025, available at <https://www.dallasnews.com/news/politics/2025/03/05/fifa-2026-fifa-world-cup-world-cup-kay-bailey-hutchison-convention-center-fifa-international-broadcast-center/> (last visited Oct. 16, 2025).



mirror those raised by residents of other cities:<sup>7</sup> excessive noise, overcrowding, trash, lack of parking, street congestion, and illegal drug use. (See RR:203-04, 208, 210-12, 225, 228-29, 233.)

Historically, the City has not recognized STRs as a permissible land use. (RR:137, 259, 273, 306.) The City began tracking the number and location of STRs in 2018. (CR:503) And in 2020, the City commenced a three-year legislative process that culminated in the adoption of the ordinances at issue. (CR:503-05.) That process included the formation of three task forces consisting of councilmembers and stakeholders, (CR:502-03; RR:16-24), input from hundreds of residents (CR:504), recommendations from the City Plan Commission and the city council Quality of Life, Arts and Culture Committee (CR:502-05), and briefings to the full city council<sup>8</sup> (CR:505; RR:342-90 [Def.Ex.7]). The City actively received input from both pro- and anti-STR advocates. (RR:24-25, 146-

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<sup>7</sup> *E.g.*, *Hignell-Stark v. City of New Orleans*, \_\_ F.4th \_\_, 2025 WL 2832636, at \*1 (5th Cir. 2025); *City of Grapevine v. Muns*, 651 S.W.3d 317, 327 (Tex. App.—Fort Worth 2021, pet. denied); *Draper*, 629 S.W.3d at 782.

<sup>8</sup> The City asks the Court to take judicial notice of the legislative record, which is inclusive of all public meetings of the STR task forces and the meetings before city council and the various committees, all of which is available at <https://dallas-cityhall.com/departments/pnv/Pages/Short-Term-Rentals.aspx> (last visited Oct. 10, 2025). See TEX. R. EVID. 201(b).

49, 356.) And the City ultimately balanced these competing interests with the adoption of two ordinances on June 14, 2023.

Based on the input received through the legislative process, the city council made three critical legislative findings: (1) “continued operation of [STRs] in single-family neighborhoods is detrimental to the peaceful enjoyment of residents living in their homes due to the transient nature of [STRs] and associated nuisances like increased noise and overparking,” (2) “the transient nature of [STRs] renders them a non-residential use that is not compatible with uses generally found in single-family zoning districts,” and (3) the City “is experiencing a housing crisis and [the] continued operation of [STRs] in single-family neighborhoods removed potential housing stock from potential Dallas renters and homeowners.” DALLAS, TEX., ORDINANCES 32482, 32473.(RR:258-89.)

Accordingly, the first ordinance—the Zoning Ordinance—recognizes STRs as a permissible lodging use within the City for the first time. *See generally id.* 32482. However, it limits STRs as a permissible use to multi-family and commercial zoning districts. *Id.*

The second—the Registration Ordinance—establishes procedures for STR operators to register their STRs with the City. *Id.* 32473 § 2 secs.

42B-6 through 42B-9. It also imposes a handful of regulations for STRs, such as establishing a maximum occupancy limit of three people per bedroom and twelve people per STR, limiting the number of guest vehicles to the number of off-street parking spaces, and requiring rental periods be at least two nights. *Id.* § 2 sec. 42B-12. Both ordinances contain a severability clause. *Id.* 32482 § 22, 32473 § 7.

Respondents sued the City on October 2, 2023, asserting that the ordinances were preempted, amounted to a regulatory taking, and were unconstitutional on various grounds, including under the due course of law clause. (CR:9-45.) They requested a temporary injunction enjoining the City from enforcing the ordinances. (CR:38-39.) Following a hearing (*see generally* RR), the trial court granted Respondents' application on all grounds (CR:698-707).

The court of appeals affirmed. *City of Dallas v. Dall. Short-Term Rental All.*, No. 05-23-01309-CV, 2025 WL 428514 (Tex. App.—Dallas Feb. 7, 2025) (mem. op.), *withdrawn & superseded*, 2025 WL 2022063 (Tex. App.—Dallas July 18, 2025, pet. filed) (mem. op). After the City filed a motion for rehearing en banc, the panel withdrew its original opinion and issued a new one. *City of Dallas v. Dall. Short-Term Rental*

*All. (“DSTRA”), No. 05-23-01309-CV, 2025 WL 2022063 (Tex. App.—Dallas July 18, 2025, pet. filed) (mem. op.).* The court of appeals affirmed<sup>9</sup> on the theory that Respondents demonstrated a probable right to relief on their due course of law claim. *See generally id.*

### **SUMMARY OF ARGUMENT: REVIEW IS WARRANTED**

The proliferation of STRs throughout Texas has fundamentally changed the rental market. Travelers may now choose between classic STRs, such as hotels, or they can rent a home or unit short-term through online platforms like Airbnb and Vrbo. Cities have long regulated the classic form of STRs, limiting them to appropriate areas through zoning. The newer STR model has triggered local regulation across the state, as rentals marketed in residential districts have reintroduced the secondary effects of transient lodging into residential neighborhoods. Those regulatory efforts have triggered much litigation. Challenges to local regulations on due course grounds have uniformly failed, with the exception of the proceedings below wherein the trial court and court of

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<sup>9</sup> The court of appeals reversed as to Respondent Lindsey because she does not operate an STR. *DSTRA*, 2025 WL 2022063, at \*5.

appeals held Respondents had a probable right to relief on their due course claim. Those erroneous holdings conflict with holdings of other Texas trial and appellate courts and warrant correction by this Court to restore uniformity in the law.

In holding Respondents demonstrated a probable right to relief, the court of appeals misapplied the governing law. *First*, this Court has long recognized that the due course clause only substantively protects “vested” property rights. The court of appeals failed to answer whether Respondents have a vested right in operating STRs in residential districts as Respondents assert. Instead, the court of appeals affirmed the temporary injunction on the premise that property owners generally have “well-established” rights to lease their property. But the broad right to lease is not at issue. Respondents can lease their property in residential districts long-term, and they may continue operating STRs in multi-family or commercial districts. The court of appeals’ overbroad description of the right at issue is contrary to this Court’s admonishments that substantive rights be carefully crafted to reflect the realities of the facts presented. Because Respondents do not have a vested property right in the interest they assert—operating STRs in residential districts—their

due course of law claim fails at the outset, and the court of appeals abused its discretion in holding otherwise.

*Second*, even assuming Respondents had a vested right to operate STRs in residential districts, their due course claim still fails so long as the City's ordinances (1) are rationally related to a legitimate government interest, and (2) do not apply to Respondents to the extent that they are oppressive in relation to the underlying governmental interest. The court of appeals did not apply either of these governing standards in determining whether Respondents are likely to succeed on their due course challenge against the Zoning Ordinance. And it misapplied them when holding Respondents are likely to succeed on their challenge against the Registration Ordinance.

Because the court of appeals misapplied the law in a manner that conflicts with the holdings of other Texas courts, the Court should grant review to restore uniformity in the law and definitively resolve the question regarding the extent to which cities may regulate STRs in residential zoning districts consistent with the due course of law clause.

## ARGUMENT

To obtain a temporary injunction, the applicant must plead and prove (1) a cause of action against the defendant, (2) a probable right to relief, and (3) a probable, imminent, and irreparable injury in the interim. *E.g.*, *State v. Loe*, 692 S.W.3d 215, 226 (2024). This Court reviews lower courts' temporary injunctions under an abuse of discretion standard. *Id.* Under this standard, the trial court's factual findings are entitled to deference. *Id.* However, courts have no “discretion” in determining what the law is or applying the law to the facts,” so those purely legal judgments are reviewed de novo. *E.g.*, *id.*; *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992).

To demonstrate a probable right to relief on their due course of law claim, Respondents had to show (1) that they have a protected liberty, property, or other enumerated interest entitled to constitutional protection, and (2) if so, that the City failed to provide due course depriving them of that interest. *E.g.*, *Loe*, 692 S.W.3d at 228. Respondents did not show a probable right to relief on either element.

**I. Respondents’ due course claim fails as to both ordinances because they do not implicate a constitutionally protected property interest.**

A due course of law claim is viable—and Respondents could thus only establish a probable right to relief—to the extent the claim is predicated upon “a liberty or property interest that is entitled to constitutional protection.” *Klumb v. Hous. Mun. Emps. Pension Sys.*, 458 S.W.3d 1, 15 (Tex. 2015). The interest must amount to a “vested right, which is something more than a mere expectancy based upon an anticipated continuance of an existing law.” *Id.* (cleaned up). If the right asserted is “subordinate to’ the legislature’s right to change the law and ‘abolish’ the interest, the interest is not vested.” *Tex. Dep’t of State Health Servs. v. Crown Distrib. LLC*, 647 S.W.3d 648, 655 (Tex. 2022).

Critically, “the Constitution requires a carefully circumscribed description of the asserted right or [property] interest at issue.” *Loe*, 692 S.W.3d at 229-30. Courts must “define the interest *as specifically as necessary to accurately reflect* the constitution’s language (‘liberty’ and ‘property’), [the Court’s] precedential construction of that language, and the *realities of the deprivation the [plaintiffs] are claiming.*” *Crown Distrib.*, 647 S.W.3d 656 (emphasis added). Sufficiently defining the



contours of the asserted interest is essential to preserving the policymaking authority of legislative bodies and the separation of powers. *Loe*, 692 S.W.3d at 230 (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997)).

The putative right at issue here is Respondents' asserted interest in operating STRs in residential districts. Instead of assessing whether Respondents have a vested interest in such a right, the court of appeals affirmed the temporary injunction on the notion that Respondents have "well-established rights to lease their property." *DSTRA*, 2025 WL 2022063, at \*3. But the right to lease generally is not at issue, and the court of appeals' framing of the interest at issue as such eschews the Court's admonishments that interests protected by the due course clause be carefully circumscribed to reflect the deprivation that Respondents are in fact asserting.

Neither ordinance prohibits Respondents from leasing their properties to long-term tenants. DALLAS, TEX. ORDINANCES 32482, 32473. At most, the Zoning Ordinance prohibits Respondents from operating STRs in residential zones. *Id.* 32482. But not even the Zoning Ordinance prohibits Respondents from operating STRs in multi-family or

commercial zones. *Id.* On the contrary, the Zoning Ordinance recognizes STRs as a permissible land use within these more appropriate zones. *Id.* Respondents concede these points (*see, e.g.*, RR:86, 102-03), but they desire to continue operating STRs in residential districts because they insist it is more profitable than leasing long-term (*see* RR:104). But the alleged profits tied to their preferred use of their property do not automatically give rise to a vested property interest. *See Crown Distrib.*, 647 S.W.3d at 656-57, 664; *see also Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 384-85, 394 (1926) (recognizing cities could constitutionally exclude apartments from single-family districts even though regulation resulted in diminished property value). Rather, because Respondents insist they have a property interest in operating STRs in residential districts, the court of appeals was duty bound to “narrowly define their asserted interest accordingly and ask whether the right in *that* economic endeavor enjoys the due-course clause’s protection.” *Crown Distrib.*, 647 S.W.3d at 657.

Thus refined, the ultimate question is whether Respondents have a vested right in operating STRs in residential districts. They do not. It is undisputed that, prior to enactment of the ordinances, STRs were not a

recognized land use in the City. STRs were effectively unregulated. (*See* CR:452; RR:87, 107-08, 137, 306.) The fact that Respondents temporarily enjoyed the privilege of operating their residential-district properties as STRs during a period of nonregulation does not afford them a vested property right in such use. “[P]roperty owners do not acquire a constitutionally protected vested right in property uses once commenced or in zoning classifications once made.” *City of University Park v. Benners*, 485 S.W.2d 773, 778 (Tex. 1972). Thus, Respondents’ interest in continuing to operate STRs in residential districts is grounded in nothing more than a mere expectancy in the continued lack of regulation and does not rise to a vested property right. *See Klumb*, 458 S.W.3d at 15.

No Texas appellate court—not even the court of appeals below—has recognized a vested property right in the operation of STRs in residential districts.<sup>10</sup> Conversely, courts have repeatedly recognized that a property

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<sup>10</sup> In *Muns*, the court narrowly held that “a property owner has a vested right to lease his property” sufficient to assert “a viable due-course-of-law claim” and overcome the city’s assertion of immunity *on the pleadings*. 651 S.W.3d at 346-47. Importantly, the court limited its holding, making clear that it was *not* holding that “property owners have a vested right to lease their homes on a short-term basis.” *Id.* at 347. “Whether the durational restrictions imposed by the STR Ordinance violate the Homeowners’ due-course-of-law rights regarding their right to lease goes to the case’s merits.” *Id.* In other words, the court simply allowed the issue of whether short-term renting is a vested right to proceed in the trial court for determination. Ultimately, the trial court

owner's interest in leasing his property generally does not give rise to a vested right to lease his property as an STR and that cities can regulate such activity through zoning. *See Village of Euclid*, 272 U.S. at 394-95; *Hignell-Stark*, 2025 WL 2832636, at \*3 (Appellants "fundamental right to lease their private homes" does not give rise to a property right to engage in STRs); *Marfil v. City of New Braunfels*, No. 6:20-CV-00248-ADA-JCM, 2021 WL 8082644, at \*5 (W.D. Tex. July 29, 2021) ("the law is clear that a property owner within a city cannot lease property in a manner that the city has declared unlawful via zoning ordinances"), *report and recommendation adopted*, No. 6:20-CV-00248-ADA-JCM, 2022 WL 18034356 (W.D. Tex. Sept. 15, 2022), *vacated and remanded*, 70 F.4th 893 (5th Cir. 2023).

Because Respondents cannot demonstrate they have a vested right to operate STRs in residential districts, they did not establish a probable right to relief on their due course claim, and the court of appeals abused its discretion in affirming the temporary injunction.

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rendered summary judgment upholding the city's STR regulations. Final Judgment, *Morrissey v. City of Grapevine*, No. 348-303736-18 (348th District Ct., Tarrant County Mar. 21, 2025) (App. Tab 7).

## **II. Respondents' claim fails because the ordinances do not deny them due course of law.**

Even if Respondents had a vested right in operating STRs in residential districts, to establish a probable right to relief they also had to demonstrate the ordinances would deprive them of that right without due course of law. That showing required Respondents to present evidence that (1) the ordinances were not rationally related to a legitimate government interest, or (2) when considered as a whole, the ordinances' actual, real-world effect as applied to Respondents is so burdensome that they are oppressive in light of the government interests served. *Patel v. Tex. Dep't of Licensing & Regul.*, 469 S.W.3d 69, 87 (Tex. 2015).

### **A. The Zoning Ordinance**

As to the second element of Respondents' due course challenge to the Zoning Ordinance, the court of appeals reasoned only that Respondents "presented evidence tending to show that the City would deny them" their right to lease their properties. *DSTRA*, 2025 WL 2022063, at \*3. The court of appeals never analyzed whether the manner of that alleged deprivation infringed on Respondents' right to due course. *Id.* Those rights are only infringed by the Zoning Ordinance if (1) it is not

rationally related to a legitimate government interest, or (2) if it is, then as applied to Respondents, it is so burdensome as to be oppressive. *Patel*, 469 S.W.3d at 84. In affirming the temporary injunction as to the Zoning Ordinance, the court of appeals said nothing of either of these essential inquiries. *DSTRA*, 2025 WL 2022063, at \*3.

For its part, the trial court opined that Respondents established a probable right to relief on both theories, but in so reasoning, it misapplied the law. (CR:701-02.) First, the trial court found it likely that “the *City cannot show* that the STR Ordinances are rationally related to deterring nuisances” because Respondents “presented evidence that the June 2023 study is *not conclusive*” (CR:702-03 [emphasis added]). That reasoning is the inverse of the appropriate analysis. The appropriate question is “reduce[d] to whether there is *any* rational basis for the particular actions taken” by the City. *Crown Distrib.*, 647 S.W.3d at 667 (Young, J., concurring). If it was “fairly debatable” that the City believed that the Zoning Ordinance would promote a legitimate government objective, Respondents cannot prevail. *Mayhew v. Town of Sunnyvale*, 964 S.W.2d 922, 938 (Tex. 1998); see *Draper*, 629 S.W.3d at 786 (“We are not concerned with whether the [STR] ordinance was effective; we ask only

if the City could rationally have believed at the time of enactment that the ordinance would promote its objective.”). Under this “deferential standard,” *Mayhew*, 964 S.W.2d at 938, the City’s decision is “not subject to courtroom fact-finding and may be based on rational speculation unsupported by evidence or empirical data.” *Klumb*, 458 S.W.3d at 13 (cleaned up). Accordingly, the law required the trial court to presume that the Zoning Ordinance was valid unless Respondents proved that it has “no foundation in reason and is a mere arbitrary or irrational exercise of power.” *Mayhew*, 964 S.W.2d at 938 (cleaned up). In enjoining the Zoning Ordinance because a study relied upon by the City did not “conclusively prove” the Zoning Ordinance redressed the governmental interests sought to be attained (CR:702-03), the trial court inverted the analysis, misapplied the law, and abused its discretion.

Second, the trial court alternatively reasoned that the Zoning Ordinance is “likely unconstitutionally oppressive in light of the alleged government interests” under *Patel*. (CR:702.) Here again, the trial court misapplied the governing standard. To offend due course, the Zoning Ordinance must be more than “harsh” or “unreasonable.” *Patel*, 469 S.W.3d at 90. It must, at a minimum, inhibit Respondents’ ability to lease

STRs at all. *See id.* (economic regulation violated due-course clause because the plaintiffs were “entirely shut out from practicing their trade”). If the Zoning Ordinance “left room” for Respondents to continue “participat[ing] in the affected industry,” it does not violate *Patel*. *See Crown Distrib.*, 647 S.W.3d at 668 (Young, J., concurring) (challenged regulation did not violate *Patel* because plaintiffs could still “participate in the affected industry”); *Garrett v. Tex. State Bd. of Pharmacy*, No. 03-21-00039-CV, 2023 WL 376900, at \*6-7 (Tex. App.—Austin Jan. 25, 2023, pet. denied) (mem. op.) (plaintiffs’ due course claim failed because challenged law did not “erect[] an entry barrier into their medical profession so as to deprive them of occupational freedom”).

As discussed above, Respondents are neither prohibited from leasing their properties to long-term tenants, nor are they prohibited from operating STRs in more appropriate zoning districts. *See DALLAS, TEX., ORDINANCE 32482*. Because the Zoning Ordinance does not wholly bar Respondents from engaging in the rental industry, it is not unconstitutionally oppressive under *Patel*.



## **B. The Registration Ordinance**

The trial court's injunction prohibits the City from enforcing the Registration Ordinance in its entirety. (CR:706.) In affirming, the court of appeals reasoned (1) the maximum occupancy limits violate *Patel*, and (2) the Registration Ordinance is inextricably connected to the Zoning Ordinance because the Registration Ordinance references the Zoning Ordinance. *See DSTR*, 2025 WL 2022063, at \*4. The law does not support these rulings.

First, the court of appeals' conclusion that the Registration Ordinance's maximum occupancy limits offend *Patel* is wholly unsupported by the record. Respondents offered no evidence to show that limiting STRs to three people per bedroom and twelve people per STR erects a barrier to their participation in the STR industry. The City, by contrast, presented evidence that the limitations were aimed at addressing the noise and crowding issues associated with STRs, as well as evidence showing how those issues interfered with neighboring residents' quiet enjoyment of their home. (RR:175-76, 203-12.)

Second, even if the occupancy limits violated due course (they do not), the court of appeals erred insofar as it affirmed the injunction as to

the *entire* Registration Ordinance on this basis. The Registration Ordinance has a severability clause. DALLAS, TEX., ORDINANCE 32473 § 6. “When an ordinance contains an express severability clause, the severability clause prevails when interpreting the ordinance.” *City of Houston v. Bates*, 406 S.W.3d 539, 549 (Tex. 2013) (citing TEX. GOV’T CODE § 311.032(a)). “[U]nless all the provisions are connected in subject-matter, dependent upon each other, operating together for the same purpose, or otherwise so connected in meaning that it cannot be presumed the legislature would have passed the one without the other,” the remaining portions of the ordinance must be left in effect. *Rose v. Doctors Hosp.*, 801 S.W.2d 841, 844 (Tex. 1990). The registration requirement, parking provisions, and minimum rental periods are all independent rules for which the court of appeals found no infirmity. At a minimum, it should have modified the temporary injunction to allow those provisions to take effect.

But this principle applies with even more force because the court of appeals primarily hinged its affirmance as to the Registration Ordinance upon its initial (and erroneous) conclusion that Respondents demonstrated a probable right to relief as to the Zoning Ordinance. *See*

*DSTRA*, 2025 WL 2022063, at \*4. However, the Registration Ordinance is a wholly separate piece of legislation that is able to operate within the bounds of the constitution regardless of the Zoning Ordinance’s ultimate validity. That the Registration Ordinance may reference the complementary Zoning Ordinance does nothing to show that the two ordinances are so intertwined that they are dependent upon one another or that the City would not have adopted one without the other. The court of appeals thus misapplied the law in affirming the temporary injunction as to the Registration Ordinance in any way based upon its finding as to the Zoning Ordinance. In doing so, its ruling prevents the City from having even the most modest regulation of STRs, a simple registration requirement. Such error should not be allowed to stand on the eve of Dallas taking center stage for a world-wide sporting event—a time when STR regulation will be of utmost importance.

### **PRAYER**

For these reasons, the City requests that the Court grant its petition for review and vacate the trial court’s temporary injunction.

Respectfully submitted,

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## **CERTIFICATE OF COMPLIANCE**

I certify that this document contains 4,490 words, excluding the parts exempted by Texas Rule of Appellate Procedure 9.4(i), and has been prepared in a proportionally spaced 14-point Century Schoolbook typeface using Microsoft Word for Microsoft 365 MSO.

/s/ Nicholas D. Palmer  
Attorney for the City of Dallas

Dated: October 16, 2025

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**In the Supreme Court of Texas**

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CITY OF DALLAS,

Petitioner,

v.

DALLAS SHORT-TERM RENTAL ALLIANCE, et al.,

Respondents.

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**APPENDIX**

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|                                                                                                                                                                                                             |       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| <i>City of Dallas v. Dall. Short-Term Rental All.</i> ,<br>No. 05-23-01309, 2025 WL 2022063 (Tex. App.—Dallas<br>July 18, 2025, pet. filed) (mem. op. on reh’g) .....                                       | Tab 1 |
| Temporary Injunction Order, signed December 6, 2023<br>(CR:698-707) .....                                                                                                                                   | Tab 2 |
| TEX. CONST. art. I, § 19.....                                                                                                                                                                               | Tab 3 |
| DALLAS, TEX., ORDINANCE 32482 (the “Zoning Ordinance”)<br>(RR:258-71) .....                                                                                                                                 | Tab 4 |
| DALLAS, TEX., ORDINANCE 32473 (the “Registration Ordinance”)<br>(RR:272-89) .....                                                                                                                           | Tab 5 |
| Final Judgment, <i>Kelray LLC v. City of Fort Worth</i> ,<br>No. 352-342969-23 (352nd District Ct., Tarrant County<br>June 24, 2025), <i>on appeal</i> , No. 02-25-00275-CV<br>(Tex. App.—Fort Worth) ..... | Tab 6 |

Final Judgment, *Morrissey v. City of Grapevine*,  
No. 348-303736-18 (348th District Ct., Tarrant County  
Mar. 21, 2025), *on appeal*, No. 02-25-00369-CV  
(Tex. App.—Fort Worth).....Tab 7

2025 WL 2022063

Only the Westlaw citation is currently available.

SEE TX R RAP RULE 47.2 FOR  
DESIGNATION AND SIGNING OF OPINIONS.

Court of Appeals of Texas, Dallas.

CITY OF DALLAS, Appellant

v.

DALLAS SHORT-TERM RENTAL  
ALLIANCE, Sammy Aflalo, Vera Elkins,  
Danielle Lindsey, and Denise Lowry, Appellees

No. 05-23-01309-CV

|

Opinion Filed July 18, 2025

**On Appeal from the 95th District Court, Dallas County,  
Texas, Trial Court Cause No. DC-23-16845,** Honorable  
Monica Purdy, Judge

#### Attorneys and Law Firms

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Jordan Rodriguez](#), [Andrew G. Spaniol](#), for Appellant.

[Michael K. Hurst](#), [David S. Coale](#), for Appellee.

Before Justices [Smith](#), [Garcia](#) and Rodriguez <sup>1</sup>

#### MEMORANDUM OPINION ON REHEARING

Opinion by Senior Justice Rodriguez

**\*1 AFFIRMED IN PART and REVERSED IN PART  
and Opinion Filed July 18, 2025**

On February 7, 2025, this Court issued its memorandum opinion affirming the trial court's order granting appellees' application for a temporary injunction and enjoining the City of Dallas from enforcing two ordinances concerning short-term rentals within the city limits. On February 24, 2025, the City filed a motion for en banc reconsideration. On the Court's own motion, we withdraw our February 7 memorandum opinion and vacate our judgment issued the same day. This is now the opinion of the Court. We affirm the trial court's order in part and reverse in part in this memorandum opinion. *See* [TEX. R. APP. P. 47.4](#).

#### Background

The City enacted ordinance numbers 32482 and 32473 in 2023 after studying the proliferation of short-term housing rentals in the Dallas market. Ordinance 32482 banned short-term rentals in areas zoned for “single-family residential” use while ordinance 32473 regulated the remaining short-term rentals and provided the process through which owners could acquire the necessary permits to operate a short-term rental in Dallas. The Dallas Short-Term Rental Alliance—joined by Sammy Aflalo, Vera Elkins, Danielle Lindsey, and Denise Lowry—challenged the constitutionality of these two ordinances and requested injunctive and declaratory relief. After an evidentiary hearing, the trial court granted appellees' application for a temporary injunction and found (1) appellees met their burden to establish they have a probable right of recovery on their cause of action against the City of Dallas and (2) without injunctive relief, appellees faced a substantial risk of probable, imminent, and irreparable injuries.

#### Issues on Appeal

In four issues on appeal, the City contends the trial court abused its discretion when it (1) granted appellees' application, (2) concluded appellees satisfied their extraordinary burden to prove their probable right to relief, (3) concluded appellees satisfied their extraordinary burden to prove a probable, imminent, and irreparable injury, and (4) granted equitable relief despite the Alliance's allegedly unclean hands. More specifically, the City argues the ordinances are not preempted by House Bill 2127 (which it argues is unconstitutional), the trial court erred when it granted equitable relief to the Alliance's members despite it being “likely (if not certain) that some portion of [its] members have not registered or paid [hotel occupancy tax] on their [short-term rental] properties,” and the trial court erred when it found appellees are likely to prevail on their arguments concerning due course of law, equal protection, regulatory takings, retroactivity, and the Zoning Enabling Act.

#### Temporary Injunctions and the Standard of Review

The purpose of a temporary injunction is to preserve the status quo of the subject matter of the litigation pending



a trial on the merits.  *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). We examine each aspect of the trial court's injunction for an abuse of discretion. *Tex. Educ. Agency v. Hous. Indep. Sch. Dist.*, 660 S.W.3d 108, 116 (Tex. 2023). A trial court abuses its discretion when it misapplies the law to established facts or when the evidence does not reasonably support the trial court's determination of probable injury or probable right of recovery.  *City of Dallas v. Brown*, 373 S.W.3d 204, 208 (Tex. App.—Dallas 2012, pet. denied). Under this standard, we defer to the trial court's factual findings if the evidence supports them, but we review legal determinations de novo. *State v. Loe*, 692 S.W.3d 215, 226 (Tex. 2024). We view the evidence in the light most favorable to the trial court's order, indulging every reasonable inference in its favor, and defer to the trial court's resolution of conflicting evidence. 31 *Holdings I, LLC v. Argonaut Ins. Co.*, 640 S.W.3d 915, 922 (Tex. App.—Dallas 2022, no pet.).

\*2 To obtain a temporary injunction, an applicant must plead and prove three specific elements: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim.

 *Butnaru*, 84 S.W.3d at 204. The applicant has the burden of production to offer some evidence on each of these elements. See *In re Tex. Nat. Res. Conservation Comm'n*, 85 S.W.3d 201, 204 (Tex. 2002) (orig. proceeding). At the hearing for a temporary writ of injunction, the trial court is not determining the ultimate rights of the parties; instead, the only question before the trial court is whether applicants demonstrated their entitlement to preservation of the status quo pending trial on the merits.  *Walling v. Metcalfe*, 863 S.W.2d 56, 58 (Tex. 1993) (citing *Iranian Muslim Org. v. City of San Antonio*, 615 S.W.2d 202, 208 (Tex. 1981));  *Keystone Life Ins. Co. v. Mktg. Mgmt., Inc.*, 687 S.W.2d 89, 93 (Tex. App.—Dallas 1985, no pet.) (“[T]he only question before the trial court was whether to maintain the status quo—not to determine the ultimate rights of the parties.”).

The City's brief does not attack appellees' pleading or proof of a cause of action against it under the Declaratory Judgment Act. Thus, we focus our analysis on appellees' proof of a probable right to the relief sought and a probable, imminent, and irreparable injury in the interim. See TEX. R. APP. P. 47.4 (“If the issues are settled, the court should write a brief memorandum opinion no longer than necessary to advise the parties of the court's decision and the basic reasons for it.”).

## Findings

In its order granting injunctive relief against the ordinances, the trial court found (1) appellees introduced evidence the individual appellees had invested hundreds of thousands of dollars, excluding mortgages which exceed millions of dollars, into the short-term rental industry in Dallas, (2) the City intended to enforce the zoning ordinance as soon as December 13, 2023, (3) appellees presented evidence that the City relied on a June 2023 study when it enacted the ordinances at issue, (4) appellees presented evidence that said study “is not conclusive” and “overestimates the associated concerns with [short-term rentals] that the City claims are the basis for its governmental interests,” (5) appellees presented evidence that the ordinances “do not rationally relate to the claimed governmental interests based on any available data,” and (6) appellees established that the registration ordinance “imposes several oppressive regulations on those few remaining [short-term rentals]” after the effects of the zoning ordinance are realized. The City does not challenge any of these findings on appeal. Cf. *Badger Tavern LP v. City of Dallas*, No. 05-23-00496-CV, 2024 WL 1340397, at \*3 (Tex. App.—Dallas Mar. 29, 2024, no pet.) (mem. op.) (“Findings of fact and conclusions of law embedded in a trial court's temporary injunction order may be helpful, but are not binding, in reviewing the court's exercise of its discretion.”) (citing   *Tom James of Dallas, Inc. v. Cobb*, 109 S.W.3d 877, 884 (Tex. App.—Dallas 2003, no pet.)).

## Analysis

### A. Probable right to relief

In its second issue, the City argues the trial court erred when it concluded appellees “satisfied their extraordinary burden to prove a probable right to relief sufficient to enjoin enforcement of the [o]rdinances.” In support of this contention, the City cites *Thompson v. City of Palestine*, 510 S.W.2d 579 (Tex. 1974), for the proposition that, “When the requested injunction would prevent enforcement of a municipal ordinance, the burden of proof is ‘extraordinary.’” The City is mistaken; *Thompson* did not involve a temporary injunction and the supreme court did not require applicants for temporary injunctions against municipal ordinances to meet an “extraordinary” burden of proof. See *id.* at 581.<sup>2</sup>

\*3 Similarly, the City cites *Mayhew v. Town of Sunnyvale* for the proposition that, “To overcome this presumption [of an ordinance’s validity], plaintiffs have the burden to prove that a challenged ordinance ‘has no foundation in reason and is a mere arbitrary or irrational exercise of power.’ ” See   964 S.W.2d 922, 938 (Tex. 1998). Again, the City is mistaken. Instead, *Mayhew* (which does not contain the words “enjoin” or “injunction”) says,

A court should not set aside a zoning determination *for a substantive due process violation* unless the action has no foundation in reason and is a mere arbitrary or irrational exercise of power having no substantial relation to the public health, the public morals, the public safety or the public welfare in its proper sense.

*Id.* (cleaned up and emphasis added). Thus, both *Thompson* and *Mayhew* are inapposite.

Properly construed, the probable right to relief element requires an applicant to present some evidence supporting every element of at least one valid legal theory that raises a *bona fide* issue as to their right to ultimate relief. See *Young Gi Kim v. Ick Soo Oh*, No. 05-19-00947-CV, 2020 WL 2315854, at \*2 (Tex. App.—Dallas May 11, 2020, no pet.) (mem. op.). A party can prove their probable right of recovery by alleging the existence of a right and presenting evidence tending to show that the right is being denied. *Bureaucracy Online, Inc. v. Schiller*, 145 S.W.3d 826, 829 (Tex. App.—Dallas 2004, no pet.). State law creates and defines property rights.  *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 577 (1972).

### 1. The zoning ordinance

Appellees’ pleading alleges they enjoy the right to lease their properties under Texas law. 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.”);  *Severance v. Patterson*,

370 S.W.3d 705, 709 (Tex. 2012) (op. on reh’g) (“Private property rights have been described ‘as fundamental, natural, inherent, inalienable, not derived from the legislature[,] and as pre-existing even constitutions.’ ”); see also  *City of Grapevine v. Muns*, 651 S.W.3d 317, 346–47 (Tex. App.—Fort Worth 2021, pet. denied) (“The right to lease is a stick within a property owner’s metaphorical bundle of rights.”) (citing 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)). The Texas Constitution provides: “No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of law of the land.” TEX. CONST. art. I, § 19. Appellees have “a vested right to lease their properties and this right is sufficient to support a viable due-course-of law claim.”  *City of Grapevine*, 651 S.W.3d at 347.

Under the circumstances, we conclude appellees Dallas Short Term-Rental Alliance, Sammy Aflalo, Vera Elkins, and Denise Lowry proved their probable right to relief against the City’s zoning ordinance under their due-course-of-law argument because they alleged they possessed well-established rights to lease their property and presented evidence tending to show that the City would deny them those rights by enforcing the zoning ordinance at issue. See *Bureaucracy Online, Inc.*, 145 S.W.3d at 829; see also *Young Gi Kim*, 2020 WL 2315854, at \*2 (requiring “some evidence supporting every element of at least one valid legal theory” to demonstrate a probable right to recovery). Thus, the trial court did not abuse its discretion when it concluded these appellees met their burden to establish that they have a probable right of recovery on a cause of action concerning the zoning ordinance against the City of Dallas. See  *Grapevine*, 651 S.W.3d at 346; see also TEX. R. APP.

P. 47.4; cf.  *Brown*, 373 S.W.3d at 208 (a trial court abuses its discretion if the evidence does not reasonably support the trial court’s determination of probable injury or probable right of recovery). Thus, we overrule the City’s second issue concerning the zoning ordinance with respect to the Dallas Short Term-Rental Alliance, Sammy Aflalo, Vera Elkins, and Denise Lowry.

### 2. The registration ordinance

\*4 The City contends “the Registration Ordinance itself includes no provision indicating that it incorporates, depends on, or is subordinate to the Zoning Ordinance.” We disagree. Instead, the registration ordinance refers to the City’s efforts concerning the zoning ordinance at least nine times. See  *Arredondo v. City of Dallas*, 79 S.W.3d 657, 660 n.5 (Tex. App.—Dallas 2002, pet. denied) (examining recitals in a city resolution); accord *Draper v. City of Arlington*, 629 S.W.3d 777, 792 (Tex. App.—Fort Worth 2021, pet. denied) (examining recitals in a city ordinance);  *Elizabeth Benavides Elite Aviation, Inc. v. City of Laredo*, No. 04-19-00717-CV, 2020 WL 2044678, at \*3 (Tex. App.—San Antonio Apr. 29, 2020, no pet.) (mem. op.) (same); cf.  *Fort Worth Indep. Sch. Dist. v. City of Fort Worth*, 22 S.W.3d 831, 837 (Tex. 2000) (examining recitals in an ordinance passed by a school board).

The standard of review for as-applied substantive due course challenges to economic regulation enactments analyzes whether an enactment’s effect as a whole is so unreasonably burdensome that it becomes oppressive in relation to the underlying governmental interest. See  *Patel v. Tex. Dep’t of Licensing & Regul.*, 469 S.W.3d 69, 87 (Tex. 2015). Appellees argue the burdens imposed by the City’s registration ordinance include (1) excessive fees, (2) limits on maximum occupancy, (3) day limit, (4) parking restrictions, (5) density restrictions, and (6) the homestead exemption. Here, our analysis focuses on the maximum occupancy limitation. See *Young Gi Kim*, 2020 WL 2315854, at \*2 (applicants for injunctive relief must produce some evidence supporting every element of at least one valid legal theory); see also TEX. R. APP. P. 47.1.

In support of its argument that the registration ordinance’s restriction on maximum occupancy in short-term rentals is constitutional, the City relies upon (1) appellees’ response to an interrogatory, (2) an appendix to recommendations from the Dallas Task Force, and (3) the testimony of Andrea Gilles, the City’s Interim Director of the Planning and Urban Design Department at the time of the hearing on appellees’ application for a temporary injunction. The City first argues the response and appendix constitute a concession that the City has a legitimate governmental interest in enforcing a limit of three people to a bedroom in short-term rentals. Neither document, however, supports the City’s position; the former shows the Task Force discussed limits on occupancy and that it previously agreed to maximum occupancy levels while the latter includes Task

Force recommendations. Neither the interrogatory response nor the appendix constitutes an admission concerning the government’s interests that we can attribute to any specific appellee—much less all of them—and neither shows appellees’ specific positions on any relevant issue. Further, the City’s citations to Ms. Gilles’s testimony do not address the three people per bedroom limitation. See TEX. R. APP. P. 38.1(i).

Thus, we conclude the trial court did not abuse its discretion when it concluded appellees have demonstrated a probable right to relief with respect to the registration ordinance because the City has failed to both (1) attack the trial court’s findings and (2) point us to evidence showing its legitimate governmental interests associated with restricting maximum occupancy in short-term rentals. Therefore, we cannot conclude the trial court abused its discretion when it concluded appellees are likely to prevail on their request for declaratory relief because the registration ordinance is likely unconstitutionally oppressive in light of the alleged but presently unsupported governmental interest in limiting the maximum occupancy of short-term rentals. See  *Patel*, 469 S.W.3d at 87; *Tex. Educ. Agency*, 660 S.W.3d at 116; cf.  *Walling*, 863 S.W.2d at 58 (“[T]he only question before the trial court is whether the applicant is entitled to preservation of the status quo pending trial on the merits.”). We overrule the City’s second issue concerning the registration ordinance with respect to the Dallas Short Term-Rental Alliance, Sammy Aflalo, Vera Elkins, and Denise Lowry.

### 3. Danielle Lindsey

\*5 Appellee Danielle Lindsey, is differently situated because—according to appellees’ petition—she “runs a business that provides cleaning, maintenance, and other such support services to rental properties.” We assume without deciding this constitutes an occupational property interest. See  *Tex. Dep’t of State Health Servs. v. Crown Distrib. LLC*, 647 S.W.3d 648, 655 (Tex. 2022) (citing *Tex. S. Univ. v. Villarreal*, 620 S.W.3d 899, 908 (Tex. 2021)). To be constitutionally protected, a property interest must be “vested.” *Id.* (citing  *Honors Acad., Inc. v. Tex. Educ. Agency*, 555 S.W.3d 54, 61 (Tex. 2018)). Interests are not vested when they are predicated upon the anticipated continuance of an existing law and subordinate to the Legislature’s right to change the law and abolish the interest. *Id.* Appellees have not briefed

whether the Legislature—or the Dallas City Council—has the right to change the law or abolish Lindsey's interest. See [TEX. R. APP. P. 38.1\(i\)](#). Therefore, we reverse the trial court's judgment with respect to appellee Danielle Lindsey because she has failed to show a probable right to relief concerning either ordinance.

### B. Irreparable injury

While the City's brief purports to assign error concerning the trial court's findings that enforcement of the ordinances exposed appellees to irreparable injury, its arguments are restricted to (1) “A regulatory-taking claim necessarily implies that the purported harm is readily compensable with money damages,” and (2) “injunctive relief is inappropriate if a plaintiff has stated a viable regulatory takings claim.” The City cites no authority in support of the former and quotes *Patel v. City of Everman* in support of the latter. See [179 S.W.3d 1, 13 \(Tex. App.—Tyler 2004, pet. denied\)](#) (“[Where] a party seeks monetary damages, he seeks a legal remedy, not an equitable one.”).

Appellees did not make a regulatory-taking claim and their petition does not seek monetary damages. Instead, appellees sought injunctive and declaratory relief based on the alleged unconstitutionality of the City's ordinances. See *Wilburn v. Dacus*, No. 05-16-00522-CV, 2017 WL 2464679, at \*2 (Tex. App.—Dallas June 7, 2017, pet. denied) (mem. op.) (“It is an appellant's burden to discuss his or her assertions of error, and appellate courts have no duty—or even the right—to perform an independent review of the record and the applicable law to determine whether there was error.... ‘We will not do the job of the advocate.’”) (quoting [Happy Harbor Methodist Home, Inc. v. Cowins](#), 903 S.W.2d 884, 886 (Tex. App.—Houston [1st Dist.] 1995, no writ)). We recognize the City extensively briefed the viability of appellees' regulatory-taking claim, that appellees alleged the zoning ordinance is a taking, and that the City apparently perceived appellees' allegation to constitute a regulatory-taking claim. We disagree; instead of requesting monetary relief, appellees' allegation supported their argument for injunctive relief.

Additionally, the record contains both ordinances, both of which state they “take effect immediately from and after [their] passage and publication in accordance with the provisions of the Charter of the City of Dallas with enforcement action being taken no earlier than six months” from and after passage. This evidence supports the trial court's finding that without injunctive relief, appellees—other than

Danielle Lindsey—would suffer probable, imminent, and irreparable injury to their vested property rights. See [City of Grapevine](#), 651 S.W.3d at 347 (concluding homeowners had “a vested right to lease their properties and that this right is sufficient to support a viable due-course-of law claim.”); cf. [State v. Morales](#), 869 S.W.2d 941, 943–44 (Tex. 1994) (to overcome prohibition against civil challenge to penal statute, litigant must allege that penal statute is unconstitutional and “threatens irreparable injury to vested property rights”). Finally, the record contains at least some evidence supporting the trial court's effectively unchallenged finding that appellees would suffer irreparable injury without injunctive relief. Thus, we overrule the City's third issue.

### C. Irrelevance of House Bill 2127

\*6 In its first issue, the City argues the trial court abused its discretion when it granted appellees' request for injunctive relief. Here, the City does not address whether appellees pled or proved a cause of action against the defendant, a probable right to the relief sought, or a probable, imminent, or irreparable injury in the interim. See [Butnaru](#), 84 S.W.3d at 204. Instead, the City argues that its ordinances are not pre-empted by House Bill 2127 (which it argues is unconstitutional). The City also expressly argues that “to determine whether the trial court abused its discretion in granting the [temporary injunction application], it is necessary to address the merits of [appellees'] statutory pre-emption claim.”

Assuming *arguendo* that House Bill 2127 does not preempt the City's ordinances, the constitutionality thereof is irrelevant to our review of the trial court's order for an abuse of discretion concerning appellees' due-course-of-law point. See [TEX. R. APP. P. 47.1](#). Thus, we overrule the City's first issue on appeal.

### D. Hotel occupancy taxes

In its fourth issue, the City argues the trial court erred when it enjoined the City from enforcing the two ordinances at issue because (1) at least 40% of existing short-term rental properties in Dallas have not registered or paid their hotel occupancy taxes, (2) it is more likely than not that some portion of the Alliance's members have not registered or paid their hotel occupancy taxes, and (3) the Alliance therefore sought equitable relief with unclean hands. However, the City cites no cases—and we have found none—in which the payment or nonpayment of hotel occupancy taxes by



short-term rental owners prevents the granting of a temporary injunction where an applicant has proven a cause of action against the defendant, a probable right to the relief sought, and a probable, imminent, and irreparable injury in the interim.

See  *Butnaru*, 84 S.W.3d at 204. Further, the City has failed to show that the Alliance has a duty to pay such taxes or enforce the payment of such taxes amongst its members. Finally, while there is evidence that appellee Elkins was not current on her hotel occupancy tax payments at one time, there is also evidence she has paid it “faithfully since learning of her obligation to do so”; there is no other evidence in the record regarding non-payment of the hotel occupancy tax by any other appellee. We therefore conclude the City has not shown the trial court abused its discretion and overrule the City's fourth issue.

The only question before the trial court was whether appellees demonstrated their entitlement to preservation of the status

quo pending trial on the merits. See  *Walling*, 863 S.W.2d at 58. We conclude appellees—other than Danielle Lindsey—pled and proved a cause of action against the City, a probable right to the relief sought, and a probable, imminent, and irreparable injury in the interim. See  *Butnaru*, 84 S.W.3d at 204. We therefore reverse the trial court's order with respect to Danielle Lindsey, overrule the City's four issues on appeal with respect to the Dallas Short-Term Rental Alliance, Sammy Aflalo, Vera Elkins, and Denise Lowry, and affirm the trial court's order.

#### All Citations

Not Reported in S.W. Rptr., 2025 WL 2022063

#### Conclusion

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#### Footnotes

- 1 The Hon. Yvonne T. Rodriguez, Senior Justice, Assigned.
- 2 Instead, *Thompson* says:

We have also held that an ‘extraordinary burden’ rests on the party attacking the ordinance to show that no conclusive or even controversial issuable facts or conditions exist which would authorize the City Council to exercise the discretion confided to it, and that if reasonable minds may differ as to whether or not a particular zoning ordinance has a substantial relationship to the public health, safety, morals or general welfare, no clear abuse of discretion is shown and the ordinance must stand as a valid exercise of the city's police power.

[510 S.W.2d at 581.](#)

CAUSE NO. DC-23-16845

|                            |   |                        |
|----------------------------|---|------------------------|
| DALLAS SHORT-TERM RENTAL   | § | IN THE DISTRICT COURT  |
| ALLIANCE, SAMMY AFLALO,    | § |                        |
| VERA ELKINS, DANIELLE      | § |                        |
| LINDSEY, and DENISE LOWRY, | § |                        |
|                            | § |                        |
| <i>Plaintiffs,</i>         | § | DALLAS COUNTY, TEXAS   |
|                            | § |                        |
| v.                         | § |                        |
|                            | § |                        |
| CITY OF DALLAS,            | § |                        |
|                            | § |                        |
| <i>Defendant.</i>          | § | 95th JUDICIAL DISTRICT |

  
**PROPOSED TEMPORARY INJUNCTION ORDER**

On December 1, 2023, this Court heard Plaintiffs Dallas Short Term Rental Alliance (“DSTRA”), Sammy Aflalo, Vera Elkins, Danielle Lindsey, & Denise Lowry’s (collectively, “Plaintiffs”) Application for Temporary Injunctive Relief against Defendant City of Dallas (the “City”). The Court considered Plaintiffs’ application, evidence presented at the hearing, and the written and oral arguments of counsel. The Court finds that Plaintiffs have met their burden to establish that they have a probable right of recovery on their causes of action against the City of Dallas, on the finding of the facts as set forth below. The Court further finds the Court must enjoin the City from enforcing the STR Ordinances to prevent imminent and irreparable harm.

Based on the evidence presented at the hearing on Plaintiffs’ application for temporary injunction, Plaintiffs have a substantial likelihood of success on the merits of each of their causes of action, as described below.

PROPOSED TEMPORARY INJUNCTION ORDER

Page 1 of 10

The City of Dallas has enacted certain ordinances<sup>1</sup> that seek to regulate short-term rentals (“STRs”) within city limits. Plaintiffs presented evidence that short-term rentals have been a vibrant industry in Dallas for decades. Short-term rentals are generally defined as rentals of property for less than 30 days. Commonly known today as “AirBnb,” “VRBO,” or “HomeAway,” for the online platforms that facilitate them, Plaintiffs presented evidence that STRs provide temporary lodging for a variety of guests: out-of-state visitors traveling to Dallas for weddings, concerts, to see family members who are hospitalized, or local Dallas citizens who are briefly dislodged from their residence for construction or an emergency. Plaintiffs presented evidence that STRs provide needed housing for people who prefer to stay in a home rather than a hotel.

Plaintiffs presented evidence that Plaintiffs recognized the need for this important kind of temporary housing, and along with thousands of other STR owners and operators in Dallas, Plaintiffs purchased and established single family residences for the purpose of operating STRs. Specifically, Plaintiff Dallas Short Term Rental Alliance (“DSTRA”) is a non-profit organization with a mission to educate STR owners on laws and best practices for effective and harmonious operations within their communities, promoting reasonable and effective legislation that allows unencumbered operation of reasonably operated STRs, and to leverage the resources of the STR community to boost economic growth and prosperity.

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<sup>1</sup> The relevant ordinances are Dallas, Texas, City Code § 51-4.216.1, 51A-4.110, 51A-4.121, 51A-4.124, 51A-4.125, 51A-4.126, 51A-4.727, and 51A-4.205 (2023) (“Zoning Ordinance”); Dallas, Texas, City Code § 27-30, 42B, (2023) (“Registration Ordinance”).

The other plaintiffs—Sammy Aflalo, Vera Elkins, Danielle Lindsey, and Denise Lowry (collectively, “Homeowners”)—are members of DSTRA. (“DSTRA” and “Homeowners” are referred to collectively, “Plaintiffs”). Plaintiffs presented evidence that each of them lawfully operates an STR or STR-related business within the City. They have invested hundreds of thousands of dollars, excluding mortgages which exceed millions of dollars, into the STR industry in Dallas.

Capitalizing on the booming industry, Plaintiffs presented evidence that at least as early as October 2019, the City began collecting Hotel Occupancy Taxes (“HOT Taxes”) from STRs and even established an online registration portal to help STR owners to register their STR properties with the City. Plaintiffs presented evidence that the City has collected over \$3.4 million in tax revenue from STRs this year alone, and nearly \$10 million since 2019. Plaintiffs presented evidence that STR owners, including Plaintiffs, faithfully paid those HOT taxes to the City, just to be informed of the City’s new ban against STRs in residential areas.

Plaintiffs presented evidence that the legal environment for STRs changed on June 14, 2023, when the City Council enacted two new laws. The first, called the Zoning Ordinance, defined a new land-use category called “[s]hort-term rental lodging,” and banned that use from areas zoned for single-family residential use. Plaintiffs presented evidence that the Zoning Ordinance will ban approximately 95 percent of STRs within City limits.

The Court considered the City’s studies, specifically the June 2023 study, that the City claims it relied on in enacting the STR Ordinances. Plaintiffs presented evidence



regarding the City's alleged governmental interests, including concerns that appear to be centered around a small number of "nuisance" properties, the City's apparent concern regarding the lack of affordable housing in the City, complaints from members of the Dallas community, preventing excessive traffic, noise, and density, and other broad and undefined interests regarding life, health, safety, and welfare. Plaintiffs presented evidence that the June 2023 study is ~~unreliable~~ <sup>not conclusive</sup> (indeed, that study's authors caution ~~against reliance on it~~), and ~~grossly~~ <sup>grossly</sup> overestimates the associated concerns with STRs that the City claims are the basis for its governmental interests. Plaintiffs thus presented evidence that the STR Ordinances do not rationally relate to the claimed governmental interests based on any available data. Plaintiffs also presented evidence that the City's claimed interests about housing, "neighborhood character" and the like are unquantified and unquantifiable, and that the City does not know how much improvement the Ordinances will actually achieve in those areas—if any.

Plaintiffs presented evidence that as soon as December 13, 2023, STRs will only be allowed where other "lodging" is permitted—specifically, in areas zoned for multi-family residences, hotels or commercial properties. And Plaintiffs further established that those STRs are subject to another new law---the Registration Ordinance—that imposes several oppressive regulations on those few remaining STRs.

In summary, Plaintiffs have presented competent evidence as to each and every element of their causes of action:

- a. Plaintiffs are likely to prevail on their due course of law claim because the

STR Ordinances are likely unconstitutionally oppressive in light of the alleged government interests. The right to conduct STR activity is a vested right in Texas that is a component of home ownership. It appears likely that the City cannot show that the STR Ordinances are rationally related to deterring nuisances, and in any event, nuisance ordinances that already exist in the Dallas City Code could be enforced to prevent any nuisance violation.<sup>2</sup> It further appears likely that the STR Ordinances are not rationally related to increasing affordability of housing in Dallas, and the City's other stated interests do not appear connected to the overly broad and excessively detailed regulations in the Registration Ordinance.

- b. Plaintiffs are likely to prevail on their takings claim because the STR Ordinances are likely a regulatory taking. A regulatory taking occurs when the government's regulations impact the value of a property without just compensation. It appears likely that the STR Ordinances constitute a taking of Plaintiffs property, particularly those properties that were acquired and improved upon for the purpose of operating an STR, in that they can no longer engage in the STR activity which they have a vested right to conduct

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<sup>2</sup> Dallas, Texas, City Code § 27-17 (Public Safety Nuisance); 27-11 (Minimum Property Standards); 107.6 of the Dallas Fire Code (Overcrowding); 7A-18 (Duty to Maintain Premises Free From Litter); 18-13 (Growth to Certain Height Prohibited); 30-1 (Loud and Disturbing Noises and Vibrations); 30-4 (Loudspeakers and Amplifiers); 51 and 51A ("Parking").

under Texas law.

- c. Plaintiffs are likely to prevail on their claim that the STR Ordinances are unconstitutionally retroactive. The Texas Constitution protects the reliance interests of its citizens by preventing the government from, such as here, banning an industry that citizens have invested in. Plaintiffs are likely to establish that they relied on the minimally nature of the STR industry (reflecting the status of STR activity as a vested property right under Texas law), coupled with the payment of hotel occupancy taxes to the State of Texas and the City of Dallas (and the City's encouragement of and acceptance of same), and in reliance on the ability to operate STRs, Plaintiffs did so and invested millions of dollars into their businesses.
- d. Plaintiffs are likely to prevail on their equal protection claim. Plaintiffs are likely to show that STR owners and Dallas homeowners are similarly situated. Specifically, Plaintiffs are likely to prevail on their claim that the City unconstitutionally discriminates against STR owners and operators because there is ~~no~~ <sup>not sufficient</sup> evidence that STRs cause excessive traffic, noise, density, or other nuisances that the City claims justify the STR Ordinances. Further, Plaintiffs are likely to prevail on its claim that the Registration Ordinances unconstitutional discriminates against STR owners with disparate and punitive fines that Dallas homeowners are not subject to for

the same or similar code violations. Additionally, as to all such classifications, the City has not established that any term of the Registration Ordinance is sufficiently tailored to support a compelling state interest to satisfy strict scrutiny, since those classifications all burden the fundamental vested right in Texas law to engage in STR activity as a homeowner.

- e. Plaintiffs are likely to prevail on their claim that the Ordinances violate the Zoning Enabling Act. That Act limits local zoning power and purposes as to residential use. Tex. Loc. Gov't Code §§ 211.003-004. The Zoning Ordinance exceeds those limits because it is a ban on residential use, not a restriction (remembering that STR activity is a vested property right as a component of home ownership). As to both Ordinances, the City failed to articulate a claimed interest with a specific connection to any particular grant of authority in the Act, and in particular the claimed interests about "housing stock" and the like are not referenced in the Act at all. Accordingly, as a matter of law, the Ordinances are void and unenforceable.
- f. Plaintiffs are likely to prevail on their claim that the Ordinance violate the so-called "Death Star Act," enacted in the last legislative session as HB 2127, and codified in relevant part of section 1.004 of the Property Code. The Court notes that this law is presently the valid and enforceable law of Texas, and that the City will have received any required notice of this claim by the

time of trial on the merits. The Court concludes that sections 92.001, 92.002, 92.010, and 92.153 of the Property Code, when construed in the full context of applicable Texas law (including established rights under property law and the HOT Tax provisions of the Texas Tax Code), show the Legislature's intent to occupy the field of STR regulation and thus cause the Ordinances to be preempted and unenforceable under HB 2127.

Unless the City is enjoined from enforcing the STR Ordinances, there is a substantial risk of probable, imminent, and irreparable injuries to Plaintiffs because Plaintiffs, and the vast majority of other STR owners in Dallas, will immediately lose the ability to lease their property for less than 30 days.

These injuries are probable given that the City intends to enforce the Zoning Ordinance as of December 13, 2023, and the Zoning Ordinance is a complete ban on any STR within a single-family zoned area.

These injuries are imminent because enforcement is set to begin within the next two weeks, and enforcement of the STR Ordinances will cause irreparable injury because violations of constitutional rights are inherently irreparable, and the destruction of a person's business (and therefore, livelihoods) is a sufficient and well-recognized justification for equitable relief. There is no adequate remedy at law because it will be impossible to quantify the near decade of investments Plaintiffs made in their STR businesses, including the hiring of employees, acquisition of numerous properties, and

improvements on those properties made in reliance on the City's representations that STRs were and are a lawful business.

The injuries to Plaintiffs resulting from the City's enforcement of the Ordinances outweighs any damage that this Temporary Injunction, if any, may cause to the City.

This injunction will not disserve the public interest. To the contrary, it is in accord with Texas public policy to protect and preserve the constitutional rights of property owners in Texas, and to prevent government overreach.

The Court hereby ENJOINS the City of Dallas from any enforcement of the Zoning Ordinance and Registration Ordinance. This order does not bar the enforcement of registration, taxation, and general anti-nuisance laws that were in effect before the enactment of those Ordinances.

This temporary injunction shall remain in effect through trial, except upon further order of this Court.

This temporary injunction shall be effective upon Plaintiffs' filing of a bond depositing the amount of ~~\$1,000~~ <sup>\$3,500.- (P)</sup>. The Court will allow the Clerk of Court to accept a personal, company, insurer, or law firm check. The Clerk of Court shall, on the filing by Plaintiffs of the check, bond, or cash in lieu of bond, and on approving same as required by the law, issue a writ of injunction conforming with the law and the terms of this temporary injunction.

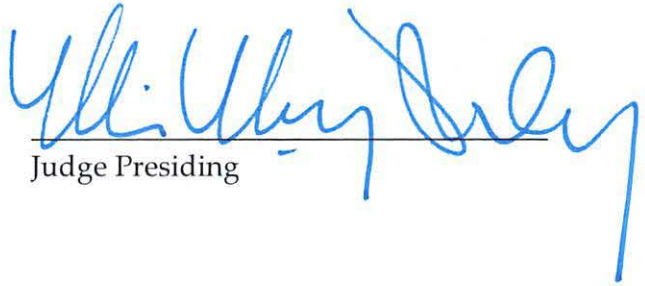
It is further **ORDERED** that this case be set for trial on the merits beginning on



June 3, 2024 at 9:00am in the 95<sup>th</sup> Judicial District Court of  
Dallas County, Texas.

The City of Dallas is hereby notified that violation of this Order by the City, its officers, agents, attorneys, servants, employees and/or by any person acting in active concert of participation with the City and who receives actual notice of this Order, may be subject to contempt proceedings.

SIGNED AND ENTERED at 9:00 a.m./p.m. on this 6<sup>th</sup> day of  
Dec., 2023.

  
Judge Presiding

Vernon's Texas Statutes and Codes Annotated  
Constitution of the State of Texas 1876 (Refs & Annos)  
Article I. Bill of Rights (Refs & Annos)

Vernon's Ann. Texas Const. Art. 1, § 19

§ 19. Deprivation of life, liberty, property, etc. by due course of law

[Currentness](#)

No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

#### **Credits**

Adopted Feb. 15, 1876.

Vernon's Ann. Texas Const. Art. 1, § 19, TX CONST Art. 1, § 19

Current through the end of the 2025 Regular and Second Called Sessions of the 89th Legislature.

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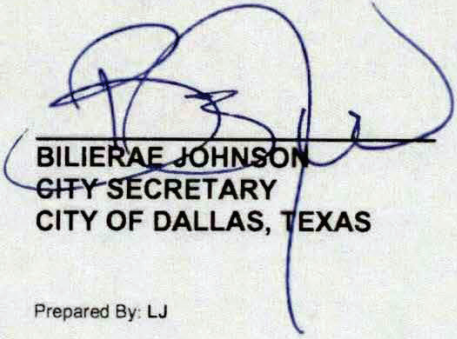
STATE OF TEXAS       §  
COUNTY OF DALLAS   §  
CITY OF DALLAS       §

I, **BILIERAE JOHNSON**, City Secretary, of the City of Dallas, Texas, do hereby certify that the attached is a true and correct copy of:

**ORDINANCE NO. 32482**

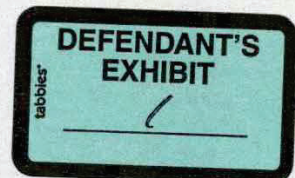
Which was passed by the Dallas City Council on **June 14, 2023**.

WITNESS MY HAND AND THE SEAL OF THE CITY OF DALLAS, TEXAS, this the **1<sup>st</sup>** day of **August, 2023**.

  
**BILIERAE JOHNSON**  
CITY SECRETARY  
CITY OF DALLAS, TEXAS



Prepared By: LJ



6-14-23

32482

## ORDINANCE NO. \_\_\_\_\_

An ordinance amending Chapter 51, "Dallas Development Code: Ordinance No. 10962, as amended," and Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code by amending Sections 51-4.216.1, 51A-4.110, 51A-4.121, 51A-4.124, 51A-4.125, 51A-4.126, 51A-4.127, and 51A-4.205; providing regulations for short-term rental lodging uses; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, short-term rentals have never been a recognized land use in the Dallas Development Code and do not fit within the definition of any other land use in the Dallas Development Code; and

WHEREAS, the City of Dallas began examining the impact of short-term rentals in 2019; and

WHEREAS, the city council quality of life, arts, and culture committee was first briefed on short-term rentals on February 18, 2020; and

WHEREAS, the city council quality of life, arts, and culture committee appointed a task force to examine the impact of short-term rentals and to explore effective means of regulating them, with the task force holding its first meeting on June 12, 2020; and

WHEREAS, the city council quality of life, arts, and culture committee was briefed by memo on the progress of the short-term rental task force on September 21, 2020, October 19, 2020, and November 16, 2020; and

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WHEREAS, the city council quality of life, arts, and culture committee was presented recommendations from the short-term rental task force on January 19, 2021; and

WHEREAS, the city council quality of life, arts, and culture committee was briefed on options for regulating short-term rentals on March 23, 2021; and

WHEREAS, city council held a public hearing to gather input on regulating short-term rentals on May 5, 2021; and

WHEREAS, city staff sought guidance from the city council quality of life, arts, and culture committee on options for regulating short-term rentals on May 17, 2021; and

WHEREAS, the quality of life, arts, and culture short-term rental task force was restructured in November 2021 to include representation from community stakeholders, short-term rental operators, and short-term rental platforms; and

WHEREAS, the restructured short-term rental task force met on November 15, 2021, November 29, 2021, and January 3, 2022; and

WHEREAS, the city plan commission authorized a public hearing to determine the proper zoning regulations for short-term rentals on December 2, 2021; and

WHEREAS, the city council quality of life, arts, and culture committee held a public hearing to gather input on the impact and effective regulation of short-term rentals on January 31, 2022; and

WHEREAS, city council was briefed on short-term rental regulation options on May 4, 2022; June 1, 2022, and June 15, 2022; and



WHEREAS, the city plan commission's zoning ordinance advisory committee held meetings on June 23, 2022, July 7, 2022, August 2, 2022, August 16, 2022, August 30, 2022, and October 4, 2022, where the committee examined numerous options for appropriate zoning regulations for short-term rentals; and

WHEREAS, the city plan commission was briefed on the recommendation from the zoning ordinance advisory committee on November 17, 2022; and

WHEREAS, the city plan commission held a public hearing to determine proper zoning regulations for short-term rentals on December 8, 2022, where, after hearing from numerous speakers, the commission recommended defining short-term rentals as a lodging use and prohibiting short-term rental lodging in residential zoning districts; and

WHEREAS, the city council quality of life, arts, and culture committee was briefed on the city plan commission's zoning recommendation and staff's recommendation for a short-term rental registration ordinance on March 20, 2023; and

WHEREAS, the city council was briefed on the city plan commission's zoning recommendation and staff's recommendation for a short-term rental registration ordinance on April 4, 2023 and June 7, 2023; and

WHEREAS, the city plan commission and city council received input from hundreds of speakers both in favor of, and in opposition to, regulation of short-term rentals through zoning and registration ordinances; and

WHEREAS, the city council finds that continued operation of short-term rentals in single-family neighborhoods is detrimental to the peaceful enjoyment of residents living in their homes due to the transient nature of short-term rentals and associated nuisances like increased noise and overparking on city streets; and

WHEREAS, the city council finds that the transient nature of short-term rentals renders them a non-residential use that is not compatible with uses generally found in single-family zoning districts; and

WHEREAS, the city council finds that short-term rentals should be regulated through registration and operational requirements in multifamily and non-residential zoning districts; and

WHEREAS, the city council finds that the city of Dallas is experiencing a housing crisis and that continued operation of short-term rentals in single-family neighborhoods removes needed housing stock from potential Dallas renters and homeowners; and

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 51-4.216.1, "Lodging Uses," of Division 51-4.200, "Use Regulations," of Article IV, "Zoning Regulations," of Chapter 51, "Dallas Development Code: Ordinance No. 10962, as amended," of the Dallas City Code is amended by adding a new Paragraph (5), "Short-Term Rental Lodging," to read as follows:

"(5) Short-term rental lodging.

(A) Definition: A full or partial rentable unit containing one or more kitchens, one or more bathrooms, and one or more bedrooms that is rented to occupants for fewer than 30 consecutive days per rental period.

(B) Districts permitted: By right in MO, GO, multiple family, and central area districts.

(C) Required off-street parking: One space per bedroom used as short-term rental lodging.

(D) Required off-street loading: none.

(E) Additional provisions:

(i) This use must comply with Chapter 42B, "Short-Term Rentals." of the Dallas City Code.

(ii) The number of short-term rentals in a single rentable unit may not exceed one.

(iii) A short-term rental must not be used as a commercial amusement (inside), commercial amusement (outside), restaurant with drive-in or drive-through service, restaurant without drive-in or drive-through service, or any other use unless it is located in a zoning district in which the use is permitted and a certificate of occupancy is issued for the use.

(iv) Short-term rental lodging is prohibited in a multiple family structure that has received a density bonus under Division 51-4.900.

(v) For purposes of this paragraph, rentable unit means one or more rooms designed to accommodate tenants containing one or more kitchens, one or more bathrooms, and one or more bedrooms."

SECTION 2. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (a), "MF-1(A) and MF-1(SAH) Districts," of Section 51A-4.116, "Multifamily Districts," of Division 51A-4.110, "Residential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

“(E) Lodging uses.

== Short-term rental lodging. ~~["None permitted."]~~”

SECTION 3. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (b), "MF-2(A) and MF-2(SAH) Districts," of Section 51A-4.116, "Multifamily Districts," of Division 51A-4.110, "Residential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

- Short-term rental lodging.
- Lodging or boarding house."

SECTION 4. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (c), "MF-3(A) District," of Section 51A-4.116, "Multifamily Districts," of Division 51A-4.110, "Residential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

- Short-term rental lodging.
- Lodging or boarding house."

SECTION 5. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (d), "MF-4(A) District," of Section 51A-4.116, "Multifamily Districts," of Division 51A-4.110, "Residential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(F) Lodging uses.

- Short-term rental lodging.
- Lodging or boarding house."

SECTION 6. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (c), "MO(A) Districts (MO-1 and MO-2)," of Section 51A-4.121, "Office Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(I) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel. *[RAR] or [SUP] [See Section 51A-4.205(1)]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2)].*

-- Short-term rental lodging.

SECTION 7. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (d), "General Office [GO(A)] District," of Section 51A-4.121, "Office Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel. *[RAR]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1)].*
- Short-term rental lodging.

SECTION 8. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (a), "CA-1(A) District," of Section 51A-4.124, "Central Area Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel
- Lodging or boarding house.
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1)].*
- Short-term rental lodging.

SECTION 9. That Subparagraph (F), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (b), "CA-2(A) District," of Section 51A-4.124, "Central Area Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:



“(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel.
- Lodging or boarding house.
- Overnight general purpose shelter *[See Section 51A-4.205(2.1)].*
- Short-term rental lodging.

SECTION 10. That Subparagraph (E), “Lodging Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (d), “MU-1 and MU-1(SAH) Districts,” of Section 51A-4.125, “mixed Use Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel. *[RAR] or [SUP] [See Section 51A-4.205(1)].*
- Short-term rental lodging.

SECTION 11. That Subparagraph (E), “Lodging Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (e), “MU-2 and MU-2(SAH) Districts,” of Section 51A-4.125, “Mixed Use Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel. *[RAR]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1)].*
- Short-term rental lodging.

SECTION 12. That Subparagraph (F), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (f), "MU-3 and MU-3(SAI) Districts," of Section 51A-4.125, "Mixed Use Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

- Extended stay hotel or motel. *[SUP/*
- Hotel or motel. *[RAR]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1).]*
- Short-term rental lodging."

SECTION 13. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (d), "MC-1 District," of Section 51A-4.126, "Multiple Commercial Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

- Extended stay hotel or motel. *[SUP/*
- Hotel or motel. *[RAR] or [SUP] [See Section 51A-4.205(1).]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1).]*
- Short-term rental lodging."

SECTION 14. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (e), "MC-2 District," of Section 51A-4.126, "Multiple Commercial Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

- Extended stay hotel or motel. *[SUP/*

- Hotel or motel. *[RAR] or [SUP] [See Section 51A-4.205(1).]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1).]*
- Short-term rental lodging.

SECTION 15. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (f), "MC-3 and MC-4 Districts," of Section 51A-4.126, "Multiple Commercial Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel. *[RAR] or [SUP] [See Section 51A-4.205(1).]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1).]*
- Short-term rental lodging.

SECTION 16. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (c), "UC Districts," of Section 51A-4.127, "Urban Corridor Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

- Short-term rental lodging ~~[None permitted].~~

SECTION 17. That Paragraph (3) of Section 51A-4.205, "Lodging Uses," of Division 51A-4.200, "Use Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(3) Short-term rental lodging.

(A) Definition: A full or partial rentable unit containing one or more kitchens, one or more bathrooms, and one or more bedrooms that is rented to occupants for fewer than 30 consecutive days per rental period.

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(B) Districts permitted: By right in MO(A), GO(A), multifamily, central area, mixed use, multiple commercial, and urban corridor districts.

(C) Required off-street parking: One space per bedroom used as short-term rental lodging.

(D) Required off-street loading: none.

(E) Additional provisions:

(i) This use must comply with Chapter 42B, "Short-Term Rentals," of the Dallas City Code.

(ii) The number of short-term rentals in a single rentable unit may not exceed one.

(iii) A short-term rental must not be used as a commercial amusement (inside), commercial amusement (outside), restaurant with drive-in or drive-through service, restaurant without drive-in or drive-through service, or any other use unless it is located in a zoning district in which the use is permitted and a certificate of occupancy is issued for the use.

(iv) Short-term rental lodging is prohibited in a multifamily structure that has received a density bonus under Division 51A-4.1100.

(v) For purposes of this paragraph, rentable unit means one or more rooms designed to accommodate tenants containing one or more kitchens, one or more bathrooms, and one or more bedrooms [Reserved]."

SECTION 18. That the director of planning and urban design shall revise the use charts to reflect the change in use regulations made by this ordinance, and shall provide these charts for publication in the Dallas Development Code.

SECTION 19. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 20. That Chapters 51 and 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

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SECTION 21. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 22. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 23. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas with enforcement action being taken no earlier than six months from and after the passage of this ordinance, and it is accordingly so ordained.

APPROVED AS TO FORM:

TAMMY L. PALOMINO, Interim City Attorney

By Casery Burgess  
Assistant City Attorney

Passed JUN 14 2023



## PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL JUN 14 2023

ORDINANCE NUMBER 32482

DATE PUBLISHED JUN 17 2023

ATTESTED BY:





City of Dallas

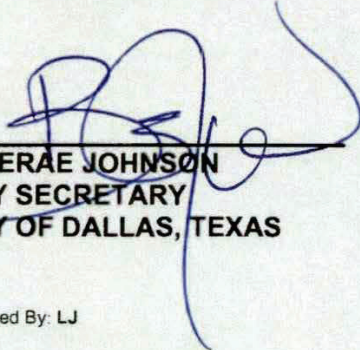
STATE OF TEXAS       §  
COUNTY OF DALLAS   §  
CITY OF DALLAS       §

I, **BILIERAE JOHNSON**, City Secretary, of the City of Dallas, Texas, do hereby certify that the attached is a true and correct copy of:

**ORDINANCE NO. 32473**

Which was passed by the Dallas City Council on **June 14, 2023**.

WITNESS MY HAND AND THE SEAL OF THE CITY OF DALLAS, TEXAS, this the 1<sup>st</sup> day of **August, 2023**.

  
**BILIERAE JOHNSON**  
CITY SECRETARY  
CITY OF DALLAS, TEXAS



Prepared By: LJ

**DEFENDANT'S  
EXHIBIT**

**2**

6-14-23

ORDINANCE NO. 32473

An ordinance amending Chapter 27, "Minimum Property Standards," by amending Section 27-30; adding Chapter 42B, "Short-Term Rentals," to the Dallas City Code; providing a defense to prosecution from the Chapter 27 rental property registration requirements if a short-term rental is registered under Chapter 42B; providing registration and operational requirements for short-term rentals; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, short-term rentals have never been a recognized land use in the Dallas Development Code and do not fit within the definition of any other land use in the Dallas Development Code; and

WHEREAS, the City of Dallas began examining the impact of short-term rentals in 2019; and

WHEREAS, the city council quality of life, arts, and culture committee was first briefed on short-term rentals on February 18, 2020; and

WHEREAS, the city council quality of life, arts, and culture committee appointed a task force to examine the impact of short-term rentals and to explore effective means of regulating them, with the task force holding its first meeting on June 12, 2020; and

WHEREAS, the city council quality of life, arts, and culture committee was briefed by memo on the progress of the short-term rental task force on September 21, 2020, October 19, 2020, and November 16, 2020; and



WHEREAS, the city council quality of life, arts, and culture committee was presented recommendations from the short-term rental task force on January 19, 2021; and

WHEREAS, the city council quality of life, arts, and culture committee was briefed on options for regulating short-term rentals on March 23, 2021; and

WHEREAS, city council held a public hearing to gather input on regulating short-term rentals on May 5, 2021; and

WHEREAS, city staff sought guidance from the city council quality of life, arts, and culture committee on options for regulating short-term rentals on May 17, 2021; and

WHEREAS, the quality of life, arts, and culture short-term rental task force was restructured in November 2021 to include representation from community stakeholders, short-term rental operators, and short-term rental platforms; and

WHEREAS, the restructured short-term rental task force met on November 15, 2021, November 29, 2021, and January 3, 2022; and

WHEREAS, the city plan commission authorized a public hearing to determine the proper zoning regulations for short-term rentals on December 2, 2021; and

WHEREAS, the city council quality of life, arts, and culture committee held a public hearing to gather input on the impact and effective regulation of short-term rentals on January 31, 2022; and

WHEREAS, city council was briefed on short-term rental regulation options on May 4, 2022; June 1, 2022, and June 15, 2022; and

WHEREAS, the city plan commission's zoning ordinance advisory committee held meetings on June 23, 2022, July 7, 2022, August 2, 2022, August 16, 2022, August 30, 2022, and October 4, 2022, where the committee examined numerous options for appropriate zoning regulations for short-term rentals; and

WHEREAS, the city plan commission was briefed on the recommendation from the zoning ordinance advisory committee on November 17, 2022; and

WHEREAS, the city plan commission held a public hearing to determine proper zoning regulations for short-term rentals on December 8, 2022, where, after hearing from numerous speakers, the commission recommended defining short-term rentals as a lodging use and prohibiting short-term rental lodging in residential zoning districts; and

WHEREAS, the city council quality of life, arts, and culture committee was briefed on the city plan commission's zoning recommendation and staff's recommendation for a short-term rental registration ordinance on March 20, 2023; and

WHEREAS, the city council was briefed on the city plan commission's zoning recommendation and staff's recommendation for a short-term rental registration ordinance on April 4, 2023 and June 7, 2023; and

WHEREAS, the city plan commission and city council received input from hundreds of speakers both in favor of, and in opposition to, regulation of short-term rentals through zoning and registration ordinances; and

WHEREAS, the city council finds that continued operation of short-term rentals in single-family neighborhoods is detrimental to the peaceful enjoyment of residents living in their homes due to the transient nature of short-term rentals and associated nuisances like increased noise and overparking on city streets; and

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WHEREAS, the city council finds that the transient nature of short-term rentals renders them a non-residential use that is not compatible with uses generally found in single-family zoning districts; and

WHEREAS, the city council finds that short-term rentals should be regulated through registration and operational requirements in multifamily and non-residential zoning districts, and

WHEREAS, the city council finds that the city of Dallas is experiencing a housing crisis and that continued operation of short-term rentals in single-family neighborhoods removes needed housing stock from potential Dallas renters and homeowners; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Subsection (g) of Section 27-30, "Registration and Posting Requirements; Defenses," of Article VII, "Registration and Inspection of Rental Properties and Condominiums," of Chapter 27, "Minimum Property Standards," of the Dallas City Code is amended to read as follows:

"(g) It is a defense to prosecution under this section that:

(1) at the time of notice of violation, no dwelling units in the rental property are leased or offered for lease and the owner of the rental property has filed with the director an exemption affidavit on a form provided by the director;

(2) at the time of notice of violation, the owner of the single dwelling unit rental property had rented the property to tenants for a total of no more than 30 consecutive days during the preceding 12 months;

(3) at the time of the notice of violation, the only tenants living in the single dwelling unit rental property are individuals related to the owner by consanguinity or affinity;

(4) at the time of the notice of violation, the owner of a single dwelling unit rental property had a homestead exemption for the property on file with the county appraisal district in which the rental property is located; or

(5) at the time of the notice of violation:

(A) the property was registered as a short-term rental in accordance with Chapter 42B; and

(B) applicable hotel occupancy taxes levied on the property under Articles V and VII of Chapter 44 [~~of the city code, as amended,~~] had been collected and remitted in full."

SECTION 2. That the Dallas City Code is amended by adding a new Chapter 42B, "Short-Term Rentals," to read as follows:

#### **"CHAPTER 42B**

#### **SHORT-TERM RENTALS**

#### **SEC. 42B-1. DEFINITIONS.**

In this chapter:

(1) **BEDROOM** means any room in a short-term rental other than a kitchen, dining room, living room, bathroom, or closet.

(2) **BOOKING TRANSACTION** means any reservation or payment service provided by a person who facilitates a short-term rental transaction between a prospective visitor and a host.

(3) **DEPARTMENT** means the department designated by the city manager to enforce and administer this chapter.

(4) **DIRECTOR** means the director of the department designated by the city manager to enforce and administer this chapter and includes representatives, agents, or department employees designated by the director.

(5) **EGREGIOUS OFFENSE** means an offense that caused or could cause a serious threat to public health and safety, including but not limited to, commission of crimes that are related to drugs, prostitution, or a serious breach of the peace.

(6) **EMERGENCY CONDITION** means any fire, natural disaster, collapse hazard, burst pipe, lack of operable utilities, serious police incident, noise violation, or other condition that requires an immediate response to prevent harm to the property, the occupants of the property, or the public.

(7) **HOST** means a person who operates a short-term rental and includes representatives, agents, and employees of the host.

(8) **HOSTING PLATFORM** means a person who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

(9) **LOCAL RESPONSIBLE PARTY** means a natural person who represents the owner or host who may be contacted 24 hours a day, seven days a week, in the event of an emergency condition at a short-term rental.

(10) **MULTITENANT STRUCTURE** means a structure with three or more rentable units.

(11) **OWNER** means a person who owns property used as a short-term rental and includes representatives, agents, and employees of the owner.

(12) **RENTABLE UNIT** means one or more rooms designed to accommodate tenants containing one or more kitchens, one or more bathrooms, and one or more bedrooms.

(13) **SHORT-TERM RENTAL** means a full or partial rentable unit containing one or more kitchens, one or more bathrooms, and one or more bedrooms that is rented to occupants for fewer than 30 consecutive days or one month, whichever is less, per rental period.

#### **SEC. 42B-2. AUTHORITY OF DIRECTOR.**

The director shall implement and enforce this chapter and may by written order establish such rules, regulations, or procedures, not inconsistent with this chapter or other city ordinances, and state or federal law, as the director determines are necessary to discharge any duty under or to affect the policy of this chapter.

#### **SEC. 42B-3. ESTABLISHMENT OF RULES AND REGULATIONS.**

(a) Before adopting, amending, or abolishing a rule, the director shall hold a public hearing on the proposal.

(b) The director shall fix the time and place of the hearing and, in addition to the notice required under the Open Meetings Act (Chapter 551, Texas Government Code), as amended, shall notify each owner, host, hosting platform, and such other persons as the director determines are interested in the subject matter of the hearing.

(c) After the public hearing, the director shall notify all owners, hosts, hosting platforms, and other interested persons of the director's action and shall post an order adopting, amending, or abolishing a rule on the official bulletin board in city hall for a period of not fewer than 10 days. The order becomes effective immediately upon expiration of the posting period.

**SEC. 42B-4. SHORT-TERM RENTAL REGISTRATION AND POSTING REQUIREMENTS.**

- (a) A person commits an offense if he owns or operates a short-term rental without a valid short-term rental registration issued under this chapter.
- (b) A person other than a hosting platform commits an offense if the person advertises a property for rent as a short-term rental without a valid short-term rental registration issued under this chapter.
- (c) The owner and host of a short-term rental commits an offense if he fails to post the following in a conspicuous place in a common area of the property or as otherwise approved by the director:

- (1) the short-term rental certificate of occupancy; and
- (2) the certificate of registration for short-term rental.

**SEC. 42B-5. SHORT-TERM RENTAL REGISTRATION; FEES; RENEWAL.**

- (a) Each short-term rental lodging use must be separately registered.
- (b) A short-term rental registration expires on the earlier of:
- (1) one year after the registration date, or
  - (2) when ownership of the property changes.
- (c) The annual registration fee for a short-term rental is \$404.00.
- (d) The registration fee is nonrefundable. The registration fee may not be prorated or applied to another property.
- (e) The initial inspection fee is included in the annual registration fee. If a property must be reinspected, the reinspection fee is \$234.00.
- (f) A host shall keep the information contained in its registration application current and accurate. If there is any change in the application information, the host shall notify the director in writing within 10 days of the changes of information.
- (g) A registration may be renewed by making application for a renewal in accordance with this chapter on a form provided by the director. In the application for renewal, the host shall certify that all information in the then-current registration application is still accurate as of the date of the renewal application or otherwise correct any information that is not accurate as of the date of the renewal application.

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## SEC. 42B-6.

## SHORT-TERM RENTAL REGISTRATION APPLICATION.

To obtain a registration to operate a short-term rental, a person must submit a complete application to the director on a form provided for that purpose. If the applicant is not an individual, an authorized officer or agent of the applicant must file the form. The application must contain the following information and be accompanied by the annual registration fee required under Section 42B-5 before it is considered complete:

- (1) The name, mailing address, and telephone number for:
  - (A) the owner;
  - (B) the host;
  - (C) the local responsible party;
  - (D) if the owner of the short-term rental is not a natural person, then an agent, employee, or officer of the owner authorized to receive legal notices and service of legal process on behalf of the owner, and in the case of an entity required to be registered with the State of Texas, the registered agent for service of process for the entity;
  - (E) if the host is not a natural person, then an agent, employee, or officer of the host authorized to receive legal notices and service of legal process on behalf of the host, and in the case of an entity required to be registered with the State of Texas, the registered agent for service of process for the entity;
  - (F) the holder of any deed of trust or mortgage lien on the short-term rental property being registered; and
  - (G) any agent, employee, officer, property manager, and other persons in control of, managing, or operating the short-term rental property on behalf of the owner or host;
- (2) the property address;
- (3) if the property being registered is part of a multitenant property or a condominium:
  - (A) the name of the property, all legal addresses comprising the property, and the main telephone number, if any, of the property;
  - (B) the apartment or unit number of the short-term rental unit being registered; and



(C) an affidavit signed by the owner acknowledging that the owner is responsible for ensuring that no unregistered short-term rentals operates on the property and that the owner may be liable for code violations committed by hosts or short-term rental guests, such as being declared a habitual nuisance property under Chapter 27 of this code;

(4) if the owner is not a natural person, the form of the entity, including, but not limited to, a corporation, general partnership, limited partnership, trust, or limited liability company, and the state or foreign jurisdiction of organization and registration, if other than the State of Texas, as well as the name and mailing address for each principal officer, director, general partner, trustee, manager, member, or other person charged with the operation, control, or management of the entity;

(5) if the host is not a natural person, the form of the entity, including, but not limited to, a corporation, general partnership, limited partnership, trust, or limited liability company, and the state or foreign jurisdiction of organization and registration, if other than the State of Texas, as well as the name and mailing address for each principal officer, director, general partner, trustee, manager, member, or other person charged with the operation, control, or management of the entity;

(6) a copy of the host's current driver's license or other government-issued personal identification card containing a photograph of the host, if the host is a natural person;

(7) the hotel occupancy tax registration number issued in accordance with Chapter 44 of this code;

(8) any additional information the host desires to include or that the director deems necessary to aid in the determination of whether the application will be deemed complete;

(9) an acknowledgement by the host of the following:

- (A) occupancy limits;
- (B) parking requirements;
- (C) noise limits;
- (D) revocation process; and
- (E) advertisement and signage limitations; and

(10) if the host is not the owner, a statement that is signed and acknowledged by the owner giving the host permission to operate the short-term rental.



**SEC. 42B-7. REVIEW AND ACCEPTANCE OF REGISTRATION APPLICATION.**

(a) An application will not be processed until the annual registration fee required by Section 42B-5 has been paid.

(b) The director shall review an application within 10 business days of receipt to determine completeness.

(c) If the director finds that the applicant has failed to submit a complete application or that any of the information on the application is materially incorrect or misleading, the director shall promptly notify the applicant by United States or electronic mail that the application is defective or incomplete and the director shall list the defects and missing items.

(d) An application shall expire and be void *ab initio* if by the 10<sup>th</sup> business day after the applicant is notified that the application is defective or incomplete, the applicant fails to provide documents or other information necessary to comply with the requirements of this chapter.

(e) If the director finds that the applicant submitted a complete application and all criteria have been met, the director shall promptly notify the applicant that the application has been received and found to be complete.

**SEC. 42B-8. PROPERTY INSPECTIONS.**

(a) After the director deems an application complete, but before an application is approved, the director shall conduct an inspection of the property to determine if there are any code violations. If the inspection reveals any violations of the Dallas City Code, the director shall issue a notice of violation to the owner, operator, or person in control to remedy the violations. The director shall not approve the registration until the identified code violations at the property have been abated.

(b) The director may conduct inspections of short-term rental properties at any time the director deems necessary when determined to be in the interest of the public health, safety, and welfare.

(c) Except as provided in this section, the director shall conduct a property inspection of each short-term rental upon application for renewal of a registration.

(d) For a registration renewal, no inspection is required if code violations were not found on the property in the previous 12 calendar months.

(e) The director may conduct inspections at the property if any complaint is received alleging violations occurring at the property including, but not limited to, violations of noise or parking regulations.

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SEC. 42B-9. ISSUANCE AND DENIAL OF REGISTRATION.

(a) Upon the submission of a complete application, the director shall issue a registration to operate a short-term rental if the director determines:

(1) the applicant has complied with all requirements for issuance of the registration;

(2) the applicant has not made a false statement as to a material matter in the application;

(3) the property being registered has passed all inspections and the condition and use of the short-term rental comply with the zoning regulations in the Dallas Development Code and the minimum property standards in Chapter 27;

(4) there have not been two or more citations for violations of the Dallas City Code found on the property being registered within the preceding 12 calendar months prior to the registration application;

(5) if the property is a multitenant property, registration of the rentable unit will not exceed the density requirements in Section 42B-12;

(6) the owner and host are not delinquent in any ad valorem taxes, fees, fines, or penalties owed to the city in relation to the property where the short-term rental is located;

(7) the owner and host are not delinquent in any hotel occupancy taxes owed to the city; and

(8) the owner and host have not had a short-term rental registration revoked within the past 12 months.

(b) If the director determines that the requirements of Subsection (a) have not been met, the director shall deny the registration.

(c) If the director determines that the applicant should be denied a registration, the director shall notify the applicant in writing, by certified mail, return receipt requested, that the application is denied and include in the notice the reason for denial and a statement informing the applicant of the right to appeal.

**SEC. 42B-10. REVOCATION OF SHORT-TERM RENTAL REGISTRATION.**

(a) The director may revoke a short-term rental registration if the property registered as a short-term rental is the site of two or more citations for violations of the Dallas City Code or state or federal law two or more times in the preceding year. Violations considered under this provision include, but are not limited to, parking on unapproved surfaces, failure to maintain the property free of litter, exceeding noise limitations, disorderly or criminal conduct, failure to pay hotel occupancy tax, or any of the provisions of this chapter.

(b) A short-term rental registration issued under this chapter may be revoked at the director's discretion if an egregious offense occurs at the property.

(c) The director may revoke all registrations associated with a single owner or host upon revocation of any registration.

(d) If the director determines that a registration should be revoked, the director shall notify the owner and host in writing, by certified mail, return receipt requested, that the registration is revoked and include in the notice the reason for revocation and a statement informing the owner and host of the right to appeal.

(e) An owner or host that has had a registration revoked under this section shall not be permitted to apply for a short-term rental registration for a period of one year following the date of the revocation.

(f) A revocation under this section is final unless the owner or host files an appeal with the permit and license appeal board in accordance with Section 2-96.

(g) The filing of an appeal stays the action of the director in revoking a registration until the permit and license appeal board makes a final decision.

(h) The permit and license appeal board shall consider the facts as they existed at the time of the registration denial, suspension, or revocation in making its decision.

**SEC. 42B-11. REQUIRED EMERGENCY RESPONSE.**

(a) A host shall provide the director with the name, address, and telephone number of a local responsible party. This designation shall be provided on a notarized form designated by the director that is signed by the local responsible party.

(b) A host shall notify the director immediately of any change in the emergency response information on a notarized form designated by the director.

(c) The local responsible party shall arrive at the property within one hour after being notified by the city or emergency response personnel that an emergency condition has occurred on the property.

(d) Upon arrival at the short-term rental when requested as provided above, the local responsible party shall notify the requesting city personnel of his arrival and shall take reasonable actions to resolve the emergency condition.

(e) A local responsible party must be authorized to make decisions regarding the premises and its occupants. A local responsible party may be required to, and shall not refuse to, accept service of citation for any violations on the premises. Acceptance of service shall not act to release owner of any liability under this chapter.

**SEC. 42B-12. OPERATION OF SHORT-TERM RENTAL.**

(a) Maximum occupancy for a short-term rental is three people per bedroom with a total occupancy of 12.

(b) The number of short-term rentals in a single rentable unit may not exceed one.

(c) The maximum density for short-term rentals located in a multifamily structure is:

(1) three percent of rentable units if the multitenant structure has more than 20 rentable units and is located in a multifamily or multiple-family zoning district or a planned development district or conservation district whose base zoning is multifamily or multiple-family;

(2) 20 percent of rentable units if the multitenant structure has more than 20 rentable units and is located in a nonresidential zoning district;

(3) zero rentable units if the multitenant structure has 20 rentable units or less.

(d) The use of amplified sound equipment that produces a sound audible beyond the property line of the premises between the hours of 10:00 p.m. and 7:00 a.m. is prohibited.

(e) The host shall limit the number of guest vehicles to the number of available off-street parking spaces available at the short-term rental property.

(f) The minimum allowable rental period is two nights.

(g) Any public listing or advertisement for a property as a short-term rental must include:

(1) the City of Dallas short-term rental registration number;

(2) occupancy limitations;

(3) limitations on the use of amplified sound equipment;

(4) the number of vehicles allowed;

(5) city regulations related to parking on unapproved surfaces and oversized vehicles; and

(6) a minimum allowable rental period of two nights.

(g) A short-term rental may not be used as a commercial amusement, restaurant, or similar business unless the property has a valid certificate of occupancy for the use.

**SEC. 42B-13. HOSTING PLATFORM REGISTRATION; REVOCATION.**

(a) To obtain a registration to operate as a hosting platform, a person shall submit a complete application to the director on a form provided for that purpose. If the applicant is not an individual, an authorized officer or agent of the applicant must file the form. The application must contain the following information before it is considered complete:

(1) the name, telephone number, and email address of a contact person at the hosting platform; and

(2) any other information the director deems necessary.

(b) A registration issued under this section is valid for one year.

(c) The director may revoke the registration of a hosting platform if the hosting platform collects a fee or fails to submit a report in violation of Section 42B-14.

(d) If the director determines that a registration should be revoked, the director shall notify the hosting platform in writing, by certified mail, return receipt requested, that the registration is revoked and include in the notice the reason for revocation and a statement informing the owner and host of the right to appeal.

(e) A hosting platform that has had a registration revoked under this section shall not be permitted to apply for a hosting platform registration for a period of one year following the date of the revocation.

(f) A revocation under this section is final unless the hosting platform files an appeal with the permit and license appeal board in accordance with Section 2-96.

(g) The filing of an appeal stays the action of the director in revoking a registration until the permit and license appeal board makes a final decision.

(h) The permit and license appeal board shall consider the facts as they existed at the time of the revocation in making its decision.

**SEC. 42B-14. HOSTING PLATFORM OPERATIONS.**

(a) Hosting platforms shall not collect or receive a fee, directly or indirectly, through an agent or intermediary, for completing a booking transaction for a short-term rental unless the hosting platform has registered with the city in compliance with this Section 42B-13 and the short-term rental has a valid registration number issued by the director in accordance with Section 42B-9.

(b) Hosting platforms shall not collect or receive a fee, directly or indirectly, through an agent or intermediary, for facilitating or providing services ancillary to an unregistered short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance.

(c) A hosting platform registered under this chapter shall provide the director, on a monthly basis, an electronic report, in a format determined by the director, of the listings maintained, authorized, facilitated, or advertised by the hosting platform within the city for the applicable reporting period. The report must include a breakdown of where the listings are located and whether the listing is for a room or a whole rentable unit.

**SEC. 42B-15. CRIMINAL OFFENSES.**

A person commits an offense if he violates or attempts to violate a provision of this chapter, or a rule or regulation established by the director under this article, that is applicable to a person. A culpable mental state is not required for an offense under this chapter unless the provision defining the conduct expressly requires a culpable mental state. A separate offense is committed each day in which an offense occurs.

**SEC. 42B-16. REVIEW OF CHAPTER.**

The regulations in this chapter must be reviewed by a city council committee by June 14, 2025."

SECTION 3. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

SECTION 4. That Chapters 27 and 42B of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 5. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

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SECTION 6. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 7. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas with enforcement action being taken no earlier than six months from and after the passage of this ordinance; and it is accordingly so ordained.

APPROVED AS TO FORM:

TAMMY L. PAI OMINO, Interim City Attorney

By Cathy Byers  
Assistant City Attorney

Passed JUN 14 2023





## PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL JUN 14 2023

ORDINANCE NUMBER 32473

DATE PUBLISHED JUN 17 2023

ATTESTED BY:



352-342969-23

352-342969-23

FILED  
TARRANT COUNTY  
6/11/2025 3:44 PM  
THOMAS A. WILDER  
DISTRICT CLERK

FILED  
TARRANT COUNTY  
6/24/2025 12:45 PM  
THOMAS A. WILDER  
DISTRICT CLERK

**CAUSE NO. 352-342969-23**

**KELRAY LLC, *et al.*,**

***Plaintiffs,***

**v.**

**CITY OF FORT WORTH,**

***Defendant.***

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**IN THE DISTRICT COURT**

**352nd JUDICIAL DISTRICT**

**OF TARRANT COUNTY, TEXAS**

**FINAL JUDGMENT**

Plaintiffs filed this lawsuit on June 15, 2023, seeking declarations under the Uniform Declaratory Judgment Act (Tex. Civ. Prac. & Rem. Code §§ 37.001-37.011) that two of the City of Fort Worth's (the "City") ordinances, Ordinance No. 23110-02-2018 and Ordinance No. 26005-02-2023 (the "Ordinances"):

- violate article I, section 3; article I, section 16; and article I, section 19 of the Texas Constitution; and
- exceed the City's authority under Texas's Zoning Enabling Act (Tex. Loc. Gov't Code, ch. 211).

The parties filed cross-motions for summary judgment on Plaintiffs' claims. Plaintiffs moved for traditional summary judgment on all of their claims and the City moved for traditional summary judgment on Plaintiffs' claims. The Court heard the parties' respective motions by written submission. And on March 6, 2025, the Court issued an order granting the City's motion in its entirety. [Ex. A].

Thereafter, the parties' filed competing motions seeking their respective attorneys' fees under section 37.009 of the Texas Civil Practice and Remedies Code and agreed that their respective requests would be tried to the Court by written submission. On June 5, 2025, the Court issued an order granting the City's fee motion [Ex. B], and an order denying Plaintiffs' fee motion [Ex. C]. In its order granting the City's fee motion, the Court awarded the City

\$200,530.00 in reasonable and necessary attorney's fees it incurred defending against and prevailing on Plaintiffs' claims for declaratory relief. The Court also ordered that the City's costs shall be taxed against Plaintiffs. The Court further awarded the City contingent appellate attorneys' fees against Plaintiffs, jointly and severally, if Plaintiffs unsuccessfully appeal this judgment—

- \$30,000 for an unsuccessful appeal to the Second Court of Appeals (\$20,000.00 to respond to Plaintiffs' written briefing and \$10,000.00 to prepare for and present oral argument); and
- \$42,500 for an unsuccessful appeal to the Texas Supreme Court (\$7,500.00 to respond to or file a petition for review, \$22,500.00 to provide full briefing to the Texas Supreme Court, and \$12,500.00 to prepare for and present oral argument to that Court).

The Court's summary judgment order, its order granting the City attorneys' fees, and its order denying Plaintiffs' attorneys' fees disposed of all claims in this case. It is therefore **ORDERED, ADJUDGED, AND DECREED** that judgment is entered for the City and against Plaintiffs and that Plaintiffs shall take nothing by their claims, which are hereby dismissed with prejudice.

It is further **ORDERED, ADJUDGED, AND DECREED** that the City shall have and recover from Plaintiffs, jointly and severally, the sum of \$200,530.00 in reasonable and necessary attorneys' fees that the City incurred defending against and prevailing on Plaintiffs' claims.

It is further **ORDERED, ADJUDGED, AND DECREED** that, in the event Plaintiffs unsuccessfully appeal this judgment to the Second Court of Appeals, the City shall have and recover from Plaintiffs, jointly and severally, \$30,000 in reasonable and necessary attorneys' fees to respond to Plaintiffs' appeal (\$20,000) and prepare for and present oral argument (\$10,000).

It is further **ORDERED, ADJUDGED, AND DECREED** that, in the event Plaintiffs unsuccessfully appeal this judgment to the Texas Supreme Court, the City shall have and recover from Plaintiffs, jointly and severally: \$7,500.00 to respond to or file a petition for review with the Texas Supreme Court; \$22,500.00 to provide full briefing to the Texas Supreme Court; and \$12,500.00 to prepare for and present oral argument to that Court.

The Court **FINDS** that (i) the attorneys' fees awarded to the City herein are reasonable and necessary, and (ii) the award of attorneys' fees is equitable and just in light of all the circumstances.

It is further **ORDERED, ADJUDGED, AND DECREED** that the City's costs are taxed against Plaintiffs ~~in the amount of \$~~\_\_\_\_\_.

All writs and processes for enforcement of this judgment may issue as necessary.

All other relief not expressly granted herein is denied. This judgment finally disposes of all parties and all claims and is appealable as a final judgment.

**IT IS SO ORDERED**

SIGNED this 24th day of June, 2025.

  
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JUDGE JOSH BURGESS

# EXHIBIT A

CAUSE NO. 236-342969-23

|                             |   |                                                |
|-----------------------------|---|------------------------------------------------|
| KELRAY LLC, <i>et al.</i> , | § | IN THE DISTRICT COURT                          |
|                             | § |                                                |
| <i>Plaintiffs,</i>          | § |                                                |
|                             | § | 352nd                                          |
| v.                          | § | <del>236</del> <sup>TH</sup> JUDICIAL DISTRICT |
|                             | § |                                                |
| CITY OF FORT WORTH,         | § |                                                |
|                             | § |                                                |
| <i>Defendant.</i>           | § | OF TARRANT COUNTY, TEXAS                       |

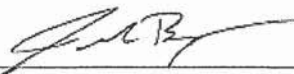
**ORDER GRANTING CITY OF FORT WORTH'S TRADITIONAL  
MOTION FOR SUMMARY JUDGMENT**

ON THIS DAY came on to be heard Defendant City of Fort Worth's ("City") Traditional Motion for Summary Judgment (the "Motion"). The issue before the Court is not whether the Court would have implemented the same zoning ordinance as the City. The issue is whether the City had the authority to make the decision it made. After considering the Motion, the Plaintiffs' response to the Motion, the evidence, any reply filed by City, the pleadings on file and applying the applicable legal standard, the Court is of the opinion that City's Motion should be, and is hereby, GRANTED.

It is therefore ORDERED, ADJUDGED, AND DECREED that City's Motion is GRANTED.

IT IS SO ORDERED.

SIGNED this 6th day of March, 2025.

  
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JUDGE JOSH BURGESS

# EXHIBIT B

**CAUSE NO. 352-342969-23****KELRAY LLC, et al.,*****Plaintiffs,*****v.****CITY OF FORT WORTH,*****Defendant.***

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**IN THE DISTRICT COURT****352<sup>nd</sup> JUDICIAL DISTRICT****OF TARRANT COUNTY, TEXAS**

**ORDER GRANTING CITY OF FORT WORTH'S  
MOTION FOR AWARD OF ATTORNEYS' FEES**

ON THIS DAY came on to be heard Defendant City of Fort Worth's (the "**City**") Motion for Award of Attorneys' Fees (the "**Motion**"). After considering the Motion, the Plaintiffs' response to the Motion, the evidence and applying the applicable legal standard, the Court is of the opinion that the City's Motion should be, and is hereby, GRANTED.

It is therefore ORDERED that the City's Motion is GRANTED.

It is further ORDERED that the City shall have and recover from the Plaintiffs, jointly and severally, the sum of \$200,530.00 in reasonable and necessary attorneys' fees that were incurred in connection with prevailing on all of Plaintiffs' claims for declaratory relief.

It is further ORDERED that the City's costs shall be taxed against Plaintiffs in the Court's final judgment.

It is further ORDERED that in the event Plaintiffs unsuccessfully appeal the Court's order dated March 6, 2025 that granted the City's Traditional Motion for Summary Judgment, the City shall have and recover from Plaintiffs, jointly and severally, reasonable and necessary conditional appellate attorneys' fees as follows: (1) in the event of an unsuccessful appeal by Plaintiffs to the Court of Appeals, \$20,000.00 to respond to an appeal to the Court of Appeals of Texas, and \$10,000.00 to prepare for and present oral argument; (2) in the event of an

unsuccessful appeal by Plaintiffs to the Texas Supreme Court, \$7,500.00 to respond to or file a petition for review with the Texas Supreme Court, \$22,500.00 to provide full briefing to the Texas Supreme Court, and \$12,500.00 to prepare for and present oral argument to that Court.

The Court further FINDS that (i) the attorneys' fees awarded to the City are reasonable and necessary, and (ii) the award of attorneys' fees is equitable and just in light of all the circumstances.

IT IS SO ORDERED.

SIGNED this 5th day of June, 2025.

  
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JUDGE JOSH BURGESS



# EXHIBIT C

## CAUSE NO. 352-342969-23

KELRAY LLC, *et al.*,*Plaintiffs,*

v.

CITY OF FORT WORTH,

*Defendant.*§  
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IN THE DISTRICT COURT

352nd JUDICIAL DISTRICT

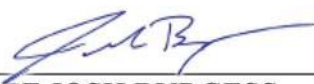
OF TARRANT COUNTY, TEXAS

**ORDER DENYING PLAINTIFFS' MOTION FOR AWARD OF ATTORNEYS' FEES**

ON THIS DAY came on to be heard Plaintiffs' Motion for Award of Attorneys' Fees (the "**Motion**"). After considering the Motion, the City of Fort Worth's (the "**City**") response to the Motion, the evidence and applying the applicable legal standard, the Court is of the opinion that Plaintiffs' Motion should be, and is hereby, DENIED.

It is therefore ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Motion is DENIED.

IT IS SO ORDERED.

SIGNED this 5th day of June, 2025.
  
 \_\_\_\_\_  
 JUDGE JOSH BURGESS

|                                 |   |                                  |
|---------------------------------|---|----------------------------------|
| LINDA L. MORRISSEY, LUDMILLA B. | § | IN THE DISTRICT COURT            |
| MUNS, RICHARD MUELLER, KARI     | § |                                  |
| PERKINS, KEVIN PERKINS, PAMELA  | § |                                  |
| HOLT AND A-1 COMMERCIAL AND     | § |                                  |
| RESIDENTIAL SERVICES, INC.,     | § |                                  |
|                                 | § | 348 <sup>TH</sup> DISTRICT COURT |
| <i>Plaintiffs,</i>              | § |                                  |
|                                 | § |                                  |
| V.                              | § |                                  |
|                                 | § |                                  |
| CITY OF GRAPEVINE,              | § |                                  |
| <i>Defendant.</i>               | § | OF TARRANT COUNTY, TEXAS         |

**FINAL JUDGMENT**

Plaintiffs filed this lawsuit on October 17, 2018. On April 15, 2024, Plaintiffs filed their Fourth Amended Petition, seeking declarations under the Uniform Declaratory Judgment Act (Tex. Civ. Prac. & Rem. Code §§ 37.001-37.011) that two of the City of Grapevine's (the "City") ordinances, City Ordinance No. 2018-065 and No. 2024-007 (the "Ordinances"):

- violate article I, section 3; article I, section 16; and article I, section 19 of the Texas Constitution; and
- exceed the City's authority under Texas's Zoning Enabling Act (Tex. Loc. Gov't Code, ch. 211).

The parties filed cross-motions for summary judgment on Plaintiffs' claims. Plaintiffs moved for traditional summary judgment on all of their claims and the City moved for traditional summary judgment on Plaintiffs' claims. The Court heard the parties' respective motions by written submission. And on March 21, 2025, the Court issued an order granting the City's motion in its entirety and denying Plaintiffs' motion. [Ex. A].

Thereafter, the City filed a motion seeking its respective attorneys' fees under section 37.009 of the Texas Civil Practice and Remedies Code. On July 17, 2025, the Court issued an

order granting the City's fee motion [Ex. B]. In its order granting the City's fee motion, the Court awarded the City \$250,000.00 in reasonable and necessary attorney's fees it incurred defending against and prevailing on Plaintiffs' claims for declaratory relief. The Court also ordered that the City's costs shall be taxed against Plaintiffs. The Court further awarded the City contingent appellate attorneys' fees against Plaintiffs, jointly and severally, if Plaintiffs unsuccessfully appeal this judgment—

- \$46,800.00 for an unsuccessful appeal to the Second Court of Appeals (\$31,200.00 to respond to Plaintiffs' written briefing and \$15,600.00 to prepare for and present oral argument); and
- \$66,300.00 for an unsuccessful appeal to the Texas Supreme Court (\$11,700.00 to respond to or file a petition for review, \$35,100.00 to provide full briefing to the Texas Supreme Court, and \$19,500.00 to prepare for and present oral argument to that Court).

Also on July 17, 2025, the Court issued an order dissolving a temporary injunction the Court entered in 2018. [Ex. C].

The Court's summary judgment order, its order granting the City attorneys' fees, and its order dissolving the temporary injunction disposed of all claims in this case. It is therefore **ORDERED, ADJUDGED, AND DECREED** that judgment is entered for the City and against Plaintiffs and that Plaintiffs shall take nothing by their claims, which are hereby dismissed with prejudice.

It is further **ORDERED, ADJUDGED, AND DECREED** that the City shall have and recover from Plaintiffs, jointly and severally, the sum of \$250,00.00 in reasonable and necessary attorneys' fees that the City incurred defending against and prevailing on Plaintiffs' claims.

It is further **ORDERED, ADJUDGED, AND DECREED** that, in the event Plaintiffs unsuccessfully appeal this judgment to the Second Court of Appeals, the City shall have and

recover from Plaintiffs, jointly and severally: \$31,200.00 to respond to Plaintiffs' appeal; and \$15,600.00 to prepare for and present oral argument.

It is further **ORDERED, ADJUDGED, AND DECREED** that, in the event Plaintiffs unsuccessfully appeal this judgment to the Texas Supreme Court, the City shall have and recover from Plaintiffs, jointly and severally: \$11,700.00 to respond to or file a petition for review with the Texas Supreme Court; \$35,100.00 to provide full briefing to the Texas Supreme Court; and \$19,500.00 to prepare for and present oral argument to that Court.

The Court **FINDS** that (i) the attorneys' fees awarded to the City herein are reasonable and necessary, and (ii) the award of attorneys' fees is equitable and just in light of all the circumstances.

It is further **ORDERED, ADJUDGED, AND DECREED** that the City's costs are taxed against Plaintiffs.

All writs and processes for enforcement of this judgment may issue as necessary.

All other relief not expressly granted herein is denied. This judgment finally disposes of all parties and all claims and is appealable as a final judgment.

**IT IS SO ORDERED**

SIGNED July 24, 2025.

  
\_\_\_\_\_  
JUDGE MEGAN FAHEY

**APPROVED AS TO FORM ONLY (Plaintiffs preserve all rights to appeal, and intend to challenge the contents of this judgment on appeal):**

/s/ Graigory B. Fancher

Graigory B. Fancher  
Texas Bar No. 24052016  
[gfancher@bwwlaw.com](mailto:gfancher@bwwlaw.com)  
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Fort Worth, Texas 76102  
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Fax (817) 877-1636

J. Patrick Sutton  
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[jpatrickssutton@jpatrickssuttonlaw.com](mailto:jpatrickssutton@jpatrickssuttonlaw.com)  
1505 W. 6th Street  
Austin, Texas 78703  
Tel. (512) 417-5903

**ATTORNEYS FOR PLAINTIFFS**

**APPROVED AS TO FORM AND SUBSTANCE:**

/s/ W. Chase Medling

W. Chase Medling  
State Bar No. 24073061  
[Chase.medling@kellyhart.com](mailto:Chase.medling@kellyhart.com)  
KELLY HART HALLMAN  
201 Main St., Suite 2500  
Fort Worth, Texas 76102  
Telephone No.: 817-332-2500  
Facsimile No.: 817-878-6518

**ATTORNEY FOR THE CITY OF GRAPEVINE**

# EXHIBIT A

NO. 348-303736-18

|                                 |   |                         |
|---------------------------------|---|-------------------------|
| LINDA L. MORRISSEY, LUDMILLA B. | § | IN THE DISTRICT COURT   |
| MUNS, RICHARD MUELLER, KARI     | § |                         |
| PERKINS, KEVIN PERKINS, PAMELA  | § |                         |
| HOLT AND A-1 COMMERCIAL AND     | § |                         |
| RESIDENTIAL SERVICES, INC.,     | § |                         |
|                                 | § | 348TH JUDICIAL DISTRICT |
| <i>Plaintiffs,</i>              | § |                         |
|                                 | § |                         |
| V.                              | § |                         |
|                                 | § |                         |
| CITY OF GRAPEVINE,              | § |                         |
|                                 | § | TARRANT COUNTY, TEXAS   |
| <i>Defendant.</i>               | § |                         |

**ORDER REGARDING MOTIONS FOR SUMMARY JUDGMENT**

On this day, the Court considered Plaintiffs Richard Mueller, Kari Perkins, Kevin Perkins, and Pamela Holt's Second Motion for Summary Judgment and Defendant City of Grapevine's Post-Appeal Traditional Motion for Summary Judgment. The Court, having considered the motions, responsive filings, admissible evidence, relevant legal authority, and arguments of counsel, finds that Plaintiffs' motion should be denied and Defendant's motion should be granted.

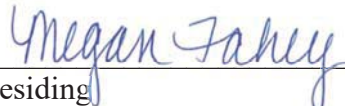
**IT IS THEREFORE ORDERED** that Plaintiffs Richard Mueller, Kari Perkins, Kevin Perkins, and Pamela Holt's Second Motion for Summary Judgment is denied.

**IT IS FURTHER ORDERED** that Defendant City of Grapevine's Post-Appeal Traditional Motion for Summary Judgment is granted.

**IT IS FURTHER ORDERED** that Plaintiffs take nothing on their claims against Defendant City of Grapevine.

All other requested relief is denied.

Signed: March 21, 2025.

  
\_\_\_\_\_  
Judge Presiding



# EXHIBIT B

|                                 |   |                                  |
|---------------------------------|---|----------------------------------|
| LINDA L. MORRISSEY, LUDMILLA B. | § | IN THE DISTRICT COURT            |
| MUNS, RICHARD MUELLER, KARI     | § |                                  |
| PERKINS, KEVIN PERKINS, PAMELA  | § |                                  |
| HOLT AND A-1 COMMERCIAL AND     | § |                                  |
| RESIDENTIAL SERVICES, INC.,     | § |                                  |
|                                 | § | 348 <sup>TH</sup> DISTRICT COURT |
| <i>Plaintiffs,</i>              | § |                                  |
|                                 | § |                                  |
| V.                              | § |                                  |
|                                 | § |                                  |
| CITY OF GRAPEVINE,              | § |                                  |
| <i>Defendant.</i>               | § | OF TARRANT COUNTY, TEXAS         |

**ORDER GRANTING CITY OF GRAPEVINE'S  
MOTION FOR AWARD OF ATTORNEYS' FEES**

ON THIS DAY came on to be heard Defendant City of Grapevine's (the "City") Motion for Award of Attorneys' Fees (the "Motion"). After considering the Motion, the Plaintiffs' response to the Motion, the evidence and applying the applicable legal standard, the Court is of the opinion that the City's Motion should be, and is hereby, GRANTED.

It is therefore ORDERED that the City's Motion is GRANTED.

It is further ORDERED that the City shall have and recover from the Plaintiffs, jointly and severally, the sum of \$250,000.00 in reasonable and necessary attorneys' fees that were incurred in connection with prevailing on all of Plaintiffs' claims for declaratory relief.

It is further ORDERED that the City's costs shall be taxed against Plaintiffs in the Court's final judgment.

It is further ORDERED that in the event Plaintiffs unsuccessfully appeal the Court's orders, the City shall have and recover from Plaintiffs, jointly and severally, reasonable and necessary appellate attorneys' fees as follows: (1) in the event of an unsuccessful appeal by Plaintiffs to the Court of Appeals, \$31,200.00 to respond to an appeal to the Court of Appeals of

Texas, and \$15,600.00 to prepare for and present oral argument; (2) in the event of an unsuccessful appeal by Plaintiffs to the Texas Supreme Court, \$11,700.00 to respond to or file a petition for review with the Texas Supreme Court, \$35,100.00 to provide full briefing to the Texas Supreme Court, and \$19,500.00 to prepare for and present oral argument to that Court.

The Court further FINDS that (i) the attorneys' fees awarded to the City are reasonable and necessary, and (ii) the award of attorneys' fees is equitable and just in light of all the circumstances.

IT IS SO ORDERED.

SIGNED July 17, 2025.

  
\_\_\_\_\_  
JUDGE MEGAN FAHEY

# EXHIBIT C

|                                 |   |                                  |
|---------------------------------|---|----------------------------------|
| LINDA L. MORRISSEY, LUDMILLA B. | § | IN THE DISTRICT COURT            |
| MUNS, RICHARD MUELLER, KARI     | § |                                  |
| PERKINS, KEVIN PERKINS, PAMELA  | § |                                  |
| HOLT AND A-1 COMMERCIAL AND     | § |                                  |
| RESIDENTIAL SERVICES, INC.,     | § |                                  |
|                                 | § | 348 <sup>TH</sup> DISTRICT COURT |
| <i>Plaintiffs,</i>              | § |                                  |
|                                 | § |                                  |
| V.                              | § |                                  |
|                                 | § |                                  |
| CITY OF GRAPEVINE,              | § |                                  |
| <i>Defendant.</i>               | § | OF TARRANT COUNTY, TEXAS         |

**ORDER GRANTING DEFENDANT CITY OF GRAPEVINE'S  
MOTION TO DISSOLVE TEMPORARY INJUNCTION**

ON THIS DAY came on to be heard Defendant City of Grapevine's (the "City") Motion to Dissolve Temporary Injunction (the "Motion"). After considering the Motion, the evidence, any response filed by Plaintiffs, the arguments of counsel, the pleadings on file and applying the applicable legal standard, the Court is of the opinion that the City's Motion should be, and is hereby, GRANTED.

It is therefore ORDERED, ADJUDGED, AND DECREED that the City's Motion is GRANTED.

It is further ORDERED, ADJUDGED, AND DECREED that the November 7, 2018, temporary injunction is DISSOLVED.

IT IS SO ORDERED.

SIGNED July 17, 2025.

  
\_\_\_\_\_  
JUDGE MEGAN FAHEY

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Nicholas Palmer  
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nicholas.palmer@dallas.gov  
Envelope ID: 106934493  
Filing Code Description: Petition  
Filing Description: Petition for Review and Appendix  
Status as of 10/16/2025 2:11 PM CST

#### Case Contacts

| Name                  | BarNumber | Email                          | TimestampSubmitted    | Status |
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