

COURT OF APPEALS FOR THE SECOND APPELLATE DISTRICT OF TEXAS  
AT FORT WORTH

Rancho De Los Arboles LLC and Ellen Eakin v. Town of Cross  
Roads, TX

Rancho · No. No. 02-25-00208-CV · Decided January 30, 2026

SUMMARY

The Texas Court of Appeals considered an appeal from the dismissal with prejudice of claims challenging the Town of Cross Roads’s zoning restrictions on short-term rentals in single-family residential districts. The court held that the town failed to establish that the appellants had not exhausted administrative remedies and that some claims were inadequately pleaded but potentially curable. It affirmed in part, reversed in part, and remanded to allow the appellants an opportunity to replead.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals for the Second Appellate District of Texas at Fort Worth                                                                                                                                                                                                                                                                                                                                                                                                                             |
| WRITING FOR THE COURT | Bonnie Sudderth, Chief Justice; Womack, Justice; Wallach, Justice                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| JURISDICTION          | Court of Appeals for the Second Appellate District of Texas at Fort Worth                                                                                                                                                                                                                                                                                                                                                                                                                             |
| DECIDED               | January 30, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| DOCKET                | No. 02-25-00208-CV                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Appeal from an order granting the Town's plea to the jurisdiction and dismissing with prejudice all of the appellants' claims for declaratory and injunctive relief concerning enforcement of a short-term-rental zoning ordinance.                                                                                                                                                                                                                                                                   |
| STANDARD OF REVIEW    | Subject-matter jurisdiction is reviewed de novo. Pleading challenges are evaluated by determining whether the plaintiff alleged facts affirmatively demonstrating jurisdiction, liberally construing the pleadings in the plaintiff's favor and taking factual allegations as true. When the existence of jurisdictional facts is challenged, the review generally mirrors traditional summary judgment review. If defects are not incurable, the plaintiff must be afforded an opportunity to amend. |

|                           |                                                                                                        |
|---------------------------|--------------------------------------------------------------------------------------------------------|
| <b>PRECEDENTIAL VALUE</b> | Published memorandum opinion; precedential status is identified as published in the supplied metadata. |
| <b>PARTIES</b>            | Rancho De Los Arboles LLC, Ellen Eakin v. Town of Cross Roads, TX                                      |

## TOPICS

municipal law

zoning

subject matter jurisdiction

administrative law

procedural due process

## PRACTICE AREAS

municipal law

constitutional law

civil procedure

real estate

administrative law

remedies

## QUESTIONS PRESENTED

1. Whether Rancho failed to exhaust administrative remedies by not appealing an enforcement action to the Town's board of adjustment.
2. Whether governmental immunity barred Rancho's declaratory and injunctive claims.
3. Whether Rancho sufficiently pleaded a due-process claim based on deprivation of a vested property right and, if not, whether it should have been allowed to replead.
4. Whether Rancho pleaded a viable ultra vires claim against the Town itself.
5. Whether Rancho sufficiently pleaded an unconstitutional-retroactivity claim and whether it should have been allowed to replead.
6. Whether Rancho waived its disparate-treatment claim through inadequate briefing.
7. Whether the Uniform Declaratory Judgments Act waived immunity for a claim seeking interpretation of the zoning ordinance rather than a declaration of invalidity.
8. Whether Rancho pleaded a sufficient basis for equitable relief enjoining criminal enforcement of the zoning ordinance.

## HOLDINGS

1. The Town did not establish that Rancho failed to exhaust administrative remedies because the 2022 enforcement letter did not identify or constitute an appealable enforcement decision by a municipal official.
2. Rancho did not sufficiently plead a vested property right to operate the property as a short-term rental, but the defect was not shown to be incurable; therefore, dismissal with prejudice was improper and Rancho must be allowed to replead.
3. Rancho's substantive ultra vires claim against the Town was incurably deficient because an ultra vires claim must be brought against the responsible government official in the official capacity, not against the governmental entity itself.

4. Rancho failed to meet its pleading burden under the three-factor retroactivity framework, but the defect was not shown to be incurable; dismissal with prejudice was therefore improper and Rancho must be allowed to replead.
5. Rancho waived its disparate-treatment appellate complaint by failing to provide record citations, substantive analysis, or an allegation of trial-court error.
6. The trial court properly dismissed Rancho's claim seeking a declaration that short-term rentals were permitted under the ordinance because the claim sought interpretation rather than invalidation of the ordinance, and the Uniform Declaratory Judgments Act did not waive governmental immunity for that claim.
7. The trial court properly dismissed Rancho's request to enjoin enforcement of the ordinance because Rancho did not plead irreparable injury to vested property rights and could not estop the Town from exercising its governmental zoning function based merely on prior nonenforcement.

#### KEY QUOTATIONS

*“If the pleadings do not contain sufficient facts to affirmatively demonstrate the trial court’s jurisdiction but also do not affirmatively demonstrate incurable defects in jurisdiction, the issue is one of pleading sufficiency and the plaintiff should be afforded the opportunity to amend.” (7-8)*

*“Because Cross Roads did not meet its burden to show that such failure deprived the trial court of subject matter jurisdiction, the trial court could not have properly granted the plea to the jurisdiction on that basis.” (12-13)*

*“The mere fact that a city official or employee fails in certain particulars to enforce a zoning regulation for a time, as Rancho argues was the source of the settled right here, cannot render the ordinance invalid or provide the basis for jurisdiction to estop the municipality from subsequently enforcing it against the homeowner.” (29)*

#### FACTUAL BACKGROUND

Rancho acquired property in Cross Roads in 2010 and later transferred ownership to Rancho De Los Arboles LLC. The property was operated as a short-term rental, with stays shorter than 30 days, and hotel occupancy taxes were paid to Texas and Denton County. Cross Roads's zoning ordinance restricted uses in single-family residential districts, included permitted bed-and-breakfast uses subject to a permit, and prohibited uses not specifically authorized. After Cross Roads sent an enforcement letter and the municipal court sent a notice concerning alleged violations, Rancho sued to challenge the ordinance and its enforcement.

#### PROCEDURAL HISTORY

Rancho sued the Town seeking declaratory relief, a temporary restraining order, and injunctive relief concerning the Town's zoning ordinance regulating short-term rentals in single-family residential districts. After Rancho amended its petition, the Town amended its plea to the jurisdiction, and the trial court granted the plea and dismissed all claims with prejudice. The court of appeals affirmed dismissal of several claims but reversed the dismissal with prejudice of the due-process and retroactivity claims and remanded to permit repleading.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Remand to the trial court to afford Rancho an opportunity to replead its declaratory claims for deprivation of a vested property right without due process and unconstitutional retroactivity. The dismissal of the remaining claims for want of jurisdiction is affirmed.

## CASES CITED

- Tex. Dep't of Parks & Wildlife v. Miranda, 133 S.W.3d 217, 224, 226-28 (Tex. 2004)
- Reata Constr. Corp. v. City of Dallas, 197 S.W.3d 371, 374 (Tex. 2006) (op. on reh'g)
- Harris County v. Sykes, 136 S.W.3d 635, 638 (Tex. 2004)
- Mission Consol. Indep. Sch. Dist. v. Garcia, 372 S.W.3d 629, 635 (Tex. 2012)
- City of Westworth Vill. v. City of White Settlement, 558 S.W.3d 232, 239-40 (Tex. App.—Fort Worth 2018, pet. denied)
- Tex. Dep't of Crim. Just. v. Rangel, 595 S.W.3d 198, 205 (Tex. 2020)
- Tex. A&M Univ. Sys. v. Koseoglu, 233 S.W.3d 835, 840 (Tex. 2007)
- Hegar v. CSG Forte Payments, No. 03-19-00325-CV, 2020 WL 7233605, at \*3 (Tex. App.—Austin Dec. 9, 2020, no pet.) (mem. op.)
- Town of Shady Shores v. Swanson, 590 S.W.3d 544, 552-53 (Tex. 2019)
- City of El Paso v. Heinrich, 284 S.W.3d 366, 372-73 (Tex. 2009)
- Patel v. Tex. Dep't of Licensing & Regul., 469 S.W.3d 69, 74, 76-77 (Tex. 2015)
- Robinson v. Crown Cork & Seal Co., 335 S.W.3d 126, 138-39, 145 (Tex. 2010)
- Town of Grapevine v. Muns, 651 S.W.3d 317, 344, 347-48 (Tex. App.—Fort Worth 2021, no pet.)
- Texas Propane Gas Ass'n v. City of Houston, 622 S.W.3d 791, 796-99 (Tex. 2021)
- City of White Settlement v. Super Wash, Inc., 198 S.W.3d 770, 773-74 (Tex. 2006)
- City of Crowley v. Ray, 558 S.W.3d 335, 346 (Tex. App.—Fort Worth 2018, pet. denied)
- NexPoint Advisors, L.P. v. United Dev. Funding IV, 674 S.W.3d 437, 446-47 (Tex. App.—Fort Worth 2023, pet. denied)

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