

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

**Modern Builders, LLC; Alicia Gonzalez; Betsy Darling; Callie Stevens; Grayson Buster; Jaime Cobb Tinsley; Tom Tinsley; Jesse Fox; Kelray LLC; Urban Legacy Properties, LLC, d/b/a Urban Legacy Properties Series A LLC; Lauren A. Brady; Lauren Barrett; Lesa Susi, Trustee of the Susi Living Trust; Lori Dugdale; M and M Pool House LLC; Martha Dominguez; Adulfo Dominguez; Sean Sullivan; Shannon Ross; Susan Harper; Smith-Wallace Properties, LLC; Theresa Riley, Trustee of the TK Riley Family Trust; Tom Krause; Tracey Amaya; Eduardo Amaya; Brookvale Holdings, LLC; and Lucas Ruiz v. City of Fort Worth**

No. 02-25-00275-CV · No. 02-25-00275-CV · Decided May 28, 2026

SUMMARY

The Texas Court of Appeals for the Second District considers challenges by property owners to the City of Fort Worth’s ordinances regulating short-term rentals. The court holds that the owners have no vested right to use their properties as short-term rentals, that the ordinances rationally relate to legitimate governmental interests, and that the ultra vires claim is improper against the City. The court also rejects challenges to the admission of expert testimony and the award of attorney’s fees to the City.

CASE DETAILS

|                       |                                                                           |
|-----------------------|---------------------------------------------------------------------------|
| COURT                 | Court of Appeals for the Second Appellate District of Texas at Fort Worth |
| WRITING FOR THE COURT | Elizabeth Kerr; Sudderth, C.J.; Kerr, J.; Gonzalez, J.                    |
| JURISDICTION          | Court of Appeals for the Second Appellate District of Texas at Fort Worth |
| DECIDED               | May 28, 2026                                                              |
| DOCKET                | 02-25-00275-CV                                                            |
| DISPOSITION           | other                                                                     |

|                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PROCEDURAL POSTURE</b> | Property owners appealed a final summary judgment favoring the City of Fort Worth in a declaratory and injunctive action challenging Fort Worth's short-term-rental ordinances under the Texas Constitution and the Zoning Enabling Act. The owners also challenged admission of the City's expert affidavit and the award of attorney's fees.                                                                                                                                                                                                                                                                    |
| <b>STANDARD OF REVIEW</b> | Constitutional and summary-judgment issues were reviewed de novo. The court reviewed the admission of expert testimony for abuse of discretion and attorney's-fee determinations for abuse of discretion insofar as equitable and just considerations were concerned. Summary-judgment evidence was viewed in the light most favorable to the nonmovant.                                                                                                                                                                                                                                                          |
| <b>PRECEDENTIAL VALUE</b> | published                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>PARTIES</b>            | Modern Builders, LLC, Alicia Gonzalez, Betsy Darling, Callie Stevens, Grayson Buster, Jaime Cobb Tinsley, Tom Tinsley, Jesse Fox, Kelray LLC, Urban Legacy Properties, LLC, d/b/a Urban Legacy Properties Series A LLC, Lauren A. Brady, Lauren Barrett, Lesa Susi, Trustee of the Susi Living Trust, Lori Dugdale, M and M Pool House LLC, Martha Dominguez, Adolfo Dominguez, Sean Sullivan, Shannon Ross, Susan Harper, Smith-Wallace Properties, LLC, Theresa Riley, Trustee of the TK Riley Family Trust, Tom Krause, Tracey Amaya, Eduardo Amaya, Brookvale Holdings, LLC, Lucas Ruiz v. City of Fort Worth |

## TOPICS

zoning

municipal law

constitutional law

due process

equal protection

## PRACTICE AREAS

municipal law

land use and zoning

constitutional law

appellate procedure

real estate

## QUESTIONS PRESENTED

1. Whether the owners had a vested property right under the Texas Constitution to lease their properties for periods of fewer than thirty days.
2. Whether Fort Worth's short-term-rental ordinances rationally related to legitimate governmental interests and therefore satisfied due-course-of-law and equal-protection requirements.
3. Whether the 2018 ordinance was an unconstitutional retroactive law because it impaired the settled and reasonable expectations of owners who had operated short-term rentals before its enactment.
4. Whether the owners stated a justiciable ultra vires claim against the City for allegedly exceeding its authority under the Texas Zoning Enabling Act.

5. Whether the trial court reversibly erred by admitting the City's expert affidavit in connection with summary judgment.
6. Whether the trial court abused its discretion by awarding attorney's fees to the City under the Texas Uniform Declaratory Judgments Act.

## HOLDINGS

1. The owners did not have a vested common-law right to use their properties as short-term rentals. A general right to lease property does not categorically include a vested right to lease for short-term periods.
2. The short-term-rental ordinances rationally related to legitimate governmental interests, including preserving the character of single-family residential neighborhoods, safeguarding residents and the public, and minimizing adverse effects associated with transient rental uses.
3. The 2018 ordinance did not unconstitutionally impair settled expectations because the owners lacked a reasonable and settled expectation that they could operate short-term rentals in Fort Worth's residential districts.
4. The owners did not have a viable equal-protection claim because the challenged classification was not based on a suspect classification or fundamental right and the ordinances rationally related to legitimate governmental purposes.
5. The ultra vires claim was not properly brought against the City. Because the owners alleged that the municipality itself exceeded its authority rather than naming an appropriate government official in an official capacity, the claim was incurably deficient and the trial court lacked jurisdiction.
6. Any error in admitting the City's expert affidavit was harmless because the owners did not show that the affidavit probably caused the rendition of an improper judgment, and they characterized the testimony as cumulative.
7. The trial court did not abuse its discretion by awarding attorney's fees to the City under the Texas Uniform Declaratory Judgments Act.

## KEY QUOTATIONS

*“Answering the question left open in Grapevine, then, we hold that the Owners do not have a vested common-law right to use their properties as short-term rentals.” (at 18-20)*

*“In short, the STR Ordinances rationally address a legitimate governmental interest.” (at 20-26)*

*“We thus dismiss the Owners’ claim that the City exceeded its authority under the Zoning Enabling Act and do not address its merits.” (at 31-33)*

## FACTUAL BACKGROUND

Fort Worth had consistently treated short-term rentals of fewer than thirty days as prohibited in single-family residential districts under its zoning scheme since at least 2007. In 2018, the City amended its zoning ordinance to define short-term home rentals and clarify that they were not allowed in residential districts, while permitting

them in certain commercial and mixed-use areas. In 2023, the City adopted additional registration requirements for lawfully operating short-term rentals after a multiyear investigation, public input, and consideration of complaints concerning noise, parties, trash, parking, traffic, and neighborhood character. The appellant property owners owned or operated properties in single-family residential districts and challenged their inability to use those properties as short-term rentals.

## PROCEDURAL HISTORY

The owners sued the City in the 352nd District Court of Tarrant County seeking declaratory and permanent injunctive relief concerning the City's 2018 and 2023 short-term-rental ordinances. Both parties moved for traditional summary judgment. The trial court entered final judgment for the City and awarded it attorney's fees. The court of appeals affirmed the judgment except that it vacated the judgment on the ultra vires claim and dismissed that claim for lack of jurisdiction.

## DISPOSITION

other

## CASES CITED

- *Patel v. Texas Department of Licensing & Regulation*, 469 S.W.3d 69, 76, 86-87 (Tex. 2015)
- *Travelers Insurance v. Joachim*, 315 S.W.3d 860, 862 (Tex. 2010)
- *Mayhew v. Town of Sunnyvale*, 964 S.W.2d 922, 932, 938 (Tex. 1998)
- *State v. Loe*, 692 S.W.3d 215, 227-28, 231-33 (Tex. 2024)
- *City of Brookside Village v. Comeau*, 633 S.W.2d 790, 792-93 (Tex. 1982)
- *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 386-87 (1926)
- *Maher v. City of New Orleans*, 516 F.2d 1051, 1059 (5th Cir. 1975)
- *City of Dickinson v. Crystal Cruise Investments, LLC*, 2026 WL 530391, at \*5-\*6 (Tex. App.—Houston [1st Dist.] Feb. 26, 2026, no pet. h.)
- *Draper v. City of Arlington*, 629 S.W.3d 777, 786, 788, 792 n.21 (Tex. App.—Fort Worth 2021, pet. denied)
- *Hignell-Stark v. City of New Orleans*, 46 F.4th 317, 328 (5th Cir. 2022)
- *Klumb v. Houston Municipal Employees Pension System*, 458 S.W.3d 1, 13, 15, 17 (Tex. 2015)
- *City of Grapevine v. Muns*, 651 S.W.3d 317, 345-47 (Tex. App.—Fort Worth 2021, pet. denied) (op. on reh'g)
- *Rancho De Los Arboles LLC v. Town of Cross Roads*, 2026 WL 253459, at \*6-\*8 (Tex. App.—Fort Worth Jan. 30, 2026, no pet.)
- *City of La Marque v. Braskey*, 216 S.W.3d 861, 863-64 (Tex. App.—Houston [1st Dist.] 2007, pet. denied)
- *Zaatari v. City of Austin*, 615 S.W.3d 172, 180-91 (Tex. App.—Austin 2019, pet. denied)
- *Crown Distributing*, 647 S.W.3d 648, 653-54 (Tex. 2022)
- *Village of Tiki Island v. Ronquille*, 463 S.W.3d 562, 587 (Tex. App.—Houston [1st Dist.] 2015, no pet.)
- *Village of Belle Terre v. Boraas*, 416 U.S. 1, 9 (1974)
- *City of San Antonio v. TPLP Office Park Properties*, 218 S.W.3d 60, 65-66 (Tex. 2007)

- City of College Station v. Turtle Rock Corp., 680 S.W.2d 802, 805 (Tex. 1984)
- F.C.C. v. Beach Communications, Inc., 508 U.S. 307, 315 (1993)
- Marfil v. City of New Braunfels, 2025 WL 243028, at \*1-\*2 (W.D. Tex. Jan. 10, 2025)
- Village of Volente v. Villanueva, 2024 WL 2143596, at \*8, \*11 (W.D. Tex. May 13, 2024)
- Ewing v. City of Carmel-By-The-Sea, 286 Cal. Rptr. 382, 388 (Cal. Ct. App. 1991)
- Heller v. Doe, 509 U.S. 312, 321 (1993)
- Texas Department of Insurance v. Reconveyance Services, Inc., 306 S.W.3d 256, 258-59 (Tex. 2010)
- Jackson v. Takara, 675 S.W.3d 1, 6 (Tex. 2023)
- Nissan Motor Co. v. Armstrong, 145 S.W.3d 131, 144 (Tex. 2004)
- Ridge Oil Co. v. Guinn Investments, Inc., 148 S.W.3d 143, 161 (Tex. 2004)
- Cadle Co. v. Harvey, 46 S.W.3d 282, 289 (Tex. App.—Fort Worth 2001, pet. denied)
- Save Our Springs Alliance, Inc. v. Lazy Nine Municipal Utility District ex rel. Board of Directors, 198 S.W.3d 300, 318-19 (Tex. App.—Texarkana 2006, pet. denied)

---

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/court-of-appeals-for-the-second-appellate-district-of-texas-at-fort-worth-court-of-appeals-for-the-s/2026/modern-builders-llc-alicia-gonzalez-betsy-darling-callie-yci8vrrt>