



## MEMORANDUM

TO: City Attorney  
Ethics Commission  
Thomas Clark  
Council Member Sabino Renteria

FROM: Jannette Goodall, City Clerk *JG*

DATE: April 12, 2016

SUBJECT: Sworn Complaint

The attached sworn complaint was received on April 12, 2016 in the Office of the City Clerk. It was filed by Thomas Clark against Council Member Sabino Renteria.

Per City Code, Chapter 2-7-41(D), this letter serves as the Office of the City Clerk's acknowledgement that the complaint was received and as notice to all those named above, as required in the code.

Attachment

**ETHICS REVIEW COMMISSION**  
**CHAPTER 2-7 CITY CODE**  
**COMPLAINT**

THIS IS AN AMENDED AND SUPPLEMENTAL FILING FOR THE ORIGINAL ETHICS COMPLAINT AGAINST CM SABINO RENTERIA FILED ON FEBRUARY 18, 2016 – NEW EXHIBITS ARE PROVIDED ON THE ATTACHED USB MEMORY STICK AND CHANGES ARE HIGHLIGHTED IN ALL CAPITAL LETTERS.

NAME OF PERSON(S) FILING COMPLAINT: \_\_Thomas Clark

MAILING ADDRESS: 3924 Balcones Drive, Austin TX 78731

PHONE NUMBER: 415.341.6388

EMAIL ADDRESS: [REDACTED]

PLEASE FILE A SEPARATE COMPLAINT FORM FOR EACH PERSON COMPLAINED AGAINST.

NAME OF PERSON COMPLAINED AGAINST: Council Member Sabino Renteria

CITY OFFICE, DEPARTMENT, COMMISSION: Austin City Council

MAILING ADDRESS: [REDACTED]

PHONE NUMBER [IF KNOWN]: \_\_\_\_\_

EMAIL ADDRESS [IF KNOWN]: \_\_\_\_\_

AUSTIN CITY CLERK  
RECEIVED  
2016 APR 12 PM 3:39

The Ethics Review Commission has jurisdiction to hear complaints alleging violation(s) of the following provisions:

- City Code, Chapter 2-1, Section 2-1-24 (City Boards, Conflict of Interest and Recusal)
- City Code, Chapter 2-2 (Campaign Finance)
- City Code, Chapter 2-7 (Ethics and Financial Disclosure), except for Article 6 (Anti-lobbying and Procurement)
- City Code, Chapter 4-8 (Regulation of Lobbyists)
- City Charter, Article III, Section 8 (Limits on Campaign Contributions and Expenditures)

PLEASE LIST EACH ALLEGED VIOLATION OF THE ABOVE CITY CODE AND CHARTER PROVISIONS SEPARATELY ON THE FOLLOWING PAGES.

I.

SECTION OF CHARTER OR ORDINANCE VIOLATED: City Code, Chapter 2-1, Section 2-1-24

DATE OF ALLEGED VIOLATION: Beginning 2015 with first City Council deliberations of amendments to Austin's Short Term Rental ordinances, continuing with City Council votes in late 2015 and upcoming City Council votes in 2016 regarding the ordinances (next scheduled for Tuesday, February 23, 2016).

ACTIONS ALLEGED TO BE A VIOLATION:

**PLEASE SEE ATTACHED POWERPOINT PRESENTATION FOR FURTHER DETAILS AND EVIDENCE. WE WITHDRAW THE PRIOR AIRBNB LISTING THAT WE PROVIDED AS WE HAVE FOUND CM RENTERIA'S ACTUAL AIRBNB LISTING (WHICH IS IN THE POWERPOINT). WE ARE ALSO PROVIDING THE OCCUPANCY TAX INFORMATION WHICH WAS PROVIDED IN RESPONSE TO OUR DOCUMENT REQUESTS TO THE CITY OF AUSTIN AND STATE OF TEXAS. IN THE POWERPOINT WE OUTLINE IN MORE DETAIL OUR SPECIFIC COMPLAINTS BASED ON THIS NEW INFORMATION RECEIVED SINCE OUR LAST FILING.**

In short, CM Renteria owns and operates a short term rental in Austin, as disclosed in his Statement of Financial Information disclosure filed in connection with his election to the City Council (attached). Yet, for eight months Council Member Renteria has voted, spoken and held policy-making meetings regarding the restrictions of Type II Short-term Rentals in Austin. These discussions, votes and meetings have directly impacted Type II Short-term Rental activity, and have resulted in policy discussions and votes to phase out Type II Short-term Rentals. During these votes, discussions and meeting Council Member Renteria has regularly disclosed that he is the owner and operator of a Type I Short-term Rental (in the public records of City Council meetings).

Council Member Renteria's Type I Short-term Rental is a different type of rental and his votes, meetings and discussions directly benefitted his rental activity and income potential to the detriment of the owners and operators of Type II Short-term Rentals.

Council Member Renteria should have recused himself from all these discussions and votes and should recuse himself from the pending proceedings due to his financial conflict of interest.

Furthermore, CM Renteria does not have a short term rental Type 1 license which is required by Austin Code. We also checked the City's website regarding the records of hotel occupancy tax payments. He has not filed or paid occupancy taxes as required by Austin during the period where he stated that he derived material earnings from his short term

rental activity. So, CM Renteria is voting on changes to Austin Code for which he is not compliant and has violated.

Council Member Renteria should be immediately asked to recuse himself from further votes and discussions until an appropriate investigation of this matter is concluded.

Furthermore, the votes and discussions held by Council Member Renteria should be investigated as they directly influenced changes, additional restrictions and bans of rental activity for Austin residents who have been compliant with the City regulations.

WITNESSES OR EVIDENCE THAT WOULD BE PRESENTED: Please see attached, plus Austin City Council transcripts of proceedings, voting records and witnesses.  
ALL THE STATEMENTS AND INFORMATION IN THIS COMPLAINT ARE TRUE AND FACTUAL TO THE BEST OF MY KNOWLEDGE.

DATE: April 12, 2016

  
COMPLAINANT'S SIGNATURE

Thomas Clark

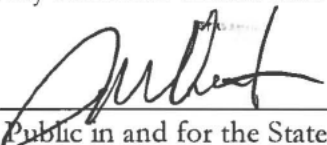
STATE OF TEXAS

COUNTY OF TRAVIS

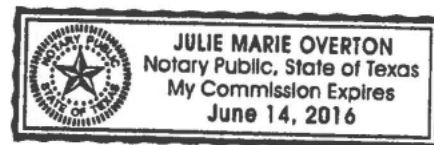
This instrument was acknowledged, sworn to and subscribed before me by

  
\_\_\_\_\_

On the 12<sup>th</sup> day of April, 2016, to certify which  
witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public in and for the State of Texas

Julie Overton  
\_\_\_\_\_  
Typed or Printed Name of Notary



THIS FORM MUST BE SUBMITTED TO THE OFFICE OF THE CITY CLERK.



# CM Renteria Conflicts of Interest in Council Proceedings in 2015-2016 Regarding Short-Term Rental (STR) Regulations

## Questions Presented:

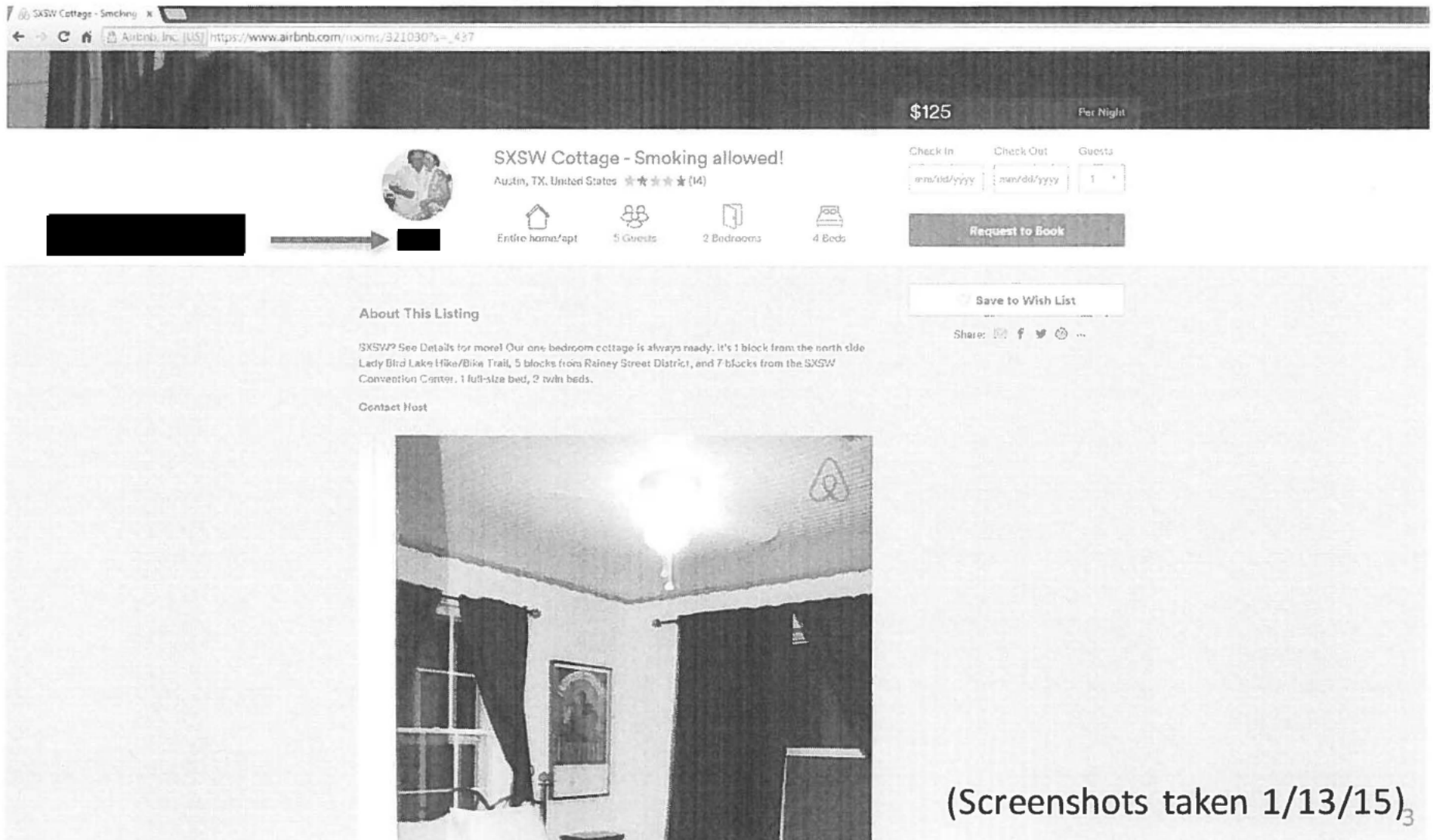
1. Did CM Renteria have a substantial interest in issues related to the zoning of his property for STRs from the period 2012 to 2015 by virtue of the more than \$5,000 per year that he generated from his rental activity and value of his interest in his rental home being more than \$5,000?
2. Did CM Renteria violate City Code by participating in a series of City Council and Neighborhood and Planning hearings and votes related to STRs (including ADUs as STRs) in 2015 and 2016?
3. Did CM Renteria disclose his substantial interest on sign-in sheets at these hearings and votes on STRs, as required by City Code?
4. Was it a conflict of interest for CM Renteria to vote on matters related to STR restrictions, taxes and licensing in 2015-2016 if he violated Austin Code and State of Texas laws beginning in 2012 and continuing through at least 2014 while not having an Austin STR license or paying his occupancy taxes?
5. Was it a conflict of interest for CM Renteria to vote on proposed City of Austin regulations that would make it more difficult to become licensed, stay licensed or even eliminate certain types of STRs for Austin citizens, with rental types other than CM Renteria's?

## Questions Presented – Continued:

6. Should CM Renteria's violations of City Code result in his votes in 2015-2016 matters before the City Council result in CM Renteria's votes being vacated on all decisions related to short term rentals (including ADUs being used as STRs) based on his undisclosed and actual conflicts of interest?
7. If such votes are vacated by the City Clerk, what regulations and matters related to STRs in 2015 and 2016 would fail to pass and must be vacated in their entirety?
8. Did such conflicted votes happen in more than 3 consecutive scheduled hearings and meetings, which results in an automatic vacancy of CM Renteria's Council seat?
9. Are there reasonable grounds to believe that a violation of the City Code provisions 2-1-24, et. al. within the jurisdiction of the ERC have occurred and this matter should be scheduled for a final hearing?

We believe that there are reasonable grounds to believe that each of the conflicts outlined above did occur in violation of City Code and we request that the ERC schedule this matter for a final hearing on each of the items.

CM Renteria's had a "substantial interest" in STR proceedings based on his financial gains and real estate interest in his STR. Here is the AirBnB listing for his STR, showing numerous rentals from 2012-2015:



SXSW Cottage - Smoking allowed!

Austin, TX, United States ★★☆☆☆ (14)

Check In: mm/dd/yyyy Check Out: mm/dd/yyyy Guests: 1

Request to Book

Save to Wish List

Share: [Facebook] [Twitter] [Email] [Print]

About This Listing

SXSW? See Details for more! Our one bedroom cottage is always ready. It's 1 block from the north side Lady Bird Lake Hike/Bike Trail, 5 blocks from Rainey Street District, and 7 blocks from the SXSW Convention Center. 1 full-size bed, 2 twin beds.

Contact Host

(Screenshots taken 1/13/15)<sub>3</sub>

Pio and [REDACTED] Renteria have been AirBnB members since Jan '12, with 14 guest reviews of their stays. The Renteria's were "superhosts," a term reserved for the most active hosts on AirBnB.

The screenshot shows an Airbnb listing for a "Cottage - Smoking" in SXSW. The page includes a navigation bar with tabs for Photos, About this listing, Reviews, The Host, and Location. The price is listed as \$125 Per Night. The listing is for a "Cottage" with a "Check In" date of mm/dd/yyyy, a "Check Out" date of mm/dd/yyyy, and 1 guest. A "Request to Book" button is visible. The "About the Host" section features a profile picture of Pio and [REDACTED] Renteria, a bio, and a "View full profile" link. The "Members since 1/12" section shows the location as Austin, Texas, United States, and the member since January 2012. The "Connections" section asks if the user or their friends are connected with this host, with a "Connect with Facebook" button. The "Superhosts" section shows a "Trust" icon, a "Superhost" badge, 14 reviews, 1 reference, and a "Verified ID" icon. Annotations with arrows point to these sections: "and Pio referenced" points to the host's name, "Members since 1/12" points to the member since date, "Superhosts" points to the Superhost badge, and "Verified identity" points to the Verified ID icon.

and Pio referenced

About the Host, [REDACTED]

My husband, Pio, and I are happily married community volunteers with strong ties to our neighborhood association and elected officials. We're great networkers who work on social issues as advisory board members in several venues related to helping to preserve the unique quality of our historic, inner-city neighborhood. We advocate really hard for our neighbors who are disenfranchised and due to a lack understanding or connections to the digital community are having trouble navigating our changing community. We are founding members of the East Cesar Chavez Neighborhood Association and its affiliated planning team. [REDACTED] publishes our neighborhood newsletter, The Grapevine, and Pio is the Affordable Housing Committee Chair. Learn more about our neighborhood by searching East Cesar Chavez Neighborhood.

We're IBM retirees and we do home repairs as a side business. When we're not working, volunteering, or community agitating, we like to fish. We live 1 block from Lady Bird Lake and know where all the fish hide using our paddleboat to catch them but we prefer fishing the Gulf of Mexico and head south whenever we can. We're also big fans of Tejano Music and since we're across the park from Fiesta Gardens and just 5 blocks from the Mexican American Cultural Center, we take time off to enjoy some great concerts and cultural events. Of course, our first priority is enjoying time with our children and grandchildren and we host most of our family's parties because our home was built and remodeled by us to maximize fun time and is stocked with all the gear we need to be active in the outdoors!

View full profile

Austin, Texas, United States  
Member since January 2012

Contact Host

Connections

Are you or your friends connected with this host?

Connect with Facebook

Superhosts

Trust

Superhost

14 Reviews

1 Reference

Verified ID

Verified identity

Guest reviews are listed in reverse chronological order. Guest reviews are not a complete record of all bookings. A complete record could be obtained by CM Renteria by logging into the account. We are requesting this evidence (summary of evidence requested at end of this brief).

SKIN Cottage - Smoking x

Airbnb, Inc. (US) https://www.airbnb.com/rooms/321030?se=437#reviews

Photos About this listing **Reviews** The Host Location


\$125 Per Night


Check In  Check Out  Guests


**Request to Book**


**14 Reviews** ★★★★★


Summary Accuracy ★★★★★ Location ★★★★★  
Communication ★★★★★ Check In ★★★★★  
Cleanliness ★★★★★ Value ★★★★★


 Erin  
The cottage was in a great location a couple blocks away from 6th [REDACTED] offered a warm welcome to the property, and we were pleasantly surprised to find a well-stocked kitchen fridge and cupboards with everything a traveler might need to make the stay more comfortable. [REDACTED] shared some great tips on where to find the best tacos and had helpful maps and other materials to guide us around Austin.  
November 2014

 John  
Awesome overall experience, beautiful home and the most gracious of hosts. Ten minute walk to east 6th street.  
November 2014

 Mike  
[REDACTED] and Pio were great. They couldn't have been better hosts. The house was clean and they even left some chicks and drinks in the fridge. We would stay with them again next time we are in Austin.  
October 2014

 Response from [REDACTED]  
Thanks Mike. Come again, anytime [REDACTED] and Pio  
October 2014

 Bernie  
Nice location, super convenient. Host were welcoming, would definitely stay here again. Thanks again!  
September 2014

 Response from [REDACTED]  
Thanks, Bernie. Come back soon! Pio and [REDACTED]

**Save to Wish List**

Prior to April '14 the reviews are undated by AirBnB. However there are reviews showing rental activity in the 2+ year period between April '14 and Jan '12.

There are 6 reviews  
between 4/14 to 1/12



Len's Profile - Airbnb

https://www.airbnb.com/users/show/1643368

Joseph

SXSW Cottage - Smoking allowed!

Thomas

April 2014

Great place close to Convention centre. Warm and friendly hosts (with great fajitas).

Hans

was wonderful host, place is as described in the picture, great price for what it offers.

Young-Min

very welcoming and the place was very clean and roomy, definitely recommend :)

Marco

and Pio were great host for our road trip. The cottage was in a perfect location for what we needed, they had a lot of great information about the area it made me and my friends wanna stay longer and see it all. the neighborhood was very cute and peaceful, walking distance from the lake and only a few blocks to downtown. We would love to stay there again and highly recommend it, but if your not used to cigarette smoke it could be a small problem nothing that couldn't be fixed with a little perfume. :) again i would like to thank and pio for letting us stay in thier home. I would definitely stay here again and would love to in the near future.

Eliisa

and Pio couldn't have been better hosts! They allowed us to celebrate our brother's graduation on their adorable patio. I can't imagine what our trip would have been like without the cottage (complete with everything you'd need to bbq). Being able to bring family and friends from all over the US together in such a welcoming environment was the highlight of our trip. Most importantly, and Pio are remarkable people, and it was really a pleasure to get to know

Sarah

SXSW Cottage - Smoking allowed!



Guest reviews continued: Showing booking activity in the 2+ year period between Apr '14 and Jan '12, mentioning prior graduation and SXSW between this time, so they are bookings prior to Apr '14.

References  
graduation stay



Sarah

and Pio couldn't have been better hosts! They allowed us to celebrate our brother's graduation on their adorable patio. I can't imagine what our trip would have been like without the cottage (complete with everything you'd need to BBQ). Being able to bring family and friends from all over the US together in such a welcoming environment was the highlight of our trip. Most importantly, and Pio are remarkable people, and it was really a pleasure to get to know them. If we're back in Austin, we'll be crossing our fingers that the cottage is available.

SXSW Cottage - Smoking allowed!



Alanna

Great place! Nice, mellow residential neighborhood very close to the river and all the fun East Austin spots. Kitchen/dining area was very spacious and they generously stocked the fridge with all sorts of staples. Wonderful hosts - you can tell their philosophy is 'me casa, tu casa' and they're happy to share their space, equipment, whatever you need. Very relaxed low-key environment - you can hang out in their shared courtyard or keep to yourself at your own picnic table and stoop in the front of the cottage, whatever floats your boat. Lots of tourist info available about the area and local culture too....thanks & Pio! We had a blast.

SXSW Cottage - Smoking allowed!

References  
SXSW stay



Paula

We had a great experience staying at the Eastside Cottage. The hosts, and Sabine were fantastic hosts. They even stocked our refrigerator and left us a guidebook for the area. Thanks for telling us about the Chipotle salsa at Chapala #1. The house was very close to the convention center and convenient for SXSW. The house was comfortable and they provided everything we needed. Be sure to check out the information can provide about the Tejano Trail and history of the neighborhood.

SXSW Cottage - Smoking allowed!

References (1)



Cristina

The location of home is perfect for all occasions in Austin, especially SXSW! There are not many homes that allow smokers, so act quickly on this one. The neighborhood has easy access to the Convention Center, Downtown Austin and venues on both sides of 6th Street. You will definitely enjoy your stay.

January 2012

Cristina is a Friend

Started in 1/12



CM Renteria's STR activity met the "substantial interest" threshold of \$5,000 in calendar year 2014 as admitted by CM Renteria in his Statement of Financial Information (copy submitted):

#### STATEMENT OF FINANCIAL INFORMATION

This Statement is made for the reporting period: **January 1 through December 31, 2014.**

- 3. List all sources of income which exceeded either \$5,000 or were in excess of 10% of your gross income received from interest, dividends, royalties, rents, trust disbursements or other non-occupational sources.**

	<b>Name of source</b>	<b>Nature of income</b>	<b>Category of amount</b>
1	Social Security	Retirement	II
2	Eastside Cottage	Short Term Rental	I

CM Renteria's occupancy tax filings show that his "substantial interest" in STRs continued into '15 and '16.

- He generated more than \$5,000 from Q4 '14 - Q1 '15.
- The Code defines "substantial interest" as \$5,000, triggered by funds received during the previous 12 months or previous calendar year (Sect 10).
- CM Renteria's "substantial interest" and conflict extended into the City Council hearings on STRs in '15 and '16.

**Public Information Response #25364**

Request Description: "Austin hotel occupancy receipts quarterly report (records of payments) from January 2012 to December 2015, including the address [REDACTED] for taxpayers Sabino "Pio" or [REDACTED] Renteria

CITY OF AUSTIN					STATE OF TEXAS	
Hotel/STR Name	Hotel/STR Address	Report Period	Gross Recelpts	Principal Paid	Gross Recelpts	
Eastside Cottage	[REDACTED]	Q12012-Q12014	NONE	NONE	NONE	
Eastside Cottage	[REDACTED]	Q22014	\$ 844	\$ 76	\$	844
Eastside Cottage	[REDACTED]	Q32014	NONE	NONE	\$	609
Eastside Cottage	[REDACTED]	Q42014	\$ 1,708	\$ 154	\$	1,707
Eastside Cottage	[REDACTED]	Q12015	\$ 3,734	\$ 336	\$	3,734

**Total Q42014-Q12015 \$ 5,442**

CM Renteria generated more than \$5,000 during the 12 month period beginning Q4 '14 up to at least Q1 '15. As such he should have recused himself from any short term rental votes through at least Q1 '16.

CM Renteria continues to have a current “substantial interest” in STR proceedings if the value of his interest in his rental property is greater than \$5,000.

- The Code provides that a “substantial interest” in real property is also triggered by legal ownership with a market value of \$5,000 or more.
- Does CM Renteria's ownership in his home have a market value of more than \$5,000? It would most certainly seem that it would and he should have disclosed it.
- We request that CM Renteria provide this evidence to the ERC (as requested in this complaint).

## CM Renteria's occupancy tax filings for City of Austin and State of Texas are incomplete, inconsistent and inaccurate.

- CM Renteria admits generating over \$5k in 2014 from his STR property and we see guest reviews of bookings going back as far as Jan '12 in his AirBnB account.
- Yet from Jan '12 – March '14 CM Renteria did not report this income as required by the Austin City Code and State of Texas according to records that were produced upon request (provided with filing).
- We also see that he reported income to the State of Texas in Q3 '14 and failed to report income to Austin.

CITY OF AUSTIN					STATE OF TEXAS	
Hotel/STR Name	Hotel/STR Address	Report Period	Gross Receipts	Principal Paid	Gross Receipts	
Eastside Cottage		Q12012-Q12014	NONE	NONE	NONE	
Eastside Cottage		Q22014	\$ 844	\$ 76	\$	844
Eastside Cottage		Q32014	NONE	NONE	\$	609
Eastside Cottage		Q42014	\$ 1,708	\$ 154	\$	1,707
Eastside Cottage		Q12015	\$ 3,734	\$ 336	\$	3,734
Total			Q42014-Q12015 \$	5,442		

CM Renteria did not obtain an Austin STR license while he was short term renting on AirBnB as a Superhost for over 2 years (Jan '12 - Apr '14). He only obtained his STR license from Apr '14 – Apr '15.

https://www.austintexas.gov/ Election Watch Party Tool

https://www.austintexas.gov/devreview/b\_showpublicpermitfolderdetails.jsp?FolderRSN=11119130

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**PUBLIC INFORMATION**

Public Search

Issued Construction Permits

**REGISTERED USERS**

New Registration

Update Registration

Permit Assign and Pay

My Permits/Cases

My Licenses

Request / Cancel / View Inspections

My Escrow Accounts

Reports

Login

**HELP**

Web Help

**FEEDBACK**

Contact PDR

**FOLDER DETAILS**

Permit/Complaint	Case Number	Description	Sub Type	Work Type	Project Name	Status	Application Date	Issue Date	Expiration Date
2014-035087 OL			Short Term Rental Type 1		Eastside Cottage - Unit 2	Active	Apr 7, 2014	Apr 10, 2014	Apr 10, 2015

Related Folders: No

**PROPERTY DETAILS**

Number	Pre.	Street	Street Type	Dir	Suite Type	Suite Number	City	State	Zip	Legal Desc
										Lot 5 Block 1 Subdivision MAGNOLIA ADDITION

Lot 5 Block 1 Subdivision MAGNOLIA ADDITION

**PEOPLE DETAILS**

Desc.	Organization Name	Address	City	State	Postal	Phone1
Billed To						

**FOLDER FEE**

Fee Description	Fee Amount	Balance
Notification/Renotification	\$50.00	\$0.00
Operating Licenses Fee	\$235.00	\$0.00

**PROCESSES AND NOTES**

Process Description	Status	TOD	Schedule Date	Start Date	End Date	Assigned Staff	# of Attempts
Notification Team	Closed		Apr 10, 2014	Apr 24, 2014	Apr 24, 2014	Rosa Cervantes (512-974-6422)	1
Lodging Annual Inspection	Open					Marcus Elliott (Cashier) (512-974-1951)	0

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It was a conflict of interest for CM Renteria to vote on matters related to STR restrictions, taxes and licensing in 2015-2016 for Austin citizens, where CM Renteria himself violated Austin Code and State of Texas laws from 2012 to 2014 while not having an Austin STR license or paying his occupancy taxes.

- It was a conflict of interest for CM Renteria to vote on proposed City of Austin regulations that would make it more difficult to become licensed, stay licensed or even eliminate certain types of STRs for Austin citizens, with rental types other than CM Renteria's.
- In '15 and '16, CM Renteria voted to set the occupancy limit for short-term rentals as the lesser of six adults; which would take short term rentals with more capacity than his rental out of compliance and reduce supply (economically favoring his rental). He voted to implement an immediate suspension on all new Type 2 short term rental licenses. He voted to initiate a phased-in process to limit Type 2 short term rentals to commercially zoned areas, and require Conditional Use Permits for continued operation of Type 2s in single family zoning. He voted to repeal the provision that allows 25% of multifamily units in commercially zoned areas to be removed from rental market as Type 3 STRs, and cap at no more than 1-3%.
- In summary, CM Renteria voted on other provisions that would restrict all types of short term rentals, other than his Type 1 STR.



In his conflicted STR votes and discussions, CM Renteria moved to restrict all types of STRs, other than his own. He also steered the Council away from regulations that would restrict his Type 1 rental.

**June 11, 2015**

<http://www.statesman.com/news/news/local/council-members-call-for-short-term-rental-code-en/nmbNb/>

In June '15, only weeks after CM Renteria rented his ADU for SXSW '15, the CM Renteria raised concerns about short-term rentals, and supported 22 new provisions in the city's ordinance as well as a year long moratorium on new Type 2 short-term rentals (which he later voted to make permanent).

**August 17, 2015**

CM Renteria participates on Council Planning and Neighborhoods Committee that puts forward more than a dozen recommendations against short term rentals.

Video transcript of the proceeding: <http://austintx.swagit.com/play/08172015-738/0/>

Minutes: <http://www.austintexas.gov/edims/document.cfm?id=238620>

At 2:30AM CM Renteria specifically asks for deferment on Tovo's recommendation to change existing ADUs (his ADU) from Type 1s to Type 2s. He objects to Tovo's proposal stating "this one to me says to me that if I own a secondary unit (which he did and did not disclose) then it will no longer be a Type 1a but a Type 2". CM Renteria states that new ADUs should be banned from receiving STR licenses but existing ADUs could be used as STR Type 1s and should not be classified as Type 2s.



### **August 17, 2015 – Continued**

Here we have CM Renteria speaking up and intentionally steering the council away from classifying his ADU as a Type 2 rental or restricting his ability to rent, even though he supported restricting new ADUs for other citizens. At this proceeding, CM Renteria also voted to: Restrict Type 1 rentals that were larger than his rental; Suspend new permits for Type 2 rentals; and begin a phaseout of Type 2s in residential areas; restrict supply of Type 3 rentals. So, we see CM Renteria voting to restrict all rental types other than his own.

He voted to require STR licenses to lapse if no hotel taxes are paid within one year. He did this even though he did not comply with his license requirements for years and did not pay his required taxes? Was this not a conflict of interest to enforce these regulations and make them tougher for other citizens, when he had not complied?

He voted to establish fines sufficient to serve as clear financial deterrents for violations and increase fines for repeat offenders. As a possible repeat offender himself he felt that there was no conflict of interest for him to vote to toughen fines and deterrents for other citizens?

## **August 17, 2015 – Continued**

Here we have CM Renteria speaking up and intentionally steering the council away from classifying his ADU as a Type 2 rental or restricting his ability to rent, even though he supported restricting new ADUs for other citizens. At this proceeding, CM Renteria also voted to: Restrict Type 1 rentals that were larger than his rental; Suspend new permits for Type 2 rentals; and begin a phaseout of Type 2s in residential areas; restrict supply of Type 3 rentals. So, we see CM Renteria voting to restrict all rental types other than his own.

He voted to require STR licenses to lapse if no hotel taxes are paid within one year. He did this even though he did not comply with his license requirements for years and did not pay his required taxes? Was this not a conflict of interest to enforce these regulations and make them tougher for other citizens, when he had not complied?

He voted to establish fines sufficient to serve as clear financial deterrents for violations and increase fines for repeat offenders. As a possible repeat offender himself he felt that there was no conflict of interest for him to vote to toughen fines and deterrents for other citizens?

October 15, 2015

<http://www.mystatesman.com/news/news/city-council-adds-to-list-of-possible-str-regulati/nn4MM/>

[1:31:05 pm] and [1:35:14 pm] from City Council Meeting Transcript

<http://www.austintexas.gov/edims/document.cfm?id=241530>

Much of the debate in which CM Renteria participated centered around “Type 2” short-term rentals, which are rented out to a succession of guests year-round without the owner living on the property (unlike his Type 1). The recommendation [to phase out Type 2 rentals from residential areas including CM Renteria's Type 1 rental] narrowly passed by a vote of 6-5 on October 15, 2015, with Council Members Tovo, Kitchen, Leslie Pool, Delia Garza, **Sabino “Pio” Renteria** and Ora Houston voting in favor. He also supported tougher background checks for granting and renewing licenses for short-term rentals. This was a narrow vote, and without Renteria's vote it would not have passed.

At the same meeting (October 15, 2016) CM Renteria abstained from voting on the city's solar energy purchase, citing a conflict of interest because he was considering putting solar panels on his own house. Renteria stated: " That's why I'm going to go ahead and put solar on my house because it -- the rates are just too high and I can't be voting...to raise rates on people knowing the fact that I'm going to be leaving it and putting my own solar in my house." So CM Renteria understands the conflict of interest and finds that even the speculative proposition that he might get solar panels on his house was sufficient conflict not to vote on the City's solar initiative. But insufficient where he owns an STR and is voting on STR regulations that benefit his property?

CM Renteria's votes on STRs constituted a "direct conflict" of interest because these votes directly related to the zoning and use of his rental home.

- 2-7-1 States that CMs need to be "independent, impartial and responsible to the people" and that "public office not be used for personal gain" and that the "public have confidence in the integrity of its government." Accordingly CMs must disclose private financial or other interests in matters affecting the City.
- "Affected" means that a person is reasonably likely to be subject to a direct economic effect or consequence...as a result of the vote or decision in question. "For example a person owning real property...[regarding] decisions such as zoning of the property...or granting of the permit." In his votes regarding STR regulations, CM Renteria was voting on the permissible zoning uses of his property - this is a direct and not indirect effect of how he would be able to use his property.
- In determining whether a person was "affected by" a vote or decision, it shall not be necessary to prove the actual existence or occurrence of an economic effect or consequence if it would be reasonably likely to occur. "Decisions" include the deliberations in which CM Renteria participated that could or might lead to a Council vote or action.

# Conclusion – Review of Code Provisions and Requested Relief

- We request a finding at the final hearing of the ERC on this matter that Code 2-1-24 (which is cumulative of other provisions of the Code regarding Ethics and Conflicts) were violated by CM Renteria with respect to all City Council proceedings and Neighborhood and Planning Committee hearings on the subject of STRs (and ADUs being used as STRs) within the meaning of the City Code.
- There are reasonable grounds to believe that a violation of the City Code provisions 2-1-24, et. al. within the jurisdiction of the ERC have occurred and this matter should be scheduled for a final hearing.
- We request that the ERC specifically direct the City Clerk pursuant to 2-1-24 (C) and (D) to vacate the City Council ruling on October 15, 2015 and all of his other rulings regarding STRs where CM Renteria did not disclose his conflict of interest on his sign-in sheet and then voted to pass restrictions on STRs.
- The Council passed these restrictions 6-5. But for CM Renteria's vote and influence on Council proceedings (from which he should have recused himself), these STR restrictions would not have passed. Accordingly the Council's restrictions on STRs should be vacated as being passed in violation of Code 2-1-24 and other provisions of the City Code.
- At the final hearing the ERC should direct the City Clerk to review all votes of the City Council and Neighborhood and Planning Committee and vacate all votes on STR matters by CM Renteria and invalidate the regulations which would not have passed without his votes.
- Votes cast in violation of Section 2-1-24 must be counted as absences by the Council Member. We request that the ERC review CM Renteria's violations of 2-1-24 for each meeting of the City Council or Neighborhood and Planning Committee where he did not disclose his conflict of interest on the sign-in sheet as required where STRs were discussed. If this happened more than 3 consecutive times in violation of 2-1-26, then the ERC must follow the procedures of 2-4-27 (Prosecution) which results in an automatic vacancy of CM Renteria's from Council seat.



Requested Discovery - The rules state that the complainant may request that certain evidence be presented for the final hearing in order to properly determine at the final hearing whether a violation of the city code has occurred.

We formally request that CM Renteria produce:

1. All dates that he rented his property as a short term rental, including;
2. The rental amounts collected and a print out of all of his AirBnB accounts that he has used or [REDACTED] Renteria has created from 2012 to 2016 or other accounts under which the property was rented;
3. Print outs of the complete records and schedule of bookings which are available by logging in to such accounts with dates and amounts of the reservations;
4. Copies of bank deposits for his rentals;
5. Copies of CM Renteria's tax filings for occupancy tax for the City of Austin and State of Texas;
6. Copies of all of CM Renter's emails, communications, notes or other records of conversations with Austin City Council members related to short term rentals and ADUs being used as short term rentals dating back to January 2015 to the present;
7. Copies of all original sign-in sheets and dates of all Council meetings and committee meetings where CM Renteria voted upon or discussed STRs (including ADU proceedings);
8. The value of CM Renteria's interest in his home to determine whether it is a "substantial interest" as defined by the Code (value greater than \$5,000).