

CAUSE NO. 22-CV-1659

CRYSTAL CRUISE	§	IN THE DISTRICT COURT OF
INVESTMENTS, LLC D/B/A	§	
NAUTICAL NAVY and	§	
HARRISON YAT, Individually	§	
and as Managing Member of	§	
CRYSTAL CRUISE	§	
INVESTMENTS, LLC,	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	GALVESTON COUNTY, TEXAS
	§	
CITY OF DICKINSON, TEXAS	§	
And SEAN SKIPWORTH	§	
MAYOR OF THE CITY OF	§	
DICKINSON.	§	
<i>Defendants.</i>	§	405TH JUDICIAL DISTRICT

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On November 1, 2023, the Court called this case to trial. The parties appeared in person and through their attorneys and announced ready for trial.

The parties waived their right to a jury, and all questions of fact and law and all matters in controversy were submitted to this Court for determination.

Following the close of evidence, the Court makes the following Findings of Facts and Conclusions of Law. The Court, as fact finder, makes all Findings of Fact by the appropriate legal standard, after considering all the evidence and assessing the credibility of the witnesses.

FINDINGS OF FACT

1. On April 12, 2016, the City of Dickinson adopted Ordinance No. 840-2016 (the Ordinance) which, inter alia, amended the City's Code of Ordinances to require a specific use permit (SUP) for the operation of a Vacation Rental in its Rural Residential (RR) and Conventional Residential (CR) zoning districts.

2. The Ordinance defines a Vacation Rental as “a residential facility that is offered for rental for a period not to exceed thirty (30) days” The Ordinance requires a SUP to operate a Vacation Rental in the CR Zoning District.

3. On April 21, 2022, Plaintiff Crystal Cruise Investments, LLC d/b/a Nautical Navy (Crystal Cruise) purchased a single-family residence located at 5122 Casa Grande in the City.

4. Plaintiff Harrison Yat (Yat) and counter-defendant Russell Chad Griffin (Griffin) are managers of Crystal Cruise and have control over the properties owned by Crystal Cruise, including 5122 Casa Grande.

5. The houses along Casa Grande were constructed and are being used as single-family residences. The house at 5122 Casa Grande is located within the City’s CR Zoning District.

6. Crystal Cruise, Yat, and Griffin began operating 5122 Casa Grande as a Vacation Rental without seeking or obtaining a SUP from the City.

7. On August 16, 2022, the City notified Crystal Cruise, Yat, and Griffin about the SUP requirement to operate a Vacation Rental at 5122 Casa Grande. On November 7, 2022, Crystal Cruise, Yat, and Griffin submitted a completed SUP application. The City denied the application.

8. Acquiring a SUP requires posting public notices on the property, mailing notices to surrounding property owners, posting notices in the newspaper, a public hearing at Planning and Zoning Commission, a public hearing at City Council, and at least two readings at City Council.

9. The City’s regulations list several factors that may be relevant to the decision to grant a permit, but these factors are not dispositive. The ordinance allows the City to consider other factors, but does not specify the other factors. City Code Art. V, Sec. 18-59.

10. The City has granted at least one other SUP, but denied Plaintiffs’ request for a SUP. The City denied Plaintiffs’ SUP application because having an STR on Casa Grande impairs the quiet seclusion of the residential neighborhood. The record does not contain evidence that any noise citations were issued related to Casa Grande or any other

Vacation Rental. The record does not contain evidence that any speeding tickets were issued related to Casa Grande.

CONCLUSIONS OF LAW

1. Texas recognizes a right to acquire and own real property. *Zaatari v. City of Austin*, 615 S.W.3d 172, 200 (Tex. App.—Austin, 2019) (quoting *Spann v. City of Dallas*, 235 S.W. 513, 515 (Tex. 1921)). Texas also recognizes the right to lease real property on a long-term and short-term basis. *Id.* at 190–91; *City of Grapevine v. Muns*, 651 S.W.3d 317, 346–47 (Tex. App.—Fort Worth, 2022); *Vill. of Tiki Island v. Ronquille*, 463 S.W.3d 562, 578 (Tex. App.—Houston, 2015). Texas courts have held that short-term leasing is a residential use of property. *Tarr v. Timberwood Park Owners Ass’n*, 556 S.W.3d 274, 291 (Tex. 2018).

2. Municipal ordinances restricting property rights must be rationally related to a legitimate government interest and not be unduly burdensome. *Patel v. Tex. Dep’t of Licensing & Regulation*, 469 S.W.3d 69, 87 (Tex. 2015).

3. The Ordinance restricts Plaintiffs’ right to lease Casa Grande for less than 30 days. The City produced some evidence that there were complaints related to Casa Grande, but the evidence does not show that these complaints were specific to a short-term lease and that a long-term lease of the Casa Grande property would not cause the same complaints. There is no evidence that citations were issued for activities at the Casa Grande property while it was rented as a STR.

4. The City’s basis for denying Plaintiffs a SUP is the promotion of quiet seclusion in this residential neighborhood. The City has issued a SUP to another property owner, but the City denied Plaintiffs an SUP. The City has not provided a rational basis justifying the disparate treatment.

5. Chapter 211 of the Texas Local Government Code authorizes Texas municipalities to adopt zoning regulations, including regulations governing the location and use of buildings.

6. The City has not provided a rational basis that justifies the disparate treatment between a short-term and long-term rental.

7. Short-term rentals qualify as residential use of property as identified in Chapter 211.003 of the Texas Local Government Code.

8. The Ordinance is not rationally related to a legitimate government interest.
9. The Ordinance violates Plaintiffs' right to equal protection.
10. The Ordinance does not advance zoning interests. The City's attempt to regulate lease duration through the zoning power is *ultra vires* and unconstitutional.

In the event any finding of fact is determined to constitute conclusion of law, it shall be treated as a conclusion of law. In the event any conclusion of law is determined to constitute a finding of fact, it shall be treated as a finding of fact.

Signed this 4th day of January, 2024.



JUDGE PRESIDING

