



MEMORANDUM

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

FROM: Jannette Goodall, City Clerk *MP*

DATE: 4/25/16

SUBJECT: Sworn Complaint

The attached sworn complaint was received on April 22, 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 THE SECOND AMENDED AND SUPPLEMENTAL FILING FOR THE ORIGINAL ETHICS COMPLAINT AGAINST CM SABINO RENTERIA FILED ON FEBRUARY 18, 2016.

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 ("Renteria")

CITY OFFICE, DEPARTMENT, COMMISSION: Austin City Council

MAILING ADDRESS: [REDACTED]

PHONE NUMBER [IF KNOWN]: _____

EMAIL ADDRESS [IF KNOWN]: _____

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.

AUSTIN CITY CLERK
RECEIVED
2016 APR 22 PM 4 56

I.

SECTION OF CHARTER OR ORDINANCE VIOLATED:

City Code, Chapter 2-2, Sections 2-7-1, 2-7-2, 2-7-62, 2-7-63 and 2-7-64

We request relief under City Code, Chapter 2-1, Sections 2-1-24 (cumulative of other provisions of the Code regarding ethics and conflicts); 2-1-26 and 2-1-27

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 2016. We attach a specific list of City Council votes and Planning and Neighborhoods meetings in which CM Renteria discussed and votes on ADU and short term rental regulations, as Exhibit A.

ACTIONS ALLEGED TO BE A VIOLATION:

PLEASE SEE PREVIOUSLY FILED POWERPOINT PRESENTATION BRIEF FOR FURTHER DETAILS AND EVIDENCE.

In summary, 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) where his income exceeded \$5,000 and value of his real estate interest in the rental property may have exceeded \$5,000. Yet, Council Member Renteria has voted, spoken and held policy-making meetings regarding the restrictions of short term rentals in Austin. These discussions, votes and meetings have directly impacted all types of short term rentals, other than the type owned by Renteria. For example, he participated in policy discussions and votes to phase out Type II Short-term Rentals. During these votes, discussions and meeting Council Member Renteria has regularly failed to disclose that he was the owner and operator of an illegal Type 1 short term rental from the period 2012-Q1 2014 where he failed to operate under the required Type 1 license in Austin and failed to pay his required Austin and State of Texas Occupancy Taxes. For the period Q1 2014 – Q2 2015, Renteria obtained a Type 1 short term rental license and paid occupancy taxes – and records reflect that he earned more than \$5,000 in rental income during this period.

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?
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?

Discovery requested - we formally request that CM Renteria produce the following materials to help answer the questions presented prior to the final hearing pursuant to the Code:

1. A list of all dates that he rented his property as a short term rental from 2012-2016;
2. The rental amounts collected and a print out of all of his AirBnB accounts that he has used or [REDACTED] 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).
9. A letter written by Renteria and provided to the Austin Monitor on or about April 11, 2016 regarding this complaint and his rental activity.

The specific allegations and review of relevant code provisions and Renteria's actions is provided in the Powerpoint Presentation Brief previously filed.

WITNESSES OR EVIDENCE THAT WOULD BE PRESENTED: Please see attached, plus Austin City Council transcripts of proceedings, voting records and witnesses.

EXHIBIT A

STR and ADU meeting timeline – in reverse chronological order

Feb 23, 2016 City Council Meeting

<http://www.austintexas.gov/department/city-council/2016/20160225-reg.htm>

Council adopts new regulations for short-term rentals - Austin

<http://www.austinmonitor.com/stories/2016/02/austin-city-council-adopts-new-regulations-for-short-term-rentals/>

City Council on Tuesday passed, on a 9-2 vote, new regulations governing short-term rentals that aren't owner-occupied. Council also adopted plans to phase out all of the so-called STR Type 2 properties in residential zones by 2022.

The vote for banning Type 2 STRs on Feb 23, 2016 without grandfathering, for that specific vote to add it into the ordinance, was 6-5 (Renteria, Tovo, Pool, Houston, Garza, and Casar)

Jan 28, 2016 City Council Meeting

Postponed

Council made no decision on STRs and postponed the discussion until February 23rd.

January 26, 2016 Austin City Council Work Session

<http://www.austintexas.gov/department/city-council/2016/20160126-wrk.htm>

December 17, 2015 City Council Meeting

<http://www.austintexas.gov/department/city-council/2015/20151217-reg.htm>

<http://communityimpact.com/austin/city-county/2015/12/17/short-term-rentals-dec-17/>

Struck the test the waters provision

December 8, 2015 - Planning Commission

http://austintexas.gov/cityclerk/boards_commissions/meetings/2015_40_1.htm

November 19, 2015 City Council Meeting

<http://www.austintexas.gov/department/city-council/2015/20151119-reg.htm>

Accessory Dwellings Units (ADUs) resolution passes that limits all ADUs built after Oct 2015 to 30 days per year while grandfathering in ADUs built before that.

Adler, Garza, Renteria, Casar, Gallo, Troxclair, Zimmerman voted for the overall resolution.

November 17, 2015 - Planning Commission Codes and Ordinances Subcommittee

http://austintexas.gov/cityclerk/boards_commissions/meetings/2015_40_1.htm

November 12, 2015 City Council Meeting

<http://www.austintexas.gov/department/city-council/2015/20151112-reg.htm>

<http://www.mystatesman.com/news/news/local-govt-politics/austin-city-council-votes-for-ban-on-short-term-re/npMRh/>

As part of a bigger crackdown on “party houses” in residential areas, the Austin City Council approved a moratorium on year-round short-term rental properties. The 10-1 vote early Friday only impacts “Type 2” short-term rentals that are rented out year-round and aren’t occupied by the owner. Homeowners who only rent out their home for less than 30 days a

year and short-term rentals in apartments or condominiums wouldn't be affected. (City Council Member Ellen Troxclair was the lone "no" vote.)

October 27, 2015 - Planning Commission

http://austintexas.gov/cityclerk/boards_commissions/meetings/2015_40_2.htm

October 20, 2015 - Planning Commission Codes and Ordinances Subcommittee

http://austintexas.gov/cityclerk/boards_commissions/meetings/2015_40_2.htm

October 15, 2015 - Council Meeting

<http://www.austintexas.gov/department/city-council/2015/20151015-reg.htm>

Recommendation to phase out Type 2 rentals passes only 6-5

Discussed ADUs

September 22, 2015 Austin City Council Special Called Meeting

<http://www.austintexas.gov/department/city-council/2015/20150922-spec.htm>

the city council passed the following regarding short term rental occupancy limits.

- 1) No more than six unrelated guests
- 2) No more than 10 guests total
- 3) No more than two people per bedroom, plus two. The presumption is that a house has two bedrooms until an inspection is done.
- 4) No assembly of more than six people outside, and no outside gatherings allowed after 10 p.m.

Also passed:

- 1) Allow anti-STR activists to submit photographs and videos that can be used against their neighbors.
- 2) Allow code enforcement to issue citations for noise violations (currently enforced by the police department)
- 3) Require STR advertising and listing services to collect and remit hotel/motel taxes to the City of Austin.

September 21, 2015 Planning and Neighborhood Committee

<http://www.austintexas.gov/department/city-council/2015/20150921-pnc.htm>

Discussed ADUs

September 17, 2015 City Council Meeting

<http://www.austintexas.gov/department/city-council/2015/20150917-reg.htm>

<http://www.mystatesman.com/news/news/local/austin-city-council-calls-for-one-year-ban-on-new-/nnh4S/>

As part of its crackdown on short-term rental "party houses" in residential neighborhoods, the Austin City Council called for a one-year moratorium on new licensing applications for these year-round rentals.

Council members supported the idea with a 9-1 vote during a discussion that ran late into Thursday night, but a formal ordinance enacting the ban won't be approved for several months.

Proposed regulations for short-term rentals will be on City Council's agenda Thursday after a Council committee hearing displayed consensus from members and staff that the city needs to more strictly regulate the short-term rental market. The committee did not vote

- 1) Add STRs to Section 1301 in City Code Section 25-12-213 (Local Amendments to the International Property Maintenance Code) inspection requirements in Chapter 13 of the Local Amendments;
- 2) Require inspection, including septic systems, under certain circumstances, during the application or approval process for all STRs;
- 3) Prohibit new Type 2 STRs within 1000 feet of existing licensed Type 2 STRs. The prohibition should include a grandfathering clause for existing Type 2 STRs that comply with City Code;
- 4) Enforce occupancy limits for STRs through the administrative hearing process:
Implement a one-year suspension on all new Type 2 STR licenses.
- 5) Prohibit use of STRs for gatherings, such as weddings, bachelor parties, etc.

September 15 - Planning and Neighborhoods Committee Meeting

<http://www.austintexas.gov/department/city-council/2015/20150915-pnc.htm>

Discussion and possible action on recommendations for short-term rental regulations and enforcement (no public comment will be taken).

August 20, 2015 - Council Meeting

<http://www.austintexas.gov/department/city-council/2015/20150820-reg.htm>

new STR rules approved at council

August 17, 2015 - Planning and Neighborhoods Committee Meeting

<http://www.austintexas.gov/department/city-council/2015/20150817-pnc.htm>

<http://www.austinmonitor.com/stories/2015/08/committee-forwards-short-term-rental-changes-council/>

Committee forwards short-term rental changes to Council

Testimony stretched for more than four hours. Members of the City Council Planning and Neighborhoods Committee dug into the first public hearing Monday on more than a dozen recommendations made by Council Member Sheri Gallo about how the city should regulate STRs. ADUs also discussed.

June 18th City Council

<http://www.austintexas.gov/department/city-council/2015/20150618-reg.htm>

Discussed ADUs

June 15, 2015 Regular Meeting of the Planning and Neighborhoods Committee

<http://www.austintexas.gov/department/city-council/2015/20150615-pnc.htm>

Discussed ADUs

June 9, 2015 Planning and Neighborhoods Committee

<http://www.austintexas.gov/department/city-council/2015/20150609-pnc.htm>

Discussed ADUs

ALL THE STATEMENTS AND INFORMATION IN THIS COMPLAINT ARE TRUE
AND FACTUAL TO THE BEST OF MY KNOWLEDGE.

DATE: April 22, 2016


COMPLAINANT'S SIGNATURE

Thomas Clark

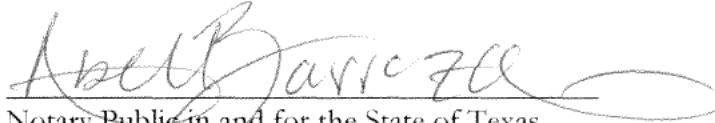
STATE OF TEXAS

COUNTY OF TRAVIS

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

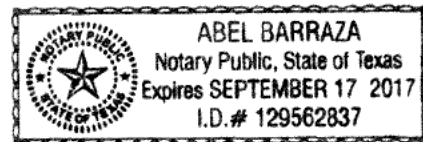
Thomas Clark

On the 22nd day of April, 2016, to certify which
witness my hand and official seal.



Notary Public in and for the State of Texas

Abel Barraza
Typed or Printed Name of Notary



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