

COURT OF APPEALS FOR THE FOURTEENTH DISTRICT OF TEXAS

5826 Interests, Ltd. and the Real Property Known as 6213 Richmond Avenue, Houston, Harris County, Texas v. City of Houston

No. 14-21-00682-CV · No. No. 14-21-00682-CV · Decided November 3, 2022

SUMMARY

The Fourteenth Court of Appeals of Texas affirmed an amended temporary injunction against 5826 Interests, Ltd. and property known as 6213 Richmond Avenue. The court held that evidence supported findings that the property owner knowingly tolerated common-nuisance activities associated with an unlicensed sexually oriented business and that the trial court could order closure of the defendants' business if the injunction was violated.

CASE DETAILS

COURT	Court of Appeals for the Fourteenth District of Texas
WRITING FOR THE COURT	Jerry Zimmerer; Justice Jewell; Justice Bourliot
JURISDICTION	Texas
DECIDED	November 3, 2022
DOCKET	No. 14-21-00682-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Accelerated interlocutory appeal from an amended temporary injunction order that enjoined appellants in connection with a common nuisance allegedly maintained at a property used to operate an unlicensed sexually oriented business.
STANDARD OF REVIEW	A temporary injunction is reviewed for abuse of discretion. The appellate court views the evidence in the light most favorable to the trial court's order and indulges every reasonable inference in its favor. The trial court does not abuse its discretion when conflicting evidence supports its ruling, but it abuses its discretion if it clearly fails to analyze or apply the law correctly.
PRECEDENTIAL VALUE	Unpublished memorandum opinion; limited precedential value under applicable Texas rules.
PARTIES	5826 Interests, Ltd., The Real Property Known as 6213 Richmond Avenue, Houston, Harris County, Texas v. City of Houston

TOPICS

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QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by including 5826 Interests, the property owner, in the temporary injunction based on evidence that it knowingly tolerated common-nuisance activity.
2. Whether the trial court abused its discretion by authorizing closure of the defendants' business on the property upon violation of the amended temporary injunction.

HOLDINGS

1. The trial court did not abuse its discretion by including 5826 Interests in the temporary injunction because evidence showed that the owner, through its representative, knew of the unlawful activity and the activity continued for months afterward.
2. The trial court did not abuse its discretion by ordering that violation of the amended temporary injunction could result in closure of the defendants' business on the property.

KEY QUOTATIONS

“The purpose of a temporary injunction is to preserve the status quo regarding the subject matter of the litigation pending trial on the merits.” (4)

“A trial court has no discretion in determining what the law is or in applying the law to the facts.” (5)

“We conclude the trial court did not abuse its discretion when it included the challenged remedy in the Amended Temporary Injunction Order.” (8)

FACTUAL BACKGROUND

Bunny's Gentleman's Club operated on property owned by 5826 Interests without a sexually oriented business permit, certificate of occupancy, or alcohol license. Police investigations revealed repeated criminal and unlawful activity, including prostitution, underage entertainers, alcohol sales and consumption, firearm-related incidents, and other offenses. After police notified a representative of 5826 Interests of the unlawful activity on October 20, 2020, similar activity continued for months. The trial court found that the property and defendants maintained a common nuisance and entered an amended temporary injunction, including a provision requiring closure of the business if the injunction was violated.

PROCEDURAL HISTORY

The City of Houston sued TBJNO Investments, LLC and 5826 Interests seeking declaratory and injunctive relief concerning operation of a sexually oriented business at 6213 Richmond Avenue. After a one-day evidentiary hearing, the 334th District Court of Harris County granted and later amended a temporary injunction, finding

that the defendants and the property maintained a common nuisance. 5826 Interests appealed interlocutorily under Texas Civil Practice and Remedies Code section 51.014(a)(4), and the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Butnaru v. Ford Motor Co., 84 S.W.3d 198, 204 (Tex. 2002) (op. on reh'g)
- Abbott v. Anti-Defamation League Austin, Sw. and Texoma Regions, 610 S.W.3d 911, 916 (Tex. 2020) (per curiam)
- Walling v. Metcalfe, 863 S.W.2d 56, 57-58 (Tex. 1993) (per curiam)
- 8100 N. Freeway Ltd. v. City of Houston, 329 S.W.3d 858, 861 (Tex. App.—Houston [14th Dist.] 2010, no pet.)
- Sharma v. Vinmar Int'l, Ltd., 231 S.W.3d 405, 419, 426, 429 (Tex. App.—Houston [14th Dist.] 2007, no pet.)
- Allied Home Mortg. Capital Corp. v. Fowler, No. 14-10-00992-CV, 2011 WL 2367086, at *5 (Tex. App.—Houston [14th Dist.] June 9, 2011, no pet.)
- Sw. Weather Research, Inc. v. Jones, 160 Tex. 104, 111, 327 S.W.2d 417, 422 (1959)