



# Legislative UPDATE

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## **Short-Term Rental Opinion Could be Detrimental to Cities**

A recent Texas Supreme Court opinion relating to homeowner association (HOA) regulation of short-term rentals may turn into bad news for cities. In [\*Tarr v. Timberwood Park Owners Association\*](#), the court held that a restrictive covenant prohibiting a use other than single-family use has no effect on short-term rentals.

The dispute arose when a homeowner began using his house as a short-term rental. The HOA determined that the owner was violating the “single-family residence” restriction. The HOA argued that renting the home was akin to using it as a hotel because the short-term residents “do not possess an intent to remain in the house,” as required by the restrictions. The HOA also believed the rental was a “business purpose,” which is prohibited by the restrictions. It fined the owner for each day he continued the use.

The trial and appellate courts held in favor of the HOA. The Supreme Court overruled those courts, concluding that the “single-family” restriction speaks only to the structure, not the use. As for the HOA’s business use restriction, the court found that the covenants do not have definitions for “residential purpose” or “business purpose.” Because of that, the court used the common definitions of the terms. And so long as the home was used as a residence, according to the court, the fact that renters occupied the property for short periods of time was irrelevant to the analysis.

The opinion could lead to legal challenges of city ordinances that regulate short-term rentals based on the distinction between residential and commercial. Any city that regulates in that manner should consult with local legal counsel to review their ordinance and definitions in light of the opinion.

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