

# Neighbors Fighting STRs: A Proposal



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Homes <sup>2</sup>  
**NOT Hotels!**



**STOP SHORT TERM RENTALS**  
FIX1350.COM

A graphic with a yellow background and a red border. At the top, the word "Homes" is written in a large, black, sans-serif font, with a small "2" as a superscript. Below it, the word "NOT" is written in a large, red, sans-serif font with a diagonal slash through it, and "Hotels!" is written in a large, black, sans-serif font. In the center, there is a row of three blue houses with red roofs, a cactus, and a small garden. At the bottom, the text "STOP SHORT TERM RENTALS" is written in a bold, black, sans-serif font, and "FIX1350.COM" is written in a smaller, black, sans-serif font below it.

# Recent Developments: The Law, the Legislature & the Courts

# Restrictive Covenants and STRs

- ***Tarr v. Timberwood Park Owners Ass'n***: Texas Supreme Court in 2018 held that an HOA restrictive covenant did not prohibit a resident's use of his home as an STR
- ***Jbrice Holdings v. Wilcrest Walk Townhomes Ass'n***: Texas Supreme Court in 2022 held that an HOA's deed restrictions could be amended to prohibit STRs

# Failed Legislative Action: HB 2665 and HB 2789

## **HB 2665 (Gary Gates of Richmond)**

- Prohibited cities from banning STRs or limiting occupancy or durations of stay for residential properties
- Allowed municipal enforcement of nuisance-related regulations such as noise, parking and solid waste handling and containment

## **HB 2789 (Justin Holland of Rockwall)**

- Allowed the rental of accessory dwelling units (ADUs)
- Cities could not require owner occupancy of the primary dwelling, parking, setbacks for ADUs greater than 5 feet, park dedication fees, age or employment relationship with primary dwelling owner
- In a nice twist, if a city violated this law (the AG makes such determination), the following tax year a city cannot exceed the no-new-revenue tax rate

# HB 2367 (J. M. Lozano of Kingsville)

- Regulated SF residential amenity rentals
- Pools, sports courts, backyards included
- Registration and nominal fee
- Written notice to neighbors of intent to use the property for a residential amenity rental
- Civil penalties, suspension of registration (for 1 year) or prohibit use
- Burden of proof on city
- No suspension or revocation allowed until all appeal rights exhausted



# *City of Grapevine v. Muns*

- In denying review on June 16, 2023, Justice Evan Young wrote that the constitutionality of municipal bans of STRs is “of increasing and demonstrable importance”
- Each party and amici all had requested that the constitutional questions be addressed
- But this case was “a less-than-ideal vehicle for resolving the constitutional issues” of STRs due to the specific facts of the case (administrative exhaustion and enforcement)

## **Proposal: Deed Restrictions Among Neighbors**

- **Premises: HOAs can enforce deed restrictions; covenants are contracts; contracts are between private parties; there is with mutual consideration; what prohibits neighbors from mutually entering into covenants restricting the use of their private property?**
- **Can those covenants be used to restrict or prohibit STRs, hourly amenity rentals and the rental/construction of ADUs?**

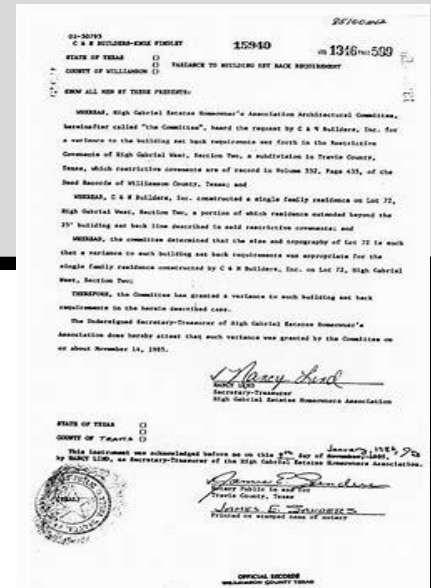
# Basic Example of anti-STR Covenant

- **Property Owner (PO) and Neighbor 1 (N1) agree in a covenant, for consideration, PO will not use, allow to be used or made available for an STR on PO's property (includes hourly amenity rentals & ADUs)**
- **PO similarly agrees to the same with N2 and N3**
- **Covenant filed in county property records and runs with land**
- **If PO one day changes mind, N1, N2 and N3 have to agree in writing to the change—if they agree, covenant is now void**
- **N1, N2 and N3 are specifically designated as beneficiaries of the Covenant**
- **Presumably, N1, N2 and N3 will enter into similar covenants with other neighbors and PO**
- **Nonbinding mediation in the event of disagreement**
- **All terms defined in the Covenant (STR, hourly amenity rentals and ADU)**



# Caveats & Issues

- Mortgage Company involvement
- Subdivision HOA issues
- Property owners may be reluctant to enter into agreements with neighbors
- The potential for “hopscotch” anti-STR restrictions—no guarantees that your neighbors are opposed to STRs
- No municipal involvement



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