

INSTITUTE FOR JUSTICE
Paul V. Avelar (AZ Bar No. 023078)
398 South Mill Avenue, Suite 301
Tempe, AZ 85281
Telephone: 480.557.8300
Email: pavelar@ij.org

Attorney for Plaintiffs

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
COCHISE COUNTY**

AMANDA ROOT; GRANVILLE AND
GEORGIA MONTGOMERY, A MARRIED
COUPLE; CHARLES PARRISH; AND
CHARLES PARRISH O/B/O ROBERT
DREESZEN

Plaintiffs,

v.

CITY OF SIERRA VISTA,

Defendant.

Case No. _____

COMPLAINT

(Declaratory and Injunctive Relief
and Nominal Damages)

INTRODUCTION

1. Under the guise of “zoning,” the City of Sierra Vista has tried to kick long-time residents out of their homes.
2. Plaintiffs Amanda Root and Grandy and Georgia Montgomery live and have lived for many years in an area of Sierra Vista known as Cloud 9, formerly known as Cloud 9 Mobile Home Park. Cloud 9 is today a “Manufactured Home Residential” zone.

3. Sierra Vista says Amanda, Grandy, and Georgia live in what it calls “RVs,” which are allowed in some kinds of “Manufactured Home Residential” zones, but not others.
4. It is perfectly legal to live in an “RV” in Sierra Vista. The City just says Plaintiffs can’t do that where they live now. But they could just across the street.
5. There is no health or safety reason for kicking Amanda, Grandy, and Georgia out of their homes. For years, they have lived in their homes without any problems. In fact, Amanda’s and Grandy and Georgia’s homes are some of the nicest in an area the City has otherwise let become an eyesore and public health and safety threat.
6. Without a valid health or safety reason for kicking Plaintiffs out of their homes or for treating them differently than people who live next door, the City’s actions violate Plaintiffs’ property rights, which are meaningfully protected by the Arizona Constitution.
7. Adding to its constitutional violations, the City tried to force Plaintiffs from their homes without a hearing, an appeal, or any court approval. Property owners are entitled to more under the Arizona Constitution.
8. Unless the courts protect the Plaintiffs’ constitutional rights from the City, Plaintiffs could end up homeless, even though they all own homes.

PARTIES

9. Plaintiff Amanda Root is a citizen of the United States, residing in Cochise County, Arizona. Amanda lives at 539 Cloud Ridge in the “Cloud 9” area of Sierra Vista. Amanda has lived at 539 Cloud Ridge for more than twenty years. Her father bought the lot in 2000 and Amanda has owned it since 2001.

10. Plaintiffs Granville (“Grandy”) and Georgia Montgomery are a married couple and citizens of the United States, residing in Cochise County, Arizona. Grandy and Georgia live at 606 Milky Way, in the “Cloud 9” area of Sierra Vista. Grandy and Georgia have lived in Cloud 9 since 2014, on a lot that they lease from Plaintiffs Charles Parrish and Robert Dreeszen.
11. Plaintiff Robert Dreeszen is a citizen of the United States who resides in Cochise County, Arizona, but also lives part of the year in Alaska. Robert has owned two lots in Cloud 9, 604 and 606 Milky Way, for more than a quarter-century, which he leases to others for their homes. Since 2014, he has leased one of those lots to Plaintiffs Grandy and Georgia Montgomery through his property manager, Plaintiff Charles Parrish.
12. Plaintiff Charles “Al” Parrish is a citizen of the United States, residing in Cochise County, Arizona. Al is the property manager for Plaintiff Robert Dreeszen and has the authority to conduct all leasing business transactions for 604 and 606 Milky Way. Al has the legal right to receive 10% of all lease income from 604 and 606 Milky Way.
13. Plaintiffs Amanda Root and Grandy and Georgia Montgomery are “Resident Plaintiffs.”
14. Plaintiffs Amanda Root, Al Parrish, and Robert Dreeszen are “Owner Plaintiffs.”
15. Defendant City of Sierra Vista, Arizona (the “City”), is a municipal corporation organized under the laws of the State of Arizona.

JURISDICTION AND VENUE

16. Plaintiffs bring this civil rights lawsuit pursuant to Article II, Sections 4 and 13; and Article IV, Part 2, Section 19(13), of the Arizona Constitution; the Arizona Uniform

Declaratory Judgments Act, A.R.S. §§ 12-1831 *et seq.*; and the authority of this Court to provide injunctive relief pursuant to A.R.S. §§ 12-1801 *et seq.*

17. This Court has jurisdiction over this action pursuant to Article VI, Section 14, of the Arizona Constitution and A.R.S. § 12-123.
18. Venue in Cochise County is proper under A.R.S. § 12-401.

FACTS

Cloud 9

19. Cloud 9 is a residential area located southwest of Highway 90 and South Avenida Del Sol in Sierra Vista.
20. The City currently calls Cloud 9 “Cloud 9 Ranch Estates.”
21. Cloud 9 is formerly known as the “Cloud 9 Mobile Home Park.”
22. Cloud 9 was platted in 1968 as unincorporated county land and was later annexed by the City.
23. Cloud 9 contains more than 160 individual lots. These individual lots are small, typically 0.13 acres (5,663 sq. feet) in area.
24. More than 75% of the lots in Cloud 9 are owned by a single limited liability corporation, Moonglow LLC.
25. Moonglow LLC also owns most the property adjoining Cloud 9, including more than 30 undivided acres in Cloud 9, immediately to the west of Blue Horizon Street.
26. Moonglow LLC leases its individual lots and portions of its larger lot to individuals for residential use.

27. The predominant building type in Cloud 9 is “pre-HUD mobile homes” (mobile homes built before 1976).
28. On the whole, Cloud 9 is in a state of disrepair. While the individual owners within Cloud 9 maintain their lots, the lots owned by Moonglow tend to be vacant, overgrown with tall grass and weeds, and numerous mobile homes sit abandoned with broken or boarded-up windows.
29. In 2005, recognizing the condition of Cloud 9, the City established economic development and infill incentives for the Cloud 9 area, then still called the Cloud 9 Mobile Home Park. The expressed goal of these incentives was “to encourage the conversion of manufactured home parks to single-family and multi-family developments.”
30. As explained more fully below, in July 2020, the City sent orders to a handful of property owners and residents in Cloud 9, including Plaintiffs, asserting the owners and residents were in violation of the City’s zoning code because the residents lived in “RVs.” The City’s order stated the residents had to get out of Cloud 9 in 30 days and instead move to a “manufactured home park with the permission of the park owner.”
31. Although the City has tried to kick some of the individual residents out of Cloud 9 for living in “RVs,” it has taken no actions against the owner(s) of the vacant, overgrown, unsightly, and dangerous lots within Cloud 9.

Plaintiff Amanda Root

32. Plaintiff Amanda Root owns a lot in Cloud 9, 539 Cloud Ridge.

33. Amanda has lived on her lot for more than twenty years. Her father bought it in 2000 and Amanda acquired it in 2001.
34. Amanda owns her property free and clear—without a mortgage—which is critical because she is older and disabled and lives on a fixed income.
35. Amanda formerly lived in a mobile home on her lot in Cloud 9.
36. Four years ago, Amanda’s former home burned down.
37. Amanda did not have insurance on her home and could not afford to replace her home.
38. Amanda investigated the cost of buying a new manufactured home. These can cost \$100,000 or more. Amanda also tried to find acceptable used manufactured homes. She could not afford to buy even a used manufactured home and have it placed on her lot.
39. Facing homelessness, Amanda’s friend gifted her a new home—which the City deems an “RV”—to live in on her property in Cloud 9.
40. Amanda has lived in her current home for the last three years.
41. Amanda’s current home does not meet Sierra Vista’s definition of a “manufactured home.”
42. Amanda’s current home is safe for her and her neighbors. Her home is connected to utilities necessary for operation of installed fixtures and appliances, including water, sewer, and power. The City has never claimed that Amanda’s home is dangerous to the public or its residents.

43. Unlike much of the rest of Cloud 9, Amanda's home is generally well-kept and maintained. Her home is not vacant, it is not overgrown with tall grass and weeds, and it does not have broken or boarded-up windows.
44. Amanda's current home is surrounded by a tall fence and is not visible from the road.
45. Amanda's current use of her property, including for her current home as her residence, is consistent with the current use of the surrounding areas.
46. Amanda received the July 2020 remove and replace order from the City.
47. Amanda does not want to move. She wishes to remain on her own property, where she has lived for more than 20 years and does not have to pay a mortgage. She planned to remain in her home on her property for the rest of her life.
48. Amanda cannot afford to buy a manufactured home and have it placed on her property.
49. If Amanda were forced to move, she would have to pay thousands of dollars to move her home to a new location she did not own.
50. If Amanda were forced to move, she would have to pay rent for the new location even though she owns her own property without any mortgage.
51. Amanda cannot afford to pay the thousands of dollars necessary to move her home to a new location and pay rent to another person.
52. Amanda's current home is the only living situation she can afford; if she was forced to move, she would be homeless.

Plaintiffs Grandy and Georgia Montgomery

53. Plaintiffs Grandy and Georgia Montgomery rent a lot in Cloud 9, 606 Milky Way, from Plaintiffs Robert Dreeszen and Al Parrish.
54. Grandy and Georgia are in their seventies. They subsist on Social Security. Grandy is disabled and dependent on an oxygen machine to breathe.
55. Grandy and Georgia have lived in trailer homes for approximately 30 years, ever since Grandy became disabled.
56. Grandy and Georgia currently live in a trailer—which the City deems an “RV”—that they own and which is fully paid for.
57. Grandy and Georgia’s home works for them. It is large enough for both of them, but small enough that they can afford to maintain it on their own, even at their advanced age.
58. Grandy and Georgia began renting their current lot for their home in 2014.
59. Grandy and Georgia love their current location. It is very affordable even on their fixed income. They like their landlord, who is responsive to any needs. It is convenient for shopping and only minutes away from the hospital and their doctors. It has extra space and a wonderful view of the mountains, so they are not and do not feel crowded.
60. Grandy and Georgia’s home does not meet Sierra Vista’s definition of a “manufactured home.”
61. Grandy and Georgia cannot afford to replace their home with a manufactured home.
62. Grandy and Georgia’s current home is safe for them and their neighbors. Their home is connected to utilities necessary for operation of installed fixtures and appliances,

including water, sewer, and power. The City has never claimed that their home is dangerous to the public or its residents.

63. Unlike much of the rest of Cloud 9, Grandy and Georgia's home is generally well-kept and maintained. It is not vacant, it is not overgrown with tall grass and weeds, and it does not have broken or boarded-up windows.
64. Grandy and Georgia's current use of their property, including for their current home as their residence, is consistent with the current use of the surrounding areas.
65. Grandy and Georgia's landlord received the July 2020 remove and replace order from the City, which required Grandy and Georgia to move from 606 Milky Way. Their landlord informed Grandy and Georgia of the order shortly after he received it.
66. Grandy and Georgia do not want to move. They wish to remain on their current lot, where they have lived for more than six years. They had planned on remaining on this lot, in their current home, for many years.
67. Grandy and Georgia's landlord does not want them to be removed from the property. He wants to continue to lease the lot to Grandy and Georgia.
68. Grandy and Georgia have investigated the costs of renting a different location in Sierra Vista for them to live in their home. Those other locations cost more, are smaller and more crowded, and are less convenient and desirable than Grandy and Georgia's current location.

Plaintiffs Charles “Al” Parrish and Robert Dreeszen

69. Plaintiff Robert Dreeszen owns two lots in Cloud 9, 604 and 606 Milky Way, which he leases, sometimes to people who have their own mobile homes or trailers, and other times including a mobile home or trailer as part of the lease.
70. Robert has been leasing 604 and 606 Milky Way to others to live on since he first acquired them more than a quarter-century ago.
71. Plaintiff Al Parrish works as the property manager for 604 and 606 Milky Way and serves as landlord to Grandy and Georgia. Al is empowered to make all leasing decisions with regard to the two lots. He is entitled to 10% of all revenues from leasing the lots.
72. Al and Robert have leased 606 Milky Way to Grandy and Georgia for them to live in their home since 2014.
73. Until recently, Al and Robert leased 604 Milky Way to another person whose home did not meet Sierra Vista’s definition of a “manufactured home.” That person abandoned the property and moved out of Sierra Vista after Al informed him of the City’s July 2020 remove and replace order.
74. Al and Robert now rent 604 Milky Way to a new person to use for a home that does not meet Sierra Vista’s definition of a “manufactured home.”
75. 604 and 606 Milky Way, as well as the homes that are placed there, are safe for their residents and their neighbors. The homes placed there are connected to utilities necessary for operation of installed fixtures and appliances, including water, sewer, and power. The

City has never claimed that homes placed at 604 or 606 Milky Way are dangerous to the public or their residents.

76. Al refuses to rent 604 or 606 Milky Way to people who want to place unsafe or unsightly homes there. He refuses to allow people to stay on those properties if they do not properly maintain their homes and the property and has evicted tenants who have not properly maintained their homes and the property.
77. Unlike much of the rest of Cloud 9, 604 and 606 Milky Way are generally well-kept and maintained. They are not vacant, not overgrown with tall grass and weeds, and the homes placed there do not have broken or boarded-up windows.
78. Al and Robert's current use of 604 and 606 Milky Way, including leasing the property to people who use mobile homes and trailers as their residences, is consistent with the current use of the surrounding areas.
79. Al and Robert wish to continue to lease 604 Milky Way to people who would live in mobile homes or trailers that do not meet Sierra Vista's definition of a "manufactured home."
80. Al and Robert wish to continue to lease 606 Milky Way to Grandy and Georgia for them to use as a residence with their home.

Sierra Vista Tries to Kick Amanda, Grandy, and Georgia out of Cloud 9

81. On July 24, 2020, an agent of the City, Jessica Vannoy, Neighborhood Officer, Department of Community Development, sent nearly identical letters to a handful of

property owners and residents in Cloud 9 with the subject header “RV Parking on Property – Zoning Violation.”

82. In relevant part, each of these letters read as follows:

It has come to the City’s attention that there is currently a Recreational Vehicle (RV) being used for living accommodations on this property. According to Development Code Article 151.22.006, *Matrix of Use Permissions*, RV’s can only be used for living purposes within a manufactured home park or any property zoned Recreation Vehicle Park. Your property is currently zoned Manufactured Home Residence and is located with the Cloud 9 platted subdivision which is not a manufactured home park. Therefore, the use of an RV for housing in violation of the Development Code. To continue to use the RV for housing purposes will require the vehicle to be relocated to a manufacture home park with permission from the park owner. The City will provide up to 30 days to remove the RV from the property.

A manufactured home can be permitted and legally placed on the property for permanent living accommodations. Should you wish to pursue the installation of a manufacture home, please contact the City of Sierra Vista Building Division . . . for permitting information. The continued use of RV’s being used for living purposes on the property, after the 30-day remedial period, will be subject to further enforcement action.

83. Cloud 9 is currently zoned by Sierra Vista as “MHR - Manufactured Home Residence.”
84. MHR zones are governed by the Sierra Vista Development Code § 151.22.011 and § 151.22.006 (Matrix of Use Permissions).
85. Within the MHR zone, there are two subcategories, “Manufactured Home Subdivision” and “Manufactured Home Park.” Sierra Vista Development Code § 151.22.011(E).
86. Sierra Vista prohibits “Recreational Vehicles” as permanent residences in a Manufactured Home Subdivision but allows “Recreational Vehicles” as permanent

residences in up to 30% of the total spaces in a Manufactured Home Park. Sierra Vista Development Code § 151.22.006 Matrix of Use Permissions Table.¹

87. The differences between “Manufactured Home Subdivision” and “Manufactured Home Park” are set out in § 151.22.011(E), which provides as follows:

E. Property Development Standards

1. Manufactured Home Subdivision

- (a) Minimum Area. 4,500 square feet per lot.
- (b) Maximum Density. One dwelling unit per lot.
- (c) Required Yards
 - (1) Minimum front yard - 15 feet.
 - (2) Minimum rear yard - 15 feet.
 - (3) Minimum side yard - 5 feet.
 - (4) Minimum street side yard - 10 feet.
- (d) Maximum Building Height. 28 feet.
- (e) Skirting. All manufactured homes shall install skirting in accordance with the Arizona Department of Housing, Manufactured Home Division, and the most recently adopted building codes. Skirting shall be maintained to its original installed condition.

2. Manufactured Home Park

- (a) Minimum Area. Two Acres.
- (b) Maximum Site Density. Ten dwellings per acre.
- (c) Number. No more than one manufactured home or recreational vehicle shall be placed on each space.

¹ Sierra Vista also allows RVs as short-term, “as opposed to semi-permanent or permanent occupancy,” in Recreational Vehicle Parks.

- (d) Maximum Building Height. 28 feet.
- (e) Required Yards
 - (1) Minimum front yard - 5 feet from the space line.
 - (2) Minimum rear yard - 5 feet from space line.
 - (3) Minimum side yard - 5 feet from space line.
- (f) Minimum Private Street Standards. See Section 151.08.004.
- (g) Skirting. All manufactured homes shall install skirting in accordance with the Arizona Department of Housing, Manufactured Home Division, and the most recently adopted building codes. Skirting shall be maintained to its original installed condition.
- (h) Identification. Each space shall be identified with a permanent and clearly marked identifying marker indicating the space number.

88. Although the City has no separate definition of Manufactured Home Subdivision, it further defines a Manufactured Home Park as “Real property under single ownership that is used as the location for two or more manufactured homes that are, or are intended to be, occupied as dwellings, upon lots which are not conveyable.” Sierra Vista Development Code § 151.02.004.

89. Thus, under the City’s Development Code, Manufactured Home Parks are indistinguishable from Manufactured Home Subdivisions except that Manufactured Home Parks are under single ownership of a larger (greater than two acre) parcel compared to the diversity of ownership in a Manufactured Home Subdivision, and Manufactured Home Parks are allowed to have greater density than Manufactured Home Subdivisions.

90. The part of Cloud 9 in which Plaintiffs reside and own property is deemed to be a “subdivision” because multiple people, including Owner Plaintiffs, own their own smaller lots.
91. A different part of Cloud 9, the more than 30 undivided acres immediately to the west of Blue Horizon Street, is deemed to be a “park” because it is more than two acres and is under single ownership.
92. The single owner of the “park” side of Cloud 9 is the same limited liability corporation that owns 75% of the lots in the subdivision side of Cloud 9.
93. The City further defines a “Manufactured Home” as “A single-family home dwelling, manufactured after June 15, 1976, in an offsite manufacturing facility for installation or assembly at the building site, built in compliance with the federal Manufactured Home Construction and Safety Standard Act, originally bearing an appropriate insignia of approval issued by the United States Department of Housing and Urban Development (HUD).” Sierra Vista Development Code § 151.02.004.
94. The City further defines a “Mobile Home” as “A residential structure built on or before June 15, 1976, on a permanent chassis, capable of being transported in one or more sections and designed to be used with or without a permanent foundation as a dwelling when connected to on-site utilities, except recreational vehicles and other factory-built buildings constructed to meet or exceed the State of Arizona and local building codes.” Sierra Vista Development Code § 151.02.004.

95. The City further defines “Recreational Vehicle” to encompass a variety of vehicles and structures. This includes:

a vehicular type unit that is:

1. A portable camping trailer mounted on wheels and constructed with collapsible partial sidewalls that fold for towing by another vehicle and unfolds for camping.
2. A motor home designed to provide temporary living quarters for recreational, camping, or travel use and built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle.
3. A park trailer built on a single chassis, mounted on wheels and designed to be connected to utilities necessary for operation of installed fixtures and appliances and has a gross trailer area of not less than 320 square feet and not more than 400 square feet when it is set up, except that it does not include fifth wheel trailers.
4. A travel trailer mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of a size or weight that may or may not require special highway movement permits when towed by a motorized vehicle and has a trailer area of less than 320 square feet. If a unit requires a size or weight permit, it shall be manufactured to the standards for park trailers in Book #A119.5 of the American National Institute Code.
5. A portable truck camper constructed to provide temporary living quarters for recreational, travel, or camping use and consisting of a roof, floor, and sides designed to be loaded onto and unloaded from the bed of a pick-up truck.

Sierra Vista Development Code § 151.02.004.

96. Although the City has asserted that Amanda and Grandy and Georgia live in “RVs” generally, they live in residences that are properly defined as a “park trailer” or “travel trailer.”

97. The City's July 2020 order to Plaintiffs to remove and relocate their homes was not issued by a court or based on any court decision.
98. The City's July 2020 order to Plaintiffs to remove and relocate their homes did not notify Plaintiffs of any right to a hearing or appeal before having to comply with the City's order.
99. The City's July 2020 order does not afford Plaintiffs the right to appeal the City's order to remove and relocate Resident Plaintiffs and their homes from Cloud 9 or the right to challenge that order in a court.
100. Neither the Sierra Vista Development Code nor any other municipal code affords Plaintiffs the right to appeal the City's order or the right to challenge the order in a court.
101. The City's July 2020 order to remove and relocate homes had its desired effect: At least two people left their homes in Cloud 9 without ever having a day in court.
102. Although the City insists it is illegal for Resident Plaintiffs to live in their current homes at their current locations in Cloud 9, because that part is a "subdivision," it would be perfectly legal for Resident Plaintiffs to live in their current homes just down the street in Cloud 9—in a more expensive and less-desirable location—because that part is a "park."
103. Although the City insists it is illegal for Owner Plaintiffs to allow people to live in "RVs" or "Mobile Homes" on their properties in Cloud 9—and even to live in "RVs" or "Mobile Homes" on their own properties in Cloud 9—it is perfectly legal for the owner of the "park" part of Cloud 9 to rent its property to other people to live in "RVs" or "Mobile Homes" in Cloud 9.

Sierra Vista Temporarily Backs Down But Promises to Restart the Eviction Process

104. On August 11, attorneys at the Institute for Justice sent a letter to various officers and employees of the City, asserting that the City’s order to remove and relocate homes likely violated the constitutional rights of the property owners and residents.
105. On August 13, the City’s attorney responded to the Institute for Justice. That letter recognized that the City gave Plaintiffs no further hearings or appeals “because none exist; a lot owner cannot be granted a variance that would change the use permitted within the zoning district.”
106. In August 2020, after the media and the public learned about Sierra Vista’s July 2020 orders to remove and relocate homes, the City’s Planning and Zoning Commission voted to consider amendments to the City’s code that would allow Plaintiffs to continue living in “RVs” at their current addresses.
107. While the Planning and Zoning Commission and the City Council considered amendments to the City’s code that would allow Plaintiffs to continue living in “RVs” at their current addresses, the City agreed to stay enforcement of the order to Plaintiffs to remove and relocate their homes.
108. During the Planning and Zoning Commission’s November 17, 2020, meeting, the City’s Community Development Director, Matt McLachlan, testified that the City would restart enforcement efforts against Plaintiffs—would again attempt to evict Plaintiffs—if the City Council did not amend the City’s Code to allow Plaintiffs to continue living in “RVs” at their current locations.

109. On February 11, 2021, the City Council voted to reject a proposed amendment to the City's Code that would allow Plaintiffs to continue living in "RVs" at their current locations.
110. After the City Council voted at its February 11 meeting, the Mayor said the City had administratively suspended evictions until the Governor's emergency Covid orders are lifted. But this "administrative suspension" is voluntary. Enforcement can and will begin again at any time.
111. Based on the representations of the City's own agents, the City will shortly restart its efforts to kick Resident Plaintiffs and their homes out of Cloud 9.

Injury to Plaintiffs

112. The City's actions threaten Plaintiffs' private property and due process rights, and also contravene the separation of powers meant to protect those rights, all of which are guaranteed by the Arizona Constitution.
113. The City's prohibition on "RVs" and "Mobile Homes" in Cloud 9, Sierra Vista Development Code § 151.22.011 and § 151.22.006 (the "RV Ban"), which the City has already tried to enforce and will try to enforce again, denies Resident Plaintiffs the ability to live in their own homes on their own (owned or leased) residential property.
114. The City's RV Ban in Cloud 9, which the City has already tried to enforce and will try to enforce again, denies Owner Plaintiffs the ability to live in their own homes and use their own residential property for residential use.

115. The City's enforcement threatens Plaintiffs with significant financial loss and even homelessness.
116. The City's RV Ban in Cloud 9 prohibits Amanda from living in her current home, on land she has lived on for more than 20 years, which she owns free and clear and has owned for more than 20 years.
117. The City has already threatened to remove Amanda and her home from her own property.
118. The City has said it will try to remove Amanda from her home again now that the City has refused to change its RV Ban in Cloud 9.
119. The City's RV Ban in Cloud 9 means Amanda cannot afford to live on her own residential property because she cannot afford to buy and install a "Manufactured Home."
120. The City's RV Ban in Cloud 9 means Amanda may become homeless because she cannot afford a "Manufactured Home" and cannot afford to move her current home to a new location where she would have to pay rent to a different owner.
121. But for the City's RV Ban in Cloud 9, Amanda would continue to live in her current home on her own property.
122. The City's RV Ban in Cloud 9 prohibits Grandy and Georgia from living in their current home on land they have leased and lived on for more than six years.
123. The City has already threatened to remove Grandy and Georgia and their home from their leased property.
124. The City has said it will try to remove Grandy and Georgia from their home again now that the City has refused to change its RV Ban in Cloud 9.

125. The City's RV Ban in Cloud 9 means Grandy and Georgia cannot afford to live at their current location because they cannot afford to buy and install a "Manufactured Home."
126. The City's RV Ban in Cloud 9 means Grandy and Georgia will be forced to pay more for worse living circumstances because they cannot afford a "Manufactured Home" and would have to pay more money to lease a new location for their current home that would be smaller, more crowded, less convenient to stores and medical services they need, and generally less desirable.
127. But for the City's RV Ban in Cloud 9, Grandy and Georgia would continue to live in their current home at their current location.
128. The City's RV Ban in Cloud 9 prohibits Al and Robert from continuing to lease 606 Milky Way to Grandy and Georgia for their current home.
129. The City has already threatened to remove Grandy and Georgia and their home from 606 Milky Way and a prior tenant and their home from 604 Milky Way.
130. The City's RV Ban in Cloud 9 means Al and Robert cannot lease either 604 or 606 Milky Way to any person who cannot afford to buy and install their own "Manufactured Home" or to any person who cannot afford to rent a Manufactured Home that Al and Robert would pay to buy and install.
131. The City's RV Ban in Cloud 9 means Al and Robert will lose lease revenue from 604 and 606 Milky Way while also incurring greater costs to maintain those lots.
132. But for the City's RV Ban in Cloud 9, Al and Robert would continue to lease 606 Milky Way to Grandy and Georgia and 604 Milky Way to other safe and willing tenants.

133. The City enforces its RV Ban in Cloud 9 through a process that does not include a hearing, appeal, or judicial process.
134. The City's July 2020 order to Plaintiffs to remove and relocate their homes did not notify Plaintiffs of any right to a hearing or appeal before having to comply with the City's order.
135. Plaintiffs cannot be made to leave their homes based solely on the City's say-so.
136. Plaintiffs cannot be made to leave their homes without the right to a hearing or appeal.
137. Plaintiffs cannot be made to leave their homes in just 30 days absent any emergency circumstances.
138. The City's enforcement of its RV Ban in Cloud 9, through a process that does not include a hearing, appeal, or judicial process, threatens to kick Resident Plaintiffs out of their homes without any judicial process and to prohibit Owner Plaintiff's residential use of their residential property without any judicial process.

FIRST CAUSE OF ACTION

Due Process – Property Rights (Article II, Section 4, of the Arizona Constitution)

139. Plaintiffs incorporate and re-allege Paragraphs 1 to 137.
140. Article II, Section 4, of the Arizona Constitution provides that “No person shall be deprived of life, liberty, or property without due process of law.”
141. The RV Ban, as applied to Plaintiffs by the City, prohibits Amanda from living in her current home on a lot she has owned and lived on for more than 20 years.

142. The RV Ban, as applied to Plaintiffs by the City, prohibits Grandy and Georgia from living in their current home at the location they have lived at for more than six years.
143. The RV Ban, as applied to Plaintiffs by the City, prohibits Al and Robert from leasing 606 Milky Way to Grandy and Georgia, as they have for more than six years, and from leasing 604 Milky Way to safe and willing renters who would live in mobile homes or trailers that do not meet Sierra Vista's definition of a "manufactured home."
144. As applied to Plaintiffs, the City's RV Ban in Cloud 9 deprives Plaintiffs of their property rights without due process of law.
145. Plaintiffs have the right to own and use their residential property for residential uses in a way that does not harm the public health, safety, or general welfare.
146. Plaintiffs' property and homes are safe. They are connected to utilities necessary for operation of installed fixtures and appliances, including water, sewer, and power. They are well maintained and are not overgrown or abandoned.
147. Plaintiffs' use of their property is consistent with the current use of the surrounding areas.
148. As applied to Plaintiffs, and the City's RV Ban in Cloud 9 lacks a real or substantial relation to any legitimate government interest.
149. There is no justification, founded in public health and safety or the general welfare, to support the City's RV Ban in Cloud 9 against Plaintiffs, their homes, and their property.
150. The City's RV Ban in Cloud 9 is unduly burdensome as applied to Plaintiffs, their homes, and their property.

151. Unless the City’s RV Ban in Cloud 9 is declared unconstitutional as applied to Plaintiffs, and the City is enjoined from enforcing its prohibition against Plaintiffs, Plaintiffs will suffer irreparable harm; specifically, by being forced from their homes, forced to move, forced to incur significant financial penalties they cannot afford, and will be forced to forego the rights to use, live on, and rent out, their own property.

SECOND CAUSE OF ACTION

**Equal Privileges or Immunities
(Article II, Section 13, and Article IV, Part 2, Section 19 (13),
of the Arizona Constitution)**

152. Plaintiffs incorporate and re-allege Paragraphs 1 to 137.

153. Article II, Section 13 of the Arizona Constitution guarantees that “[n]o law shall be enacted granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which, upon the same terms, shall not equally belong to all citizens or corporations.”

154. Article IV, Part 2, Section 19 (13) of the Arizona Constitution prohibits the enactment of any local or special laws “[g]ranting to any corporation, association, or individual, any special or exclusive privileges, immunities, or franchises.”

155. It is legal to live in an “RV” in Sierra Vista.

156. It is legal to live in an “RV” in a “MHR - Manufactured Home Residence” zone in Sierra Vista.

157. It is legal to live in an “RV” in a Manufactured Home Residence “park,” but not legal to live an “RV” or a “Mobile Home” in a Manufactured Home Residence “subdivision.”

158. The part of Cloud 9 in which Plaintiffs own property and live is deemed to be a “subdivision” because multiple people, including Plaintiffs, own their own lots.
159. A different part of Cloud 9, the more than 30 undivided acres immediately to the west of Blue Horizon Street, is deemed to be a “park” because it is more than two acres and is under the single ownership of the same limited liability corporation that owns 75% of the lots in Cloud 9.
160. The RV Ban in Cloud 9, as applied to Plaintiffs by the City, prohibits Amanda from living in her current home on a lot she has owned and lived on for more than 20 years, but does allow other people to live in identical homes just down the street from Amanda’s home.
161. The RV Ban in Cloud 9, as applied to Plaintiffs by the City, prohibits Grandy and Georgia from living in their current home at the location they have lived at for more than six years, but does allow other people to live in identical homes just down the street from their home.
162. The RV Ban in Cloud 9, as applied to Plaintiffs by the City, prohibits Al and Robert from leasing 606 Milky Way to Grandy and Georgia for their home, but does allow other people to lease identical property to people with identical homes just down the street.
163. The RV Ban in Cloud 9, as applied to Plaintiffs by the City, prohibits Al and Robert from leasing 604 Milky Way to anyone with an “RV” or “Mobile Home” but does allow other people to lease identical property to people with “RVs” or “Mobile Homes” just down the street.

164. There is no real and substantial difference between a Manufactured Home Residence “park” and a Manufactured Home Residence “subdivision” that is germane to any public health and safety or general welfare interest.
165. There is no real and substantial difference between an “RV” or “Mobile Home” in a Manufactured Home Residence “park” and an “RV” or “Mobile Home” in a Manufactured Home Residence “subdivision” that is germane to any public health and safety or general welfare interest.
166. There is no real and substantial difference between a person living in a “RV” “Mobile Home” in a Manufactured Home Residence “park” and a person living in a “RV or “Mobile Home” in a Manufactured Home Residence “subdivision” that is germane to any public health and safety or general welfare interest.
167. The City’s RV Ban in part of Cloud 9 unduly burdens Plaintiffs’ property rights given Sierra Vista’s allowance of “RVs” and “mobile homes” in a different part of Cloud 9.
168. Unless the City’s RV Ban in part of Cloud 9 is declared unconstitutional as applied to Plaintiffs, and the City is enjoined from enforcing its prohibition against Plaintiffs, Plaintiffs will suffer irreparable harm; specifically, by being forced from their homes, forced to move, forced to incur significant financial penalties they cannot afford, and forced to forego the rights to use, live on, and rent out, their own property.

THIRD CAUSE OF ACTION

Due Process and Separation of Powers (Article II, Section 4, Article III, and Article VI, Section 1, of the Arizona Constitution)

169. Plaintiffs incorporate and re-allege Paragraphs 1 to 137.

170. Article II, Section 4 of the Arizona Constitution provides that “No person shall be deprived of life, liberty, or property without due process of law.”
171. Article III of the Arizona Constitution provides that “The powers of the government of the state of Arizona shall be divided into three separate departments, the legislative, the executive, and the judicial; and, except as provided in this constitution, such departments shall be separate and distinct, and no one of such departments shall exercise the powers properly belonging to either of the others.”
172. Article VI, Section 1 of the Arizona Constitution provides that “The judicial power shall be vested in an integrated judicial department consisting of a supreme court, such intermediate appellate courts as may be provided by law, a superior court, such courts inferior to the superior court as may be provided by law, and justice courts.”
173. In July 2020, the City sent orders to Plaintiffs to remove and relocate their homes within 30 days.
174. The City’s order to remove and relocate Plaintiffs’ homes deprives Plaintiffs of the longstanding uses of their property, forces them from their homes, forces them to incur significant financial penalties they cannot afford, and threatens them with homelessness.
175. The City’s July 2020 order to Plaintiffs to remove and relocate their homes was not issued by a court or based on any court decision.
176. The City cannot order Plaintiffs to forfeit their property rights; only a court may order people to be evicted from their homes and property.

177. The City's July 2020 order to Plaintiffs to remove and relocate their homes did not provide any hearing or appeal rights to Plaintiffs.
178. The City's July 2020 order to Plaintiffs to remove and relocate their homes did not notify Plaintiffs of any right to a hearing or appeal before having to comply with the City's order.
179. The City's July 2020 order to Plaintiffs to remove and relocate their homes did not provide Plaintiffs with notice and an opportunity to be heard before having to comply with the City's order.
180. The City cannot unilaterally deprive people of the longstanding uses of their property, particularly when that deprivation results in the loss of a home, without affording Plaintiffs an avenue to challenge that deprivation in court.
181. The City's July 2020 order to Plaintiffs to remove and relocate their homes provided only 30 days to comply, an impossibly short deadline for Plaintiffs to comply with.
182. Unless the City's enforcement of its RV Ban in Cloud 9 through orders that do not issue from a court, do not provide notice and an opportunity to be heard, and which provide only 30 days to comply is declared unconstitutional as applied to Plaintiffs, and the City is enjoined from so enforcing its RV Ban against Plaintiffs, Plaintiffs will suffer irreparable harm; specifically by being forced from their homes, forced to move, forced to incur significant financial penalties they cannot afford, and will be forced to forego the rights to use, live on, and rent out, their own property without judicial process.

PRAYER FOR RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for relief as follows:

- A. For a declaratory judgment that the City’s RV Ban—its prohibition on “RVs” and “mobile homes” in Cloud 9, Sierra Vista Development Code § 151.22.011 and § 151.22.006—as applied to Plaintiffs, denies Plaintiffs’ property rights without due process of law in violation of Article II, Section 4, of the Arizona Constitution;
- B. For a declaratory judgment that City’s RV Ban—its prohibition on “RVs” and “mobile homes” in part of Cloud 9, Sierra Vista Development Code § 151.22.011 and § 151.22.006—while permitting “RVs” and “mobile homes” in other parts of Cloud 9 and adjoining properties, as applied to Plaintiffs, denies Plaintiffs privileges or immunities which the city has granted to other citizens or corporations and grants to other corporations and individual special or exclusive privileges, immunities, or franchises that are not granted to Plaintiffs, in violation of Article II, Section 13, and Article IV, Part 2, Section 19 (13), of the Arizona Constitution.
- C. For a declaratory judgment that the City’s enforcement of its RV Ban through orders that do not issue from a court, do not provide notice and an opportunity to be heard, and which provide only 30 days to comply, as applied to Plaintiffs, denies Plaintiffs’ property rights without due process of law in violation of Article II, Section 4, of the Arizona Constitution and violates the separation of powers protections, Article III, of the Arizona Constitution;
- D. For a permanent injunction barring the City from enforcing its RV Ban against Plaintiffs;

- E. Award nominal damages in the amount of \$1.00;
- F. Award attorneys' fees and costs in this action pursuant to A.R.S. §§ 12-341, -348, and the private attorney general doctrine;
- G. Such additional relief as the Court deems just, equitable, and proper.

Respectfully submitted, this 16th day of February, 2021.

INSTITUTE FOR JUSTICE

By: /s/ Paul V. Avelar
Paul V. Avelar (AZ Bar No. 023078)
398 South Mill Avenue, Suite 301
Tempe, AZ 85281

Attorney for Plaintiffs