

CAUSE NO. 2021-80180

AZAEL SEPULVEDA,
Plaintiff,
v.
CITY OF PASADENA, TEXAS, et al.,
Defendants.

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
281st JUDICIAL DISTRICT

P16
TINJX
PJURZ
STBNX

**[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR TEMPORARY
INJUNCTION AND DENYING IN PART DEFENDANTS' PLEA TO THE
JURISDICTION.**

On February 28, 2022, this Court held an evidentiary hearing on Plaintiff's Motion for Preliminary Injunction and Defendants' Plea to the Jurisdiction. After considering the evidence and testimony presented, arguments of counsel, and the applicable authorities, the Court FINDS AND ORDERS in favor of Plaintiff as follows¹:

FINDINGS OF FACT

A. Azael Sepulveda and Oz Mechanics

1. Plaintiff Azael Sepulveda challenges the constitutionality of the City of Pasadena's parking requirements for auto repair shops, City Code § 9-7, Ex. A, under the due course of law clause and equal protection clause of the Texas Constitution. In the alternative, he requests the Court grant him mandamus relief. (See Pl.'s Verified Original Petition.)

2. This Court has jurisdiction over Mr. Sepulveda's claims. See Tex. Civ. Prac. & Rem. Code § 37.003; Tex. Gov't Code §§ 24.007(a), 24.011.

¹ Any finding of fact that is actually a conclusion of law shall be deemed a conclusion of law. Any conclusion of law that is actually a finding of fact shall be deemed a finding of fact.

3. Mr. Sepulveda has been an auto mechanic in Pasadena for about a decade. (Pl.'s Mot. Temp. Inj., Hr'g Tr. ("Hr'g Tr.") 29:3–5.)

4. Mr. Sepulveda owns an auto repair establishment in Pasadena named Oz Mechanics, which he opened in 2013, and has operated ever since. (Hr'g Tr. 29:17–30:3.)

5. Mr. Sepulveda is a specialty mechanic. Specifically, he is a diagnostician; he diagnoses and repairs electrical malfunctions in automobiles. (Hr'g Tr. 28:2–8.) He does not change transmissions or do any type of heavy auxiliary work. (*Id.* 28:12–16.)

6. Mr. Sepulveda has no employees, and he is the only mechanic working at Oz Mechanics. (Hr'g Tr. 30:4–9.)

7. Oz Mechanics takes clients by appointment only. (Hr'g Tr. 30:10–13.)

8. Oz Mechanics prohibits customers from dropping their vehicles off without an appointment and requires that they pick up their vehicles when the work is done. (Hr'g Tr. 53:15–54:1.) To encourage people to promptly pick up their vehicles, he charges \$30 per day if a car remains after the work is done. (*Id.*)

9. Oz Mechanics first operated at a rented location on Spencer Highway for about two-and-one-half years. (Hr'g Tr. 30:19–31:18.)

10. Then, Oz Mechanics moved to a rented location at 2713 Almdares Avenue, where it has operated since. (Hr'g Tr. 31:13–32:7.)

11. Mr. Sepulveda pays \$1,200 per month in a month-to-month lease for 2713 Almdares Avenue. (Hr'g Tr. 32:8–33:8.)

12. Mr. Sepulveda wanted to buy his own location for his business. (Hr'g Tr. 34:24–35:8.)

B. 1615 Shaver Street

13. Mr. Sepulveda found 1615 Shaver Street (the "Property"), also known as 1615 Main Street because of the way the roads merge, for sale after searching with his father. (Hr'g Tr. 35:9–25.)

14. Mr. Sepulveda purchased the Property for \$86,313.54 on July 12, 2021. (Hr'g Tr. 36:1–6; Hr'g Ex. 2.)

15. Mr. Sepulveda secured the money to purchase the Property with a home-equity loan. The house Mr. Sepulveda shares with his wife serves as collateral for that loan. (Hr'g Tr. 36:25–37:9.)

16. Mr. Sepulveda pays \$624 per month on the loan for the Property. (Hr'g Tr. 37:10–38:5.)

17. The Property previously operated as Houston Engine and Balancing Service, an automotive machine shop that rebuilds engines. (Hr'g Tr. 38:6–17.)

18. An automotive body shop surrounds the Property. (Hr'g Tr. 39:11–16.)

19. The Property has a 2,760 square foot building on it, which includes office space and room to work on vehicles. (Hr'g Tr. 38:24–39:10, 40:10–25; Hr'g Ex. 4; Hr'g Ex. 5.)

20. The Property has two garage doors and can fit four vehicles inside. (Hr'g Tr. 38:18–39:20; Hr'g Ex. 4.)

21. The Property has outdoor parking in front of the building, which can fit five vehicles. (Hr'g Tr. 39:21–40:1; Hr'g Ex. 4.)

22. Altogether, the Property has room for nine cars to park off the street, both inside and outside the building. (Hr'g Tr. 40:2–7.)

C. The City's Parking Requirements

23. The City of Pasadena's Code of Ordinances establishes minimum parking requirements for businesses based on the type of business. Many of the parking requirements are further based on the size of the building on the property. (Pasadena City Code § 9-7, Ex. A.; Hr'g Tr. 89:6-12.)

24. The City requires that auto repair establishments provide ten spaces per 1,000 square feet of indoor building space. (Pasadena City Code § 9-7, Ex. A.; Hr'g Tr. 89:13-21.)

25. The City will not issue a certificate of occupancy or building permit to a property that does not meet the City's minimum parking requirements unless it has a variance or has been grandfathered in as a legally nonconforming use. (Hr'g Tr. 91:4-18.)

26. The Property, which has a building of 2,760 square feet, must provide 28 parking spaces to comply with the City's minimum parking requirements. (Pasadena City Code § 9-7, Ex. A.)

27. The Property cannot fit 28 parking spaces. (Hr'g Tr. 45:5-11, 119:21-24; Hr'g Ex. 4, 8.) Even if Plaintiff were to fill every portion of the property (other than the garage building itself) with parking spaces, the total number of parking spaces would still be fewer than 28 spaces.

28. The only purposes the City identified for its parking requirements were to ensure that businesses provide adequate on-site parking and traffic safety ^{and access for fire} (Hr'g Tr. 99:6-13.)

29. The City's parking requirements for auto-repair establishments serve the same purpose as the parking requirement generally and serve no further purposes. (Hr'g Tr. 100:12-15.)

30. ~~The City identified only one government interest in ensuring that there is adequate on-site parking: public safety. (Hr'g Tr. 100:16-21.)~~

~~31. The City has no evidence that its parking requirements decrease on street parking, either as a general matter or at auto shops specifically. (Hr'g Tr. 101:1-9.)~~

D. The City's Certificate of Occupancy Procedures

~~32. A certificate of occupancy cannot issue if a property does not meet the City's parking requirements, (City Code § 9-7(b)), unless the property owner obtains a variance or is grandfathered in.~~

33. People can submit a Land Use Compliance Review form to determine whether a proposed use would comply with the City's parking requirements. It is a free service provided by the City, and the Planning Department completes the review. (Hr'g Tr. 91:19-92:12.)

34. The City must approve a Land Use Compliance Review application before an applicant may submit a certificate of occupancy application. (Hr'g Tr. 93:15-22; Hr'g Ex. 6 ("This approved form shall accompany all Certificate of Occupancy Applications."))

E. The City's Variance Procedures

35. The City considers variance requests to allow businesses to operate at locations that do not meet the City's parking requirements. (Hr'g Tr. 93:11-14; Hr'g Ex. 11; Hr'g Ex. D-2.)

36. Variance applications must typically include: a completed planning application form, a proposed site plan with information about the building and the parking, a letter of request, and a \$400 check. (Hr'g Tr. 96:20-22; Hr'g Ex. 11.)

37. The Planning Director's January 2021 memo does not list a scaled site plan as a requirement for a variance application. (Hr'g Tr. 97:16-18; Hr'g Ex. 11.)

38. A different City guidance document, with a revised date of October 3, 2018, indicates that a variance request must include: the written request, a "Site plan/Survey (to scale)," ownership records, a map showing the location of the project, any other information the

applicant would like to submit, and a \$400 variance fee. The document does not identify the source of the requirement for a "Site plan/Survey (to scale)." (Hr'g Ex. D-2.)

39. The two City employees who were witnesses at the hearing could not identify the source for a scaled site plan requirement. (Hr'g Tr. 103:3-10; 111:17-112:20; Hr'g Ex. D-2.)

40. Variance applications are submitted to the Planning Department, to the attention of the Director of Planning. (Hr'g Tr. 93:23-94:8.)

41. Variances may issue if the building official, with City Council approval, determines that all of the five criteria, listed in Section 9-79 of the City Code, are met. (Hr'g Tr. 94:16-22.)

42. If the building official finds that all five criteria have been met, the variance request goes to the Planning Commission. (Hr'g Tr. 94:23-95:1.)

43. After the Planning Commission's review, the variance request goes to the City Council for its final determination as to whether to grant or deny the variance. (Hr'g Tr. 95:2-9.)

44. But if the building official does not find that all five criteria have been met, the variance request is denied without going to the Planning Commission or City Council. (Hr'g Tr. 95:10-14.)

F. Mr. Sepulveda Attempts to Open Oz Mechanics at the Property

45. Once Mr. Sepulveda purchased the Property, he sought to open Oz Mechanics at that location. (Hr'g Tr. 41:17-25.) He first filed a Land Use Compliance Review form with the City indicating that he wished to use the land for automotive electrical repair. (Hr'g Tr. 42:1-3; Hr'g Ex. 6.)

46. The City denied Mr. Sepulveda's Land Use Compliance Review. The Planning Department concluded: "Site does not have adequate parking that complies with city codes. 10 compliant parking spaces per 1,000 [square feet] is required for auto electrical repair." The

Public Works/Traffic Department concluded: "Paving/drives do not comply with current city codes, provide plans for review." (Hr'g Tr. 42:3-43:16; Hr'g Ex. 6.)

47. The City's Planning Department sent Mr. Sepulveda the conclusions by email, which stated in pertinent part: "Attached is your Land Use Compliance Review for 1615 Shaver[.] The land use is denied at this time. Site does not have adequate parking that complies with city codes. 10 compliant parking spaces per 1,000 [square feet] is required for auto electrical repair." (Hr'g Ex. 6.) This was the first time Mr. Sepulveda learned of the City's parking requirements. (Hr'g Tr. 44:21-45:1.)

48. Upon receiving the denial, Mr. Sepulveda called the City and set up a meeting to discuss the situation. (Hr'g Tr. 43:25-44:3.)

49. Mr. Sepulveda met with City staff to discuss the City's parking requirements. The staff members present were then-Director of Planning Deanna Schmidt, Natalie Herrera, and Planning Technician Denice Morales. (Hr'g Tr. 44:4-7.)

50. City staff informed Mr. Sepulveda that it deemed Houston Engine and Balancing Service a different type of business from his own. Specifically, City staff deemed it an auto machine shop, a use that City staff described as something other than an auto repair establishment under the City's parking requirements. (Hr'g Tr. 44:9-20, 118:1-119:17; *see also id.* 38:6-17.)

51. City staff notified Mr. Sepulveda that he would need to provide 28 parking spaces to be able to open Oz Mechanics at the Property. (Hr'g Tr. 45:2-4.)

52. City staff recommended to Mr. Sepulveda that he should consider applying for a variance. (Hr'g Tr. 44:14-18.)

53. After the meeting, Mr. Sepulveda sought estimates for the cost of adding at least some parking spaces. (Hr'g Tr. 45:12–46:19.)

54. Mr. Sepulveda obtained a written estimate for adding a 2,400 square foot concrete slab on the side of the building on the Property, which would cost \$24,840, plus the costs of adding drainage. (Hr'g Tr. 46:13–47:25; Hr'g Ex. 7.) This would provide an additional four parking spaces. (Hr'g Tr. 47:8–11.)

55. In addition to the nine parking spaces (both inside and outside) that currently exist on the Property, approximately twelve more parking spaces (including the four in the estimate) could fit on the Property. (Hr'g Tr. 45:12–23.)

56. Obtaining an estimate for the cost of adding the full amount of parking spaces would require hiring an engineer, which would cost between \$10,000 and \$20,000. (Hr'g Tr. 48:8–49:1.)

57. Upon realizing that he could not comply with the City's parking requirements, Mr. Sepulveda spoke with various City officials about the situation, who recommended that he should apply for a variance. (Hr'g Tr. 49:14–50:12.)

58. The only way to obtain a certificate of occupancy without meeting the City's parking requirements is by applying for, and obtaining, a variance. (Hr'g Tr. 17:15–19, 93:11–14.)

59. Mr. Sepulveda applied for a variance from the City on October 18, 2021. (Hr'g Tr. 51:4–11; Hr'g Ex. 8.)

60. Mr. Sepulveda's variance application included: (1) a letter of request, (2) a form from the City's Planning Department, (3) Google reviews of Oz Mechanics, (4) a photo of the

Property, (5) a survey of the Property, (6) parking data from Mr. Sepulveda at 2713 Almdendres, and (7) a site plan. (Hr'g Tr. 51:6–54:16; Hr'g Ex. 8.)

61. The letter of request with Mr. Sepulveda's variance application requested two forms of relief. It asked that the City either (1) provide him a variance from the City's 28-parking-space requirement, or (2) recognize his business as a legal non-conforming use. The second requested form of relief asked the City to recognize that Oz Mechanics is the same land use as the predecessor at the Property, Houston Engine and Balancing Service. (Hr'g Tr. 51:15–20; Hr'g Ex. 8.)

62. The survey with Mr. Sepulveda's variance application showed property lines and a scale. It is signed by a land surveyor. (Hr'g Tr. 52:9–21; Hr'g Ex. 8.)

63. The parking data with Mr. Sepulveda's variance application was from information that Mr. Sepulveda compiled over a three-week period from his business at 2713 Almdendres. The chart showed that Mr. Sepulveda never had more than six cars total parked at his shop, inside and outside. These numbers are standard for his business. (Hr'g Tr. 52:22–53:14; Hr'g Ex. 8.)

64. The site plan with Mr. Sepulveda's variance application showed where Mr. Sepulveda contemplated adding the concrete slab to the side of the building on the Property and showed the square footage of the building. (Hr'g Tr. 54:2–13; Hr'g Ex. 8.)

65. Mr. Sepulveda's variance application was complete. It included all of the requirements listed in the city's documents, including a scaled survey. (Hr'g Tr. 52:9–21, 102:16–103:10, 111:17–20, 124:15–25; Hr'g Ex. 13, Hr'g Ex. D-2.)

66. Mr. Sepulveda's variance application was submitted to the City by an attorney on his behalf on October 18, 2021. (Hr'g Tr. 54:14–55:6; Hr'g Ex. 8.)

67. The day after his application was submitted, Mr. Sepulveda went to City Hall to submit the \$400 fee for his variance application. (Hr'g Tr. 55:23–24.)

68. At City Hall, Mr. Sepulveda spoke with Ms. Schmidt and Ms. Morales, but they refused to accept his check. They indicated that the site plan didn't meet their requirements and that he would need one from an architect. (Hr'g Tr. 55:23–56:16.)

69. Mr. Sepulveda left, saying that he would hire an architect. (Hr'g Tr. 55:23–56:21.)

70. The next day, Mr. Sepulveda received a phone call from Ms. Schmidt, stating that his application was denied because the Property did not meet the variance criteria and was therefore ineligible for a variance. (Hr'g Tr. 56:23–57:12; 86:2–4.)

71. Mr. Sepulveda returned to City Hall and spoke once more with Ms. Schmidt, who reiterated that the Property did not meet the criteria and his variance application was denied. She did not give further detail. (Hr'g Tr. 57:15–58:9.)

72. The City denied Mr. Sepulveda a variance on the merits on November 3, 2021. The City issued a letter signed by the City Attorney, Building Official, Traffic Director, and Planning Director, which said that the Building Official determined that the five variance factors in City Code § 9-79 were not met. (Hr'g Tr. 97:25–98:17, 99:3–5; Hr'g Ex. 14.)

73. The City did not provide Mr. Sepulveda a hearing or other public meeting regarding his variance request. (Hr'g Tr. 58:10–21.)

G. The Effect of the City's Parking Requirements on Mr. Sepulveda

74. The City will not allow Mr. Sepulveda to open Oz Mechanics at the Property because it does not have 28 outdoor parking spaces. (Hr'g Tr. 58:22–59:11.)

75. As a result, Mr. Sepulveda continues to lease the 2713 Almdares Avenue property, so he can continue to operate Oz Mechanics. (Hr'g Tr. 59:12–14; *see also id.* 31:13.)

76. Paying the loan for the Property and the lease for the 2713 Almdares location at the same time is a financial strain on Mr. Sepulveda. (Hr'g Tr. 59:15-21.)

77. Mr. Sepulveda has been working more as a result of the extra expenses. (Hr'g Tr. 59:22-24.)

78. The family's income is expected to decrease soon, as Mr. Sepulveda's wife is due with their first child in a few weeks. She is a hair stylist who does not have paid time off, and she expects to not work as a stylist for at least some time once the baby is born. (Hr'g Tr. 27:18-23, 60:7-13.)

79. If Mr. Sepulveda were able to operate Oz Mechanics at the Property, he would give up his lease at the Almdares location. Giving up the lease means he would no longer need to pay the \$1,200 monthly lease payments. (Hr'g Tr. 59:12-14, 32:8-10.)

80. If he did not have to pay the \$1,200 monthly lease payments, he would save the money and invest it into his business. (Hr'g Tr. 59:12-14, 59:25-60:6.)

81. If he became unable to pay rent on the Almdares location and could not open at the Property, Mr. Sepulveda would need to close Oz Mechanics. (Hr'g Tr. 60:14-19.)

82. If he became unable to pay the loan on the Property, Mr. Sepulveda would lose his house. (Hr'g Tr. 60:22-61:2.)

83. If the City did not require that he add additional parking, Mr. Sepulveda would apply for a certificate of occupancy and take reasonable steps required by the City to obtain a certificate of occupancy for the Property. (Hr'g Tr. 59:3-11.)

84. The record reveals no public interest in requiring 28 outdoor parking spaces at the Property.

85. The record reflects that providing 28 outdoor parking spaces at the Property would be so burdensome on Mr. Sepulveda as to be not only oppressive, but impossible. (Hr'g Tr. 45:5–11, 119:21–24; Hr'g Ex. 4, 8.)

86. The record reflects that the Property currently contains more than adequate parking for Oz Mechanics. (Hr'g Tr. 52:22–53:14; Hr'g Ex. 8.)

87. The record reflects that, to the extent that Mr. Sepulveda complied with the City's demands and added parking spaces to the Property, those parking spaces would go unused. (Hr'g Tr. 52:22–53:14; Hr'g Ex. 8.)

88. The record reflects that the City has presented no evidence justifying its demand that Mr. Sepulveda provide 28 outdoor parking spaces before conducting his appointment-only auto-repair business on the Property.

CONCLUSIONS OF LAW REGARDING TEMPORARY INJUNCTION

The evidence adduced at the hearing on Plaintiff's motion for a temporary injunction merits this Court granting the motion insofar as the City cannot enforce its parking requirements against the Property between now and the entry of final judgment in this case.

A. Mr. Sepulveda Meets the Temporary Injunction Standard.

89. This Court finds that Mr. Sepulveda is entitled to a temporary prohibitive injunction because he proved three elements: (1) a cause of action against the Defendants, (2) a probable right to the relief sought, and (3) a probable, imminent, and irreparable injury in the interim. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002); *RP&R Inc. v. Territo*, 32 S.W.3d 396, 400 (Tex. App.—Houston [14th Dist.] 2000, no pet.).

90. Mr. Sepulveda's claims are ripe even though he did not apply for a certificate of occupancy. The City denied Mr. Sepulveda his Land Use Compliance Review application, and he could not have applied for a certificate of occupancy unless the City had granted his Land Use

~~Compliance Review application. (See Findings of Fact ¶ 34.) Mr. Sepulveda was not required to submit a certificate of occupancy application to the City for which the City said he was ineligible.~~

91. Mr. Sepulveda's claims are also ripe because he submitted a complete variance application, which the City denied on the merits. (See Findings of Fact ¶¶ 65, 72.)

92. The City's materials do not support a conclusion that both a scaled survey and a scaled site plan must be included with a variance application. (See Findings of Fact ¶¶ 37–39, 65.)

93. Even if Mr. Sepulveda's variance application were incomplete, his claims would still be ripe because the City denied his variance application on the merits. (See Findings of Fact ¶ 72.)

94. Another independent reason why Mr. Sepulveda's claims are ripe is that it would be futile for him to reapply for a variance.

95. Nothing about Mr. Sepulveda's request to operate Oz Mechanics at the Property remains hypothetical or contingent. The City made clear its position that Oz Mechanics could not operate at the Property.

(1) Mr. Sepulveda Pled a Cause of Action and Probable Right to Relief.

96. Mr. Sepulveda has pled a cause of action alleging that the City's actions violate the Texas Constitution.

97. *Patel v. Texas Department of Licensing & Regulation*, 469 S.W.3d 69 (Tex. 2015), applies to Mr. Sepulveda's due-course-of-law claims. That case consists of a three-part test: (1) The law's purpose must rationally relate to a legitimate governmental interest, (2) the law's actual, real-world effect must rationally relate to that interest, and (3) the law's actual, real-

world effect must not be so burdensome as to be oppressive in light of the interest. *Id.* at 87. A law must pass all three parts of the test to comply with Article I, Section 19.

98. Mr. Sepulveda has a probable right to relief and a substantial likelihood of success on the merits because the City's parking requirements as applied to the Property are unduly burdensome and oppressive.

99. The number of parking spaces the City requires—28—will not fit at the Property, making it difficult to use as an auto shop, which is the apparent and obvious use of the Property.

100. Moreover, even to the extent that some additional parking spaces would fit on the Property, these additional parking spaces would serve no reasonable purpose.

101. The Defendants' testimony lacks credibility regarding the previous use of an auto machine shop at the Property. For the purposes of the City's code, that use does not materially differ from the auto repair establishment Mr. Sepulveda plans to operate at the Property.

(2) *Mr. Sepulveda Faces a Probable, Imminent, and Irreparable Injury.*

102. Mr. Sepulveda faces dire financial harm without a temporary injunction. Because of sovereign immunity, he cannot obtain damages from the City, making the financial harm irreparable.

103. Mr. Sepulveda cannot use the Property for his business, which is a loss of rights in real property and an irreparable injury. *Rus-Ann Dev., Inc. v. ECGC, Inc.*, 222 S.W.3d 921, 927 (Tex. App.—Tyler 2007, no pet.).

CONCLUSIONS OF LAW REGARDING PLEA TO THE JURISDICTION

Defendants filed a plea to the jurisdiction arguing that this Court should dismiss Mr. Sepulveda's case for two asserted reasons: (1) his claims were not ripe, and (2) he did not sufficiently plead ultra vires claims against the individual officer defendants.

At the hearing on the motion for temporary injunction, this Court denied Defendants' plea insofar as it relied on ripeness arguments. (Hr'g Tr. 122:15-17.) As discussed at length above, Mr. Sepulveda's claims are indeed ripe.

Regarding Defendants' argument as to supposed ultra vires claims, it is clear that this case should proceed against at least some of the named Defendants. The only question is whether there are extra Defendants who should be dismissed from the case. The Court has instructed the parties to attempt to determine whether they can reach an agreement to dismiss any of the Defendants. If the parties are unable to do so, then the Court will determine whether any of the Defendants should be dismissed from the case. However, regardless of whether it is against all named Defendants or some subset thereof, the case will proceed.

RESULTING ORDERS

It is therefore, ORDERED, that between now and entry of final judgment in this case, Defendants are enjoined from:

- (i) Enforcing the ten spaces per 1,000 square feet of G.F.A. requirement against Mr. Sepulveda or otherwise requiring Mr. Sepulveda to add any additional parking spots at his automobile repair shop at 1615 Main Street, Pasadena, Texas 77502, as a condition for him to operate or as a condition for him to obtain a certificate of occupancy; and
- (ii) Imposing any fines or penalties against Mr. Sepulveda for operating an automobile repair shop at 1615 Main Street, Pasadena, Texas 77502, without adding any additional parking spaces.

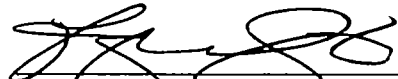
It is further ORDERED that for this Temporary Injunction Order to be effective under the law; ~~no case bond shall be required of the Plaintiff. See Tex. R. Civ. P. 684. The Clerk of Court shall forthwith issue a writ of Temporary Injunction in conformity with the law and terms of this~~ Plaintiff shall post a \$2,500 bond.

Order. Once effective, this Order shall remain in full force and effect until final Judgment in the trial on this matter.

It is further ORDERED that:

- (1) Defendants' plea to the jurisdiction is DENIED to the extent it seeks dismissal based on ripeness;
- (2) the parties engage in mediation by March 30, 2022;
- (3) a final trial in this matter begin on June 6, 2022; and
- ~~(4) any summary judgment motions and briefs in support thereof be filed by April 22, 2022, and responses and briefs in opposition to summary judgment be filed by May 6, 2022.~~

SIGNED March 21, 2022


The Honorable Tanya Garrison