

236-342969-23

NO. _____

KELRAY LLC, AYODELE OLAYINKA § IN THE DISTRICT COURT
ADESUBOKAN, MANUEL A. AGUIRRE- §
ESCAMILLA, TRACEY AMAYA, §
EDUARDO AMAYA, MISAEL §
ANDRADE, WENDY ANN §
ARMSTRONG-GEREN, CLYDE AUSTIN, §
MELISSA BAKER, LAUREN BARRETT, §
CASON BECKHAM, TRUSTEE OF THE §
2120 FAIRMOUNT AVENUE TRUST, §
BROOKE BLANKENSHIP, HUNTER §
BLANKS, LAUREN A. BRADY, §
GRAYSON BUSTER, LUCAS BYERS, §
SARAH CALDWELL, TRUSTEE OF THE §
SARAH M. CALDWELL REVOCABLE §
TRUST, BRECCIA CONSTRUCTION, §
LLC, KAREN CATES, FLAMINIA §
CHAPMAN, BROOKVALE HOLDINGS §
LLC, SCOTT CLARK, PATRICK §
CODDOU, JENNIFER CODDOU, §
DOUBLE07, LLC, FUNKYTOWN §
PROPERTIES LLC, BETSY DARLING, §
MARTHA DOMINGUEZ, ADULFO §
DOMINGUEZ, IAN DORFMAN, LORI §
DUGDALE, LAURA DYSON, MAYNARD §
DYSON, ISABELLA ELLIS, WILLIAM §
ELLIS, CRYSTAL ELLIS, DAVID KEVIN §
FARMER, GUILLERMO FLORES §
RUEDA, SANDRA FLORY, PATRICIA §
FLOYD, TEXAS TUDOR TCU, LLC, §
JESSE FOX, SIJ PROPERTIES #3, LLC, §
RICHARD GARRISON, RITA GOMEZ, §
ALICIA GONZALEZ, CHANE §
GUILLORY, SUSAN HARPER, BLAKE §
HESTIR, MARK HUDSON, M AND M §
POOL HOUSE LLC, REI GOATS, LLC, §
RYAN BUYS HOUSES, LLC, JAMES §
RYAN JACKSON, 112 LORAIN SOUTH §
CORPORATION, MISTY KIMBROUGH, §
MARGARET KOLYVAS, TOM KRAUSE, §
ANXHELO LALAJ, DAVID LATZ, §
JENNIFER K. LEE, AARON BROOKS, §
URBAN LEGACY PROPERTIES, LLC §
D/B/A URBAN LEGACY PROPERTIES §
SERIES A LLC, STEVE LUCHAK, MARY §

I. INTRODUCTION

1. This case poses a profound question: Who gets to decide how long a property lease lasts, a landowner or the government?

2. For hundreds of years, this was not a legitimate question, much less a close one: landowners and tenants pursued their enlightened self-interest, without interference, when haggling over leases. These private transactions, repeated endlessly for centuries, gave rise to our system of free enterprise and the foundational ideas from which sprang the U.S. and Texas Constitutions. The ownership of real property, and its natural incidents, is a fundamental right because owning and deciding how to use land is the essence of what it means to be free Americans and Texans.

3. Now, however, based on parochialism and local prejudice, cities across Texas seek to wrest control of leasing rights from landowners. They are criminalizing short durations of lease and, to enforce such ordinances, implementing Orwellian monitoring and surveillance regimes to control people's comings and goings on private land. No one is now safe from municipalities' prying into homes and private lives to enforce the status of not remaining in a home long enough to qualify as a residential tenant.

4. The City of Grapevine recently banned leases for short-terms, only to be checked by the Fort Worth Court of Appeals' upholding of multiple constitutional challenges to such a ban. *See City of Grapevine v. Muns*, 651 S.W.3d 317, 326 (Tex. App. – Fort Worth 2021, pet. filed). The City of Fort Worth has done it too, and it is unconstitutional for all the same reasons.

5. The homeowner plaintiffs therefore bring suit to protect their fundamental property rights and have declared unconstitutional Fort Worth's attempt to wrest control of the lease term from private landowners.

II. DISCOVERY CONTROL PLAN LEVEL

6. Plaintiffs ("Homeowners") intend to employ Discovery Level 2.

III. PARTIES AND SERVICE

7. Plaintiffs are as follows:

- a. Kelray LLC is a Texas limited liability company with its principal place of business located in Collin County, Texas.
- b. Ayodele Olayinka Adesubokan is an individual residing in Tarrant County, Texas. The last three digits of Ayodele Olayinka Adesubokan's Texas driver's license number are 811. The last three digits of Ayodele Olayinka Adesubokan's Social Security number are 937.
- c. Manuel A. Aguirre-Escamilla is an individual residing in Tarrant County, Texas. The last three digits of Manuel A. Aguirre-Escamilla's Texas driver's license number are 885. The last three digits of Manuel A. Aguirre-Escamilla's Social Security number are 274.
- d. Tracey Amaya is an individual residing in Tarrant County, Texas. The last three digits of Tracey Amaya's Texas driver's license number are 257. The last three digits of Tracey Amaya's Social Security number are 931.

- e. Eduardo Amaya is an individual residing in Tarrant County, Texas. The last three digits of Eduardo Amaya's Texas driver's license number are 594. The last three digits of Eduardo Amaya's Social Security number are 201.
- f. Misael Andrade is an individual residing in Tarrant County, Texas. The last three digits of Misael Andrade's Texas driver's license number are 687. The last three digits of Misael Andrade's Social Security number are 278.
- g. Wendy Ann Armstrong-Geren is an individual residing in Tarrant County, Texas. The last three digits of Wendy Ann Armstrong-Geren's Texas driver's license number are 044. The last three digits of Wendy Ann Armstrong-Geren's Social Security number are 705.
- h. Clyde Austin is an individual residing in Tarrant County, Texas. The last three digits of Clyde Austin's Texas driver's license number are 930. The last three digits of Clyde Austin's Social Security number are 195.
- i. Melissa Baker is an individual residing in Tarrant County, Texas. The last three digits of Melissa Baker's Texas driver's license number are 077. The last three digits of Melissa Baker's Social Security number are 212.
- j. Lauren Barrett is an individual residing in Collin County, Texas. The last three digits of Lauren Barrett's Texas driver's license

number are 484. The last three digits of Lauren Barrett's Social Security number are 614.

- k. Cason Beckham, as Trustee of the 2120 Fairmount Avenue Trust, is an individual residing in Travis County, Texas. The last three digits of Cason Beckham's Texas driver's license number are 421. The last three digits of Cason Beckham's Social Security number are 123.
- l. Brooke Blankenship is an individual residing in Tarrant County, Texas. The last three digits of Brooke Blankenship's Texas driver's license number are 622. The last three digits of Brooke Blankenship's Social Security number are 606.
- m. Hunter Blanks is an individual residing in Tarrant County, Texas. The last three digits of Hunter Blanks' Texas driver's license number are 509. The last three digits of Hunter Blanks' Social Security number are 766.
- n. Lauren A. Brady is an individual residing in Tarrant County, Texas. The last three digits of Lauren A. Brady's Texas driver's license number are 387. The last three digits of Lauren A. Brady's Social Security number are 213.
- o. Grayson Buster is an individual residing in Tarrant County, Texas. The last three digits of Grayson Buster's Texas driver's license number are 320. The last three digits of Grayson Buster's Social Security number are 483.

- p. Lucas Byers is an individual residing in Tarrant County, Texas. The last three digits of Lucas Byers' Texas driver's license number are 092. The last three digits of Lucas Byers' Social Security number are 432.
- q. Sarah Caldwell, as Trustee of the Sarah M. Caldwell Revocable Trust, is an individual residing in Tarrant County, Texas. The last three digits of Sarah Caldwell's Texas driver's license number are 403. The last three digits of Sarah Caldwell's Social Security number are 767.
- r. Breccia Construction, LLC is a Texas limited liability company with its principal place of business located in Tarrant County, Texas.
- s. Karen Cates is an individual residing in Tarrant County, Texas. The last three digits of Karen Cates' Texas driver's license number are 684. The last three digits of Karen Cates' Social Security number are 096.
- t. Flaminia Chapman is an individual residing in Tarrant County, Texas. The last three digits of Flaminia Chapman's Texas driver's license number are 745. The last three digits of Flaminia Chapman's Social Security number are 160.
- u. Brookvale Holdings LLC is a Texas limited liability company with its principal place of business located in Tarrant County, Texas.
- v. Scott Clark is an individual residing in Tarrant County, Texas. The last three digits of Scott Clark's Texas driver's license number are

051. The last three digits of Scott Clark's Social Security number are 190.

- w. Patrick Coddou is an individual residing in Tarrant County, Texas. The last three digits of Patrick Coddou's Texas driver's license number are 428. The last three digits of Patrick Coddou's Social Security number are 911.
- x. Jennifer Coddou is an individual residing in Tarrant County, Texas. The last three digits of Jennifer Coddou's Texas driver's license number are 927. The last three digits of Jennifer Coddou's Social Security number are 387.
- y. Double07, LLC is a Texas limited liability company with its principal place of business located in Tarrant County, Texas.
- z. FunkyTown Properties LLC is a Texas limited liability company with its principal place of business located in Tarrant County, Texas.
- aa. Betsy Darling is an individual residing in Tarrant County, Texas. The last three digits of Betsy Darling's Texas driver's license number are 940. The last three digits of Betsy Darling's Social Security number are 370.
- bb. Martha Dominguez is an individual residing in Johnson County, Texas. The last three digits of Martha Dominguez's Texas driver's license number are 718. The last three digits of Martha Dominguez's Social Security number are 839.

- cc. Adulfo Dominguez is an individual residing in Johnson County, Texas. The last three digits of Adulfo Dominguez's Texas driver's license number are 115. The last three digits of Adulfo Dominguez's Social Security number are 356.
- dd. Ian Dorfman is an individual residing in Dallas County, Texas. The last three digits of Ian Dorfman's Texas driver's license number are 489. The last three digits of Ian Dorfman's Social Security number are 075.
- ee. Lori Dugdale is an individual residing in Tarrant County, Texas. The last three digits of Lori Dugdale's Texas driver's license number are 060. The last three digits of Lori Dugdale's Social Security number are 002.
- ff. Laura Dyson is an individual residing in Tarrant County, Texas. The last three digits of Laura Dyson's Texas driver's license number are 044. The last three digits of Laura Dyson's Social Security number are 248.
- gg. Maynard Dyson is an individual residing in Tarrant County, Texas.
- hh. Isabella Ellis is an individual residing in Tarrant County, Texas. The last three digits of Isabella Ellis' Texas driver's license number are 134. The last three digits of Isabella Ellis' Social Security number are 829.
- ii. William Ellis is an individual residing in Parker County, Texas. The last three digits of William Ellis' Texas driver's license number are

384. The last three digits of William Ellis' Social Security number are 816.
- jj. Crystal Ellis is an individual residing in Tarrant County, Texas. The last three digits of Crystal Ellis' Texas driver's license number are 877. The last three digits of Crystal Ellis' Social Security number are 807.
- kk. David Kevin Farmer is an individual residing in Dallas County, Texas. The last three digits of David Kevin Farmer's Texas driver's license number are 849. The last three digits of David Kevin Farmer's Social Security number are 447.
- ll. Guillermo Flores Rueda is an individual residing in Tarrant County, Texas. The last three digits of Guillermo Flores Rueda's Texas driver's license number are 108. The last three digits of Guillermo Flores Rueda's Social Security number are 601.
- mm. Sandra Flory is an individual residing in Tarrant County, Texas. The last three digits of Sandra Flory's Texas driver's license number are 142. The last three digits of Sandra Flory's Social Security number are 057.
- nn. Patricia Floyd is an individual residing in Tarrant County, Texas. The last three digits of Patricia Floyd's Texas driver's license number are 709. The last three digits of Patricia Floyd's Social Security number are 989.

- oo. Texas Tudor TCU, LLC is a Texas limited liability company with its principal place of business located in Tarrant County, Texas.
- pp. Jesse Fox is an individual residing in Tarrant County, Texas. The last three digits of Jesse Fox's Texas driver's license number are 267. The last three digits of Jesse Fox's Social Security number are 505.
- qq. SIJ Properties #3, LLC is a Texas limited liability company with its principal place of business located in Tarrant County, Texas.
- rr. Richard Garrison is an individual residing in Tarrant County, Texas. The last three digits of Richard Garrison's Texas driver's license number are 076. The last three digits of Richard Garrison's Social Security number are 161.
- ss. Rita Gomez is an individual residing in Denton County, Texas. The last three digits of Rita Gomez's Texas driver's license number are 758. The last three digits of Rita Gomez's Social Security number are 696.
- tt. Alicia Gonzalez is an individual residing in Tarrant County, Texas. The last three digits of Alicia Gonzalez's Texas driver's license number are 970. The last three digits of Alicia Gonzalez's Social Security number are 856.
- uu. Chane Guillory is an individual residing in Tarrant County, Texas. The last three digits of Chane Guillory's Texas driver's license number are 221. The last three digits of Chane Guillory's Social Security number are 125.

- vv. Susan Harper is an individual residing in Tarrant County, Texas. The last three digits of Susan Harper's Texas driver's license number are 919. The last three digits of Susan Harper's Social Security number are 298.
- ww. Blake Hestir is an individual residing in Tarrant County, Texas. The last three digits of Blake Hestir's Texas driver's license number are 137. The last three digits of Blake Hestir's Social Security number are 581.
- xx. Mark Hudson is an individual residing in Tarrant County, Texas. The last three digits of Mark Hudson's Texas driver's license number are 357. The last three digits of Mark Hudson's Social Security number are 058.
- yy. M and M Pool House LLC is a Texas limited liability company with its principal place of business located in Tarrant County, Texas.
- zz. REI GOATS, LLC is a Texas limited liability company with its principal place of business located in Denton County, Texas.
- aaa. Ryan Buys Houses, LLC is a Texas limited liability company with its principal place of business located in Randall County, Texas.
- bbb. James Ryan Jackson is an individual residing in Denton County, Texas. The last three digits of James Ryan Jackson's Texas driver's license number are 225. The last three digits of James Ryan Jackson's Social Security number are 125.

- ccc. 112 Loraine South Corporation is a Texas corporation with its principal place of business located in Midland County, Texas.
- ddd. Misty Kimbrough is an individual residing in Tarrant County, Texas. The last three digits of Misty Kimbrough's Texas driver's license number are 177. The last three digits of Misty Kimbrough's Social Security number are 130.
- eee. Margaret Kolyvas is an individual. The last three digits of Margaret Kolyvas' Texas driver's license number are 188. The last three digits of Margaret Kolyvas' Social Security number are 890.
- fff. Tom Krause is an individual residing in Jefferson County, Texas. The last three digits of Tom Krause's Texas driver's license number are 971. The last three digits of Tom Krause's Social Security number are 734.
- ggg. Anxhelo Lalaj is an individual residing in Jefferson County, Texas. The last three digits of Anxhelo Lalaj's Texas driver's license number are 686. The last three digits of Anxhelo Lalaj's Social Security number are 407.
- hhh. David Latz is an individual residing in Tarrant County, Texas. The last three digits of David Latz's Texas driver's license number are 784. The last three digits of David Latz's Social Security number are 273.
- iii. Jennifer K. Lee is an individual residing in Tarrant County, Texas. The last three digits of Jennifer K. Lee's Texas driver's license

number are 250. The last three digits of Jennifer K. Lee's Social Security number are 964.

jjj. Aaron Brooks is an individual residing in Tarrant County, Texas. The last three digits of Aaron Brooks' Texas driver's license number are 470. The last three digits of Aaron Brooks' Social Security number are 732.

kkk. Urban Legacy Properties, LLC d/b/a Urban Legacy Properties Series A LLC is a Texas limited liability company with its principal place of business in Dallas County, Texas.

lll. Steve Luchak is an individual residing in Tarrant County, Texas. The last three digits of Steve Luchak's Texas driver's license number are 366. The last three digits of Steve Luchak's Social Security number are 697.

mmm. Mary Lyles is an individual residing in Tarrant County, Texas. The last three digits of Mary Lyles' Texas driver's license number are 580. The last three digits of Mary Lyles' Social Security number are 219.

nnn. Tye Martin is an individual residing in Tarrant County, Texas. The last three digits of Tye Martin's Texas driver's license number are 303. The last three digits of Tye Martin's Social Security number are 761.

ooo. Debbie McWaters is an individual residing in Tarrant County, Texas. The last three digits of Debbie McWaters' Texas driver's

license number are 499. The last three digits of Debbie McWaters' Social Security number are 795.

ppp. Barbara Meece is an individual residing in Tarrant County, Texas. The last three digits of Barbara Meece's Texas driver's license number are 463. The last three digits of Barbara Meece's Social Security number are 185.

qqq. Lori Metz is an individual residing in Tarrant County, Texas. The last three digits of Lori Metz's Texas driver's license number are 443. The last three digits of Lori Metz's Social Security number are 120.

rrr. Penelope Bradbury Morehead is an individual residing in Tarrant County, Texas. The last three digits of Penelope Bradbury Morehead's Texas driver's license number are 882. The last three digits of Penelope Bradbury Morehead's Social Security number are 779.

sss. Richard Morris is an individual residing in Tarrant County, Texas. The last three digits of Richard Morris' Texas driver's license number are 536. The last three digits of Richard Morris' Social Security number are 160.

ttt. Patriotic Land Partners, LLC is a Texas limited liability company with its principal place of business in Tarrant County, Texas.

uuu. Lacey D. O'Brien is an individual residing in Sonoma County, Texas. The last three digits of Lacey D. O'Brien's Texas driver's license

number are 510. The last three digits of Lacey D. O'Brien's Social Security number are 074.

vvv. Rilee B. O'Brien is an individual residing in Sonoma County, Texas. The last three digits of Rilee B. O'Brien's Texas driver's license number are 026. The last three digits of Rilee B. O'Brien's Social Security number are 952.

www. Heath Olinger is an individual residing in Dallas County, Texas. The last three digits of Heath Olinger's Texas driver's license number are 714. The last three digits of Heath Olinger's Social Security number are 597.

xxx. Trina Parkin is an individual residing in Tarrant County, Texas. The last three digits of Trina Parkin's Texas driver's license number are 716. The last three digits of Trina Parkin's Social Security number are 456.

yyy. Robert Patterson is an individual residing in Tarrant County, Texas. The last three digits of Robert Patterson's Texas driver's license number are 750. The last three digits of Robert Patterson's Social Security number are 041.

zzz. James Olen Payton is an individual residing in Tarrant County, Texas. The last three digits of James Olen Payton's Texas driver's license number are 479. The last three digits of James Olen Payton's Social Security number are 142.

- aaaa. Eve Pearson is an individual residing in Tarrant County, Texas. The last three digits of Eve Pearson's Texas driver's license number are 780. The last three digits of Eve Pearson's Social Security number are 052.
- bbbb. Varey Investment Properties LLC is a Texas limited liability company with its principal place of business in Johnson County, Texas.
- cccc. Mary Kathleen Rachele is an individual residing in Tarrant County, Texas. The last three digits of Mary Kathleen Rachele's Texas driver's license number are 766. The last three digits of Mary Kathleen Rachele's Social Security number are 278.
- dddd. Jeffrey Reed is an individual residing in Dallas County, Texas. The last three digits of Jeffrey Reed's Texas driver's license number are 146. The last three digits of Jeffrey Reed's Social Security number are 204.
- eeee. Theresa Riley, as Trustee of the TK Riley Family Trust, is an individual residing in Tarrant County, Texas. The last three digits of Theresa Riley's Texas driver's license number are 030. The last three digits of Theresa Riley's Social Security number are 809.
- ffff. Alli Rodriguez is an individual residing in Tarrant County, Texas. The last three digits of Alli Rodriguez's Texas driver's license number are 778. The last three digits of Alli Rodriguez's Social Security number are 062.

- gggg. Jorge Rodriguez is an individual residing in Tarrant County, Texas. The last three digits of Jorge Rodriguez's Texas driver's license number are 182. The last three digits of Jorge Rodriguez's Social Security number are 856.
- hhhh. Yovanni Chavez Rodriguez is an individual residing in Tarrant County, Texas. The last three digits of Yovanni Chavez Rodriguez's Texas driver's license number are 145. The last three digits of Yovanni Chavez Rodriguez's Social Security number are 236.
- iiii. Jarrod Roecker, as Trustee of the Q.T.R. Trust, is an individual residing in Iron County, Texas. The last three digits of Jarrod Roecker's Texas driver's license number are 233. The last three digits of Jarrod Roecker's Social Security number are 235.
- jjjj. Shannon Ross is an individual residing in Tarrant County, Texas. The last three digits of Shannon Ross' Texas driver's license number are 939. The last three digits of Shannon Ross' Social Security number are 446.
- kkkk. Lucas Ruiz is an individual residing in Tarrant County, Texas. The last three digits of Lucas Ruiz's Texas driver's license number are 530. The last three digits of Lucas Ruiz's Social Security number are 893.
- llll. Catherine Saxon is an individual residing in Tarrant County, Texas. The last three digits of Catherine Saxon's Texas driver's license

number are 887. The last three digits of Catherine Saxon's Social Security number are 225.

mmmm. Cameron Schoepp is an individual residing in Tarrant County, Texas. The last three digits of Cameron Schoepp's Texas driver's license number are 420. The last three digits of Cameron Schoepp's Social Security number are 178.

nnnn. Carla Schoepp is an individual residing in Cook County, Texas. The last three digits of Carla Schoepp's Texas driver's license number are 936. The last three digits of Carla Schoepp's Social Security number are 715.

oooo. Audreyneette Shabazz is an individual residing in Tarrant County, Texas. The last three digits of Audreyneette Shabazz's Texas driver's license number are 111. The last three digits of Audreyneette Shabazz's Social Security number are 954.

pppp. Smith-Wallace Properties, LLC is a Texas limited liability company with its principal place of business in Tarrant County, Texas.

qqqq. Modern Builders, LLC is a New Mexico limited liability company with its principal place of business in Dallas County, Texas.

rrrr. David Stelter is an individual residing in Tarrant County, Texas. The last three digits of David Stelter's Texas driver's license number are 772. The last three digits of David Stelter's Social Security number are 880.

- ssss. Grant Stephens is an individual residing in Tarrant County, Texas. The last three digits of Grant Stephens' Texas driver's license number are 615. The last three digits of Grant Stephens' Social Security number are 476.
- tttt. Timothy S. Stephens is an individual residing in Tarrant County, Texas. The last three digits of Timothy S. Stephens' Texas driver's license number are 451. The last three digits of Timothy S. Stephens' Social Security number are 089.
- uuuu. Home Suite Stays LLC is a Texas limited liability company with its principal place of business in Harris County, Texas.
- vvvv. Callie Stevens is an individual residing in Midland County, Texas. The last three digits of Callie Stevens' Texas driver's license number are 213. The last three digits of Callie Stevens' Social Security number are 106.
- wwww. Sean Sullivan is an individual residing in Tarrant County, Texas. The last three digits of Sean Sullivan's Texas driver's license number are 630. The last three digits of Sean Sullivan's Social Security number are 605.
- xxxx. Michael Sullivan is an individual residing in Tarrant County, Texas. The last three digits of Michael Sullivan's Texas driver's license number are 134. The last three digits of Michael Sullivan's Social Security number are 419.

- yyyy. Lesa Susi, as Trustee of the Susi Living Trust, is an individual residing in Tarrant County, Texas. The last three digits of Lesa Susi's Texas driver's license number are 848. The last three digits of Lesa Susi's Social Security number are 265.
- zzzz. Danny G. Taylor is an individual residing in Tarrant County, Texas. The last three digits of Danny G. Taylor's Texas driver's license number are 785. The last three digits of Danny G. Taylor's Social Security number are 140.
- aaaaa. John Thurston, Jr. is an individual residing in Parker County, Texas. The last three digits of John Thurston, Jr.'s Texas driver's license number are 953. The last three digits of John Thurston, Jr.'s Social Security number are 789.
- bbbbbb. Jaime Cobb Tinsley is an individual residing in Tarrant County, Texas. The last three digits of Jaime Cobb Tinsley's Texas driver's license number are 417. The last three digits of Jaime Cobb Tinsley's Social Security number are 420.
- cccccc. Tom Tinsley is an individual residing in Tarrant County, Texas. The last three digits of Tom Tinsley's Texas driver's license number are 476. The last three digits of Tom Tinsley's Social Security number are 400.
- dddddd. Cheryl Turner, as Trustee of the Cheryl Turner Living Trust, is an individual residing in Tarrant County, Texas. The last three digits

of Cheryl Turner's Texas driver's license number are 136. The last three digits of Cheryl Turner's Social Security number are 647.

eeee. Revive Estates, LLC is a Texas limited liability company with its principal place of business in Tarrant County, Texas.

ffff. James & James Properties, LLC d/b/a 4521 BBH, LLC is a Texas limited liability company with its principal place of business in Collin County, Texas.

gggg. Juda York is an individual residing in Tarrant County, Texas. The last three digits of Juda York's Texas driver's license number are 499. The last three digits of Juda York's Social Security number are 329.

hhhh. Christine Zeiler is an individual residing in Tarrant County, Texas. The last three digits of Christine Zeiler's Texas driver's license number are 937. The last three digits of Christine Zeiler's Social Security number are 746.

iiii. Andrew Zeiler is an individual residing in Tarrant County, Texas. The last three digits of Andrew Zeiler's Texas driver's license number are 295. The last three digits of Andrew Zeiler's Social Security number are 647.

8. Defendant City of Fort Worth ("City") is a home-rule municipality headquartered in Tarrant County, Texas. It may be served upon the Mayor, clerk, secretary, or treasurer at City Hall, 200 Texas Street, Fort Worth Texas 76102. Tex. Civ. Prac. & Rem. Code § 17.024(b).

9. The Attorney General of Texas must be served with the petition and is entitled to be heard because this is a constitutional challenge to an ordinance. Tex. Civ. Prac. & Rem. Code § 37.006(b). Service of process upon the Attorney General may be made at 300 W. 15th Street, Austin, Texas 78701.

IV. JURISDICTION AND VENUE

10. The Court has subject matter jurisdiction because Homeowners seek to vindicate their rights under the Texas Constitution via the Uniform Declaratory Judgments Act. Tex. Civ. Prac. & Rem. Code § 37.003.

11. Venue is proper in Tarrant County pursuant to Sections 15.002(a)(3), 15.005, 15.011, and 65.023 of the Texas Civil Practice and Remedies Code. The City resides in Tarrant County and all the property made the basis of this lawsuit is in Tarrant County.

12. Plaintiffs raise constitutional challenges and do not seek damages, so sovereign immunity is inapplicable. *Patel v. Texas Dep't of Licensing & Regulation*, 469 S.W.3d 69, 75 (Tex. 2015).

V. RULE 47 ALLEGATION

13. Plaintiffs seek only nonmonetary relief.

VI. FACTS

14. This case involves a challenge to the City's ongoing prohibition of residential short-term rentals – *i.e.*, leases of less than thirty days to ordinary residential tenants – in residentially-zoned areas.

A. Leasing for short terms is a historically accepted property right.

15. Leasing has, historically, never been limited by duration by the government. Leases for short terms have occurred and been unremarked upon for centuries.

16. Texans have for over a century rented their houses to others on a short-term basis. There is evidence of short-term renting in Fort Worth neighborhoods as far back as 1912. *Coalson v. Holmes*, 111 Tex. 502, 506, 240 S.W. 896, 897 (1922) (discussing weekly rental of three-bedroom houses in Fort Worth in 1912).

17. Texas cities historically treated short-term rentals just like other residential rentals. In fact, they did not distinguish the two at all for ordinary residential home rentals.

18. The Texas Supreme Court has twice in four years recognized that short-term renting has traditionally been viewed as a residential – as opposed to a commercial – use. *See Tarr v. Timberwood Park Owners Ass'n, Inc.*, 556 S.W.3d 274 (Tex. 2018); *JBrice Holdings, L.L.C. v. Wilcrest Walk Townhomes Ass'n, Inc.*, 644 S.W.3d 179 (2022).

19. Because tenants for short terms are just ordinary people occupying homes in the ordinary residential manner, there's no evidence – much less any logical basis for asserting – that short-term rentals cause more nuisances than other residential tenancies or owner-occupancies. *See, e.g., Zaatari v. City of Austin*, 615 S.W.3d 172, 189 (Tex. App. 2019) (reviewing evidence City provided in support of its short-term rental ordinance). And, despite multiple attempts to find data that would justify outlawing short-term rentals, studies have not shown that short-term rentals have a negative effect on housing affordability. *See, e.g., id.*

20. Texas common law enshrines leasing as a basic, sacrosanct property right. The “right to acquire and own property, and to deal with it and use it as the owner chooses, so long as the use harms nobody, is a natural right.” *Spann v. City of Dallas*, 111 Tex. 350, 356 (Tex. 1921); *see also Barber v. Texas Dep't of Transp.*, 49 S.W.3d 12, 18 (Tex. App.—Austin 2001), *rev'd on other grounds*, 111 S.W.3d 86 (Tex. 2003); *see also French v. Chevron U.S.A. Inc.*, 896 S.W.2d 795, 797 (Tex. 1995) (right to lease out property part of the bundle of sticks usually conveyed with title.); *Calcasieu Lumber Co. v. Harris*, 13 S.W. 453, 454 (1890) (“the right to lease [property] to others, and therefore derive profit, is an incident of [fee] ownership.”); *Markley v. Martin*, 204 S.W. 123, 125 (Tex. Civ. App.—San Antonio 1918, writ *ref'd*) (“An owner has the “absolute right to lease her property and collect the rents.”)

21. Texas statutory law falls into line. Within the broad common-law leasing right, the Legislature has enacted residential leasing regulation in Chapter 92 of the Property Code. Chapter 92 applies “to the relationship between landlords and tenants of residential real property.” *See* Tex. Prop. Code § 92.002.

22. Chapter 92 does not restrict or bar STR’s. *See* Tex. Prop. Code § 92.001 (general definitions refer to “permanent residence”). Strikingly, it does not even subject them to the maximum occupancy limitations of § 92.010.

23. That is not an oversight; it is deliberate. For example, § 92.152, which regulates security devices, refers to both “transient housing” and “temporary residential tenancy.” Section 92.010, the statewide maximum lease occupancy statute, allows persons “seeking temporary sanctuary” to remain at a leasehold premises for 30 days

even if the maximum occupancy cap is exceeded. The Legislature plainly understood the concept of temporary leasing and chose not to restrict it in any meaningful way.

24. Even more recently, the Legislature added language to the state hotel occupancy tax which expressly makes STR's a source of state revenue: the short-term rental of a homes was included in the statutory definition of "hotel." *See* Tex. Tax Code § 156.001(b); § 156.101 (applicability to rentals of less than 30 days). Thus, while the Legislature understood the concept of STR's and even went out of its way to get revenue from them, it also left them almost completely unregulated, indicating a deliberate desire to allow them.

25. Separately, the state allows cities to impose their own local hotel tax. *See* Tex. Tax Code Ch. 351. The City of Fort Worth does, in fact, collect such taxes. Thus, prior 2018 and Fort Worth's abrupt recharacterization of short-term leasing as commercial in character, Fort Worth homeowners knew that STR's were allowed because the City and the State of Texas wanted to tax them. And even after 2018, the City still collects the occupancy tax in areas where it allows short-term rentals.

B. The City bans a historically-recognized residential use by falsely and arbitrarily labeling it as commercial.

26. Before 2018, the City's ordinances did not bar short-term leases, nor give anyone fair notice that such leases were forbidden.

27. In 2016, the City Manager of Fort Worth sent a report to the City Council declaring, without any citation to any supporting authority or evidence, that short-term

home rentals “are considered a commercial enterprise and are only allowed in high density residential, multifamily residential and commercial zoning districts.”¹

28. In fact, six months prior to the City Manager’s report, the Texas Supreme Court held the opposite, that a short duration of lease does not somehow magically turn a home into a commercial locale such as a hotel or bed-and-breakfast. *See Tarr*, 556 S.W.3d 274 (Tex. 2018).

29. Nevertheless, that same year, 2018, the City of Fort Worth decided to curtail short-term rentals in its ordinances by designating them (falsely) as “commercial” in nature. By that time, there were already hundreds if not thousands of short-term rentals in the City. Ordinance No. 23110-02-2018 amended the zoning code to define short-term renting as commercial, banning them in residential zoning districts without any rational basis, data, studies, or evidence.

30. Despite the 2018 ban, short-term rentals continued to proliferate in the City. Some owners in residential areas applied for variances or conditional use permits to allow them to rent short-term. Others continued to rent their homes out short-term, despite the ban.

31. In February 2023, Fort Worth, in an effort to monitor and surveil residential districts to control people’s comings and goings from private homes, amended its ordinances to beef up enforcement. Under Ordinance No. 26005-02-2023, it became illegal for a property owner to rent his house out short-term without first registering with the city and receiving a permit. Operating without a permit is a misdemeanor, punishable by up to \$2,000 per day.

¹ [Informal Report No. 9955](#).

32. A permit still cannot be granted, however, if it is contrary to the City's Zoning Ordinance, including that ordinance's prohibition on short-term rentals in residential areas.

33. Read together, therefore, Ordinance No. 23110-02-2018 and Ordinance No. 26005-02-2023 (hereafter referred to collectively as "the Ordinance") criminalize the status of tenant short stays. In other words, the government seized control of the term (duration clause) of private residential leases based on the fiction that homes leased for short terms are no longer homes at all, but business locales, and subjected the homes to an Orwellian control state.

C. The plaintiff Homeowners invested and leased out their homes in reliance on historical property rights.

34. The plaintiff Homeowners all own homes in the City of Fort Worth and are subject to the City's ordinances.

35. The Homeowners purchased or otherwise invested money in Fort Worth homes to rent out their homes for less than 30 days.

a. Some of the Homeowners purchased prior to the City's 2018 ordinance which falsely labeled short-term rentals as commercial. They purchased and invested in reliance on the City ordinances as they existed prior to 2018 and on fundamental, settled, vested property rights under the Texas Constitution.

36. The Homeowners furnished and decorated their homes to make them suitable and attractive for tenants seeking short-term rentals.

37. The Homeowners advertise on a leasing website such as VRBO, HomeAway, or AirBnB.

38. The rentals at issue are ordinary home rentals. None of the Homeowners actually run businesses in or from their Fort Worth homes which are held out for rent. Nor do they allow tenants to do so, or rent out their homes for commercial uses by anyone occupying the homes. None of the Homeowners rent out individual rooms, or have employees staffing their rental properties, or maintain a front desk or concierge there, or otherwise operate any kind of ongoing business concern upon their rental properties.

39. Some of the Homeowners live in their homes themselves and rent them out at other times. They have several motivations in doing so:

- a. Economic: earning rent to defray their housing investments and property taxes;
- b. Health and safety: preventing their homes from lying vacant when the owners travel; and
- c. Personal: desiring to share their home for various reasons, including meeting and interacting with people from all over the world, accommodating people with short-term housing needs, and allowing new people to participate in neighborhood life.

40. Others of the owners do not occupy their homes, but instead rent them out at all times, for income and investment. Short-term renting is, on a per-diem basis, more lucrative than longer-term rentals. Seeking to maximize rental income and setting the term of a lease is their historical right as landowners – a right which the City seeks to take away from the Homeowners, depriving them of the ability to make crucial decisions about how best to allocate the possessory interest in their properties.

VII. CLAIMS FOR RELIEF

A. The City has deprived the Homeowners of property rights, a violation of article 1, section 19 of the Texas Constitution.

41. Homeowners re-allege and incorporate the preceding paragraphs as if fully restated here.

42. Under Article 1, Section 19 of the Texas Constitution, restrictions on private property rights must be rationally related to a legitimate government interest and not unduly burdensome given the government interest at stake.

43. This test requires that courts consider evidence. A court may not simply accept the government's claim that a property use is harmful or incompatible with the area.

44. Nor may a traditional use of private property be prohibited solely based on the subjective preferences of a segment of the local population.

45. In Texas, the right to own property includes the right to lease that property to others.

46. And Texas courts have been clear that this right to lease includes the right to lease short-term.

47. As such, the City may only restrict this right to the extent that the record shows that the restriction is rationally related to a legitimate government interest, and not unduly burdensome on property rights, given the extent of the government interest at stake.

48. Here, the Ordinance restricts Property Owner's rights by eliminating the well-settled right to lease their homes short-term. But this restriction is not rationally related to a legitimate government interest, and even if it were, the wholesale elimination

of Property Owner's rights is grossly disproportional to any impact that the Ordinance will have on a legitimate government interest.

49. Short-term rentals are a residential use. They do not produce more harm than other residential uses.

50. Any minimal distinction between short-term rentals and other residential uses—to the extent it exists—simply does not justify the wholesale elimination of a well-established property right.

51. Traditional nuisance behaviors such as noise, parking, and trash are not more prevalent with short-term rentals, and even if they were, these concerns can be addressed by enforcement of traditional nuisance abatement ordinances that are already on the books.

52. The Ordinance therefore violates Article 1, Section 19 of the Texas Constitution.

B. The City has arbitrarily discriminated against the Homeowners in violation of article 1, section 3 of the Texas Constitution.

53. Homeowners re-allege and incorporate the preceding paragraphs as if fully restated here.

54. Article 1, Section 3 of the Texas Constitution guarantees Homeowners the Equal Protection of law.

55. Under Article 1, Section 3, disparate treatment between similar property uses must bear a real and substantial relationship to a legitimate government interest. Mere trivial differences cannot justify disparate treatment.

56. Like the analysis of ordinances under Article 1, Section 19, the Equal Protection analysis under Article 1, Section 3 also requires the court to examine the record.

57. Here, the Ordinance draws a strict distinction between rentals of 29 and 30 days. Rentals of 29 days (short term rentals) are banned in residential areas, while rentals of 30 days (long-term rentals) are permitted.

58. But this distinction does not substantially advance a legitimate government interest.

59. As noted above, both short and long-term rentals are residential uses. And the evidence shows that there is no significant difference between the two that would fall within the scope of the police power. For example, short term rentals do not cause substantially more nuisances than long-term rentals.

60. The Ordinance therefore violates Article 1, Section 3.

C. The City has acted ultra-vires, in excess of the authority granted under the zoning enabling act.

61. Homeowners re-allege and incorporate the preceding paragraphs as if fully restated here.

62. In Texas, cities are creations of the state. To the extent cities have the authority to engage in zoning, that authority is derived from and subject to the Zoning Enabling Act, Tex. Loc. Gov't Code § 211, et seq.

63. Under the Zoning Enabling Act, Cities may only regulate certain things through zoning.

64. For example, Cities may regulate the height, number of stories, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of

yards, courts, and other open spaces; population density; the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and the pumping, extraction, and use of groundwater by persons other than retail public utilities.

65. This power is not unlimited. The Zoning Enabling Act also restricts the purpose for which these regulations may be adopted. The purpose of a zoning category may only be to lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

66. By using its zoning code to prevent short-term rentals, the City has exceeded its authority under the Zoning Enabling Act.

67. First, prohibiting short-term renting is not a “use” restriction as that term is used in the Zoning Enabling Act. As the Third Court of Appeals recently noted, banning short-term “does not advance a zoning interest because both short-term rentals and owner-occupied homes are residential in nature.” *Zaatari v. City of Austin*, 615 S.W.3d 172, 190 (Tex. App. 2019) (citing *Tarr v. Timberwood Park Owners Ass'n, Inc.*, 556 S.W.3d 274, 291 (Tex. 2018)). Courts from other states have come to the same conclusion. See, e.g., *United Prop. Owners Ass'n v. Belmar*, 185 N.J. Super. 163, 169, 447 A.2d 933, 936 (Super. Ct. App. Div. 1982) (“Zoning laws are designed to control types of uses in particular zones and are not ordinarily concerned with periods of occupancy or the property interest of the occupants.”)

68. Second, even if the City's ban on short term rentals was a use restriction, it is not rationally related to the purposes mandated by the Zoning Enabling Act. As noted *supra*, short-term rentals do not cause substantially more harms than other residential uses.

69. The City's attempt to prohibit short-term renting through its zoning code is therefore in excess of its authority and unconstitutional.

D. The City has retroactively deprived the Homeowners of settled property rights in violation of article 1, section 16 of the Texas Constitution

70. Homeowners re-allege and incorporate the preceding paragraphs as if fully restated here.

71. The Texas Constitution prohibits the creation of retroactive laws. See Tex. Const., art. I, § 16.

72. A land-use regulation that disrupts the settled property rights of pre-existing owners is unconstitutional unless it is sufficiently tailored to a compelling public purpose.

73. The Ordinance fails this test.

74. The right to lease short-term has long been a settled right in Texas. As noted above, there is evidence of short-term renting in Fort Worth neighborhoods more than a century ago.

75. The Ordinance retroactively eliminates this settled property right.

76. But as noted above, the Ordinance does not serve a rational basis, much less a compelling government purpose.

77. Moreover, even if the Ordinance did serve a legitimate interest, it is not sufficiently tailored. The types of nuisance and other concerns cited by the City are the types of problems that can be and already are prohibited by state law or by City ordinances banning such practices.

78. The Ordinance is therefore unconstitutionally retroactive.

VIII. APPLICATION FOR PERMANENT INJUNCTION

79. An injunction must issue “where a violation of a constitutional right is clearly established.” *Iranian Muslim Org. v. City of San Antonio*, 615 S.W.2d 202, 208 (Tex. 1981). This is because the “denial of a constitutionally guaranteed right . . . as a matter of law, inflicts an irreparable injury.” *S.W. Newspapers Corp. v. Curtis*, 584 S.W.2d 362, 368 (Tex. Civ. App.—Amarillo 1979); see also, *Tex. Ass’n of Bus. v. City of Austin*, 565 S.W.3d 425, 441 (Tex. App.—Austin, 2018)

80. Homeowners’ Petition demonstrates that enforcement of the Ordinance violates the Texas Constitution.

81. Homeowners are therefore facing imminent and irreparable harm from the City’s continued enforcement of the Ordinance.

82. Homeowners have no other remedy to adequately compensate for the continued deprivation of their constitutional rights.

83. Homeowners respectfully ask the Court, following a decision on the merits, to issue a permanent injunction against the City, enjoining the City’s enforcement of the Ordinance against the Homeowners.

IX. ATTORNEY'S FEES

84. Under the Uniform Declaratory Judgment Act, Homeowners are entitled to recover “costs and reasonable and necessary attorney’s fees as are equitable and just.” Tex. Civ. Prac. & Rem. Code Ann. § 37.009. Homeowners seek award of their reasonable attorney’s fees for the preparation of this suit, prosecution of this suit, and all appeals.

X. CONDITIONS PRECEDENT

85. All conditions precedent to Plaintiffs’ claims for relief have been performed or have occurred.

XI. PRAYER AND CONCLUSION

THEREFORE, Homeowners request the Court issue the following relief:

- i. A declaration that the Ordinance is a violation of Plaintiffs’ rights under the due course of law clause of the Texas Constitution;
- ii. A declaration that the Ordinance is an unconstitutional violation of Plaintiffs’ right to equal protection under the Texas Constitution;
- iii. A declaration that the Ordinance exceeds the City’s zoning power and is therefore unenforceable;
- iv. A declaration that the Ordinance is unconstitutionally retroactive under the Texas Constitution;
- v. A permanent injunction prohibiting the City from enforcing the Ordinance to prohibit short-term rentals in residential areas;
- vi. An award to Plaintiffs of their attorneys’ fees and reasonable costs; and
- vii. All other and further relief to which Plaintiffs deem themselves entitled in law or at equity.

Respectfully submitted,

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