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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF ADA

CHASIDY DECKER and ROBERT)	Case No. CV01-22-11962
CALACAL,)	
)	
Plaintiffs,)	COMPLAINT FOR DECLARATORY
)	AND INJUNCTIVE RELIEF AND FOR
vs.)	NOMINAL DAMAGES
)	
CITY OF MERIDIAN, IDAHO;)	
MERIDIAN CITY COUNCIL; MAYOR)	
ROBERT SIMISON, in his official)	Fee Category: A. A.
capacity; CODE ENFORCEMENT)	Fee: \$221.00
OFFICER ANTHONY NEGRETE, in his)	
official capacity,)	
)	
Defendants.)	

Plaintiffs Chasidy Decker and Robert Calacal, by and through their attorney of record, bring this complaint for declaratory and injunctive relief and for nominal damages against Defendants the City of Meridian, Idaho; the Meridian City Council; the mayor of Meridian, Robert Simison; and Code Enforcement Officer Anthony Negrete. The individual defendants are sued in their official capacities. Plaintiffs complain and allege as follows:

I. INTRODUCTION

1. This case is a civil rights action against the City of Meridian after the City used its zoning laws to effectively evict Chasidy Decker from her house, making her homeless. Chasidy Decker is a native of the Treasure Valley who simply wants to live in the house that's right for her on Robert Calacal's private property with his permission. The City of Meridian has prevented that because Chasidy's home is a tiny home on wheels. Worse yet, the City retaliated against Chasidy when the *Idaho Statesman* wrote an article about the City's unfair treatment of Chasidy. Chasidy and Robert bring this lawsuit not only to get Chasidy back into her home but also to vindicate the constitutional rights the City has denied them.

2. Chasidy loves her tiny home on wheels. The Boise area has been among the hardest hit by the national housing crisis, with some experts describing Boise as the single most overvalued real estate market in the county. In part because of rising housing prices, the right home for Chasidy was not a traditional home, but rather a tiny house on wheels. It might be smaller, but it is picturesque, safe, and just what she needs to be happy with her small dog (Skiba) and cat (Jax). And most importantly, Chasidy can afford to live in the tiny home on her hourly wage. Chasidy found space in Meridian for her house on Robert Calacal's property. He had recently purchased that property because it had RV hook ups that he could rent out to someone like Chasidy, which would help him pay the mortgage. The two connected and entered into a one-year lease arrangement. A win-win. Or so they thought.

3. The City told Chasidy and Robert they were violating City Code and ordered Chasidy to move out of her tiny home within 10 days, or face criminal prosecution and up to \$1,000 in fines per day.

4. Under the City Code, it is perfectly legal for Chasidy to store her tiny home on Robert’s property for as long as she wants. Yet the City Code does not allow Chasidy to live in that home. Instead, the City Code bans living in “mobile tiny houses” or other types of “recreational vehicles,” “except within an approved recreational vehicle park.” Meridian City Code (“MC”) § 11-3A-20.

5. RV parks, however, are not an option for Chasidy or other owners of tiny homes. All the RVs parks in the area are full, with months-long and even years-long waiting lists. And most RV parks do not accept tiny homes anyway. The City has thus effectively banned living in tiny homes on wheels, even though it is a good solution to skyrocketing home prices and housing shortages gripping the area.

6. Now Chasidy is homeless—even though she owns a perfectly good home.

7. The City has no legitimate reason to ban people from living in tiny homes on wheels. It also has no reason to prohibit Chasidy from living in her tiny home specifically. The City has not claimed—nor can it—that it has safety concerns with Chasidy’s tiny house. It is professionally constructed and perfectly safe.

8. The City’s ban is also not justified by aesthetics concerns. Chasidy’s tiny home is attractive, and the City allows Chasidy to store or park her tiny home on the same spot on Robert’s property—she just cannot live in it. And recently, Robert built a six-foot privacy fence around his yard, so Chasidy’s tiny home is largely obscured from view.

9. Even before the fence was built, passersby might not even notice Chasidy’s tiny home. Almost all the properties nearby have multiple similar structures on them, such as RVs and trailers, and even another tiny house on wheels—with some of them being lived in. Many nearby properties also have mechanical equipment, broken down cars, and commercial shipping

containers in their front yards. Many of these property uses are violations under the City Code. Yet the City insists on enforcing its code against Chasidy and Robert, but not their neighbors.

10. Chasidy and Robert faced that unequal treatment soon after Chasidy arrived on Robert's property. City Code Enforcement singled out Chasidy and Robert for heightened investigation, enforcement, and monitoring for code violations while largely ignoring similar code violations by nearby homeowners. On information and belief, Chasidy and Robert were treated differently because they were new to town and had out-of-state license plates, while other property owners have lived in the area for a long time.

11. Selectively enforcing the code against Chasidy and Robert was already wrong, but the City made the situation worse after Chasidy spoke out about the City to the press.

12. The *Idaho Statesman* ran an article on June 8, 2022, about the City forcing Chasidy to move out of her home. The article did not depict City Code Enforcement in a flattering light.

13. Just a few days after the piece was published, a City Code Enforcement Officer—the same one who had told Chasidy she had to move out of her tiny home within 10 days—came back to the property. The officer cited Chasidy and Robert for multiple trivial parking-related code violations—while again ignoring the same parking violations on neighboring properties. Chasidy and Robert suspected these parking violations were for retaliation for the *Idaho Statesman* article. This suspicion was confirmed a few weeks later.

14. On August 2, 2022, at approximately 6:45am, the code enforcement officer angrily confronted Chasidy. He told Chasidy that he did not like the *Idaho Statesman* article or how it had portrayed him. He also warned Chasidy that code enforcement would be driving by the property “at all hours of the night and day” to make sure Chasidy and Robert were complying with the code.

15. The officer also warned Chasidy that neither she nor Robert should sue the City. He said that litigating against the City would cost them thousands of dollars and get “nasty” because the City has a team of “powerhouse attorneys” prepared to go “toe-to-toe” with Chasidy and Robert.

16. The City’s Code Enforcement Officer scared Chasidy and she was afraid to “rock the boat” after that. She did not speak out against the City for two months. Chasidy was deterred, but only temporarily. She has been effectively homeless since August 1 and is now paying to couch surf with friends. She needs to get back into the tiny home she already owns, and she needs to do that quickly. So Chasidy and Robert filed this lawsuit.

17. Article I, Sections 2 and 13 of the Idaho Constitution prohibit arbitrary, capricious, and unequal interference with private property rights, and Article I, Section 9 flatly prohibits government officers from retaliating against free speech.

18. Chasidy and Robert ask for declaratory relief that the City violated their rights to property, equal protection under the laws, and freedom of speech. They also ask for temporary and permanent injunctive relief allowing Chasidy to move back into her home.

II. JURISDICTION

19. This Court has original jurisdiction over this case under Idaho Code Section 1-705(1).

20. Venue is proper in this Court, under Idaho Code Sections 5-401, 5-402, and 5-404, because the property at issue here is located in Ada County; the conduct that gives rise to Plaintiffs’ causes of action occurred and is occurring in Ada County; and the Defendants reside in Ada County.

III. PARTIES

21. Plaintiff Chasidy Decker is a 46-year-old woman who has lived in the Boise area nearly her entire life. She owns a tiny home on wheels and leases space and RV hook ups for her tiny home at 1926 N. Leisure Lane, Meridian, ID (“1926 Leisure Lane”). But for the City’s prohibition against living in tiny homes on wheels, she would be living in her tiny home at 1926 Leisure Lane. She has been effectively homeless since August 1, 2022.

22. Plaintiff Robert Calacal owns the property at 1926 Leisure Lane, and his son resides in the primary residence there. Robert leased space and RV hook ups to Chasidy for her tiny home. Chasidy’s tiny home remains at 1926 Leisure Lane, but since she can no longer live there, Robert no longer charges her the monthly rent on which they had agreed.

23. Defendant City of Meridian is a municipal corporation organized under the laws of the State of Idaho and is located in Ada County.

24. Defendant the Meridian City Council, together with the mayor, is the legislative and policymaking body for the City of Meridian. MC § 1-7-3. The City Council is authorized to perform all duties reasonably required by their office, including the passing of ordinances and the setting of policy and legislation affecting land use. *Id.*; see also MC § 11-5A-2(A). Defendant Meridian City Council enacted all of the City of Meridian’s zoning ordinances, including the ordinance prohibiting the use of recreational vehicles as a residence or living quarters outside an approved RV park. See MC § 11-3A-20.

25. Defendant Robert Simison is the mayor of the City of Meridian. As mayor, he is authorized to vote on City Council actions, such as the enactment of ordinances, in certain circumstances. MC § 1-6-3(A). As mayor, he also is charged with supervision of all officers and affairs of the city, enforcing the City of Meridian’s ordinances, and ensuring compliance with any

applicable State law, including the Idaho Constitution. *See* MC § 1-6-3(B). As mayor, he is authorized to appoint the Director of Community Development, *id.* § 11-5A-2(C), and the Chief of Police, *id.* § 6-1-2. He is sued in his official capacity as mayor.

26. Defendant Anthony Negrete is a Code Enforcement Officer in the Code Enforcement Division of the Meridian Police Department. As a Code Enforcement Officer, he is charged with investigating and enforcing city ordinances, including zoning ordinances, is authorized to issue citations and orders to abate property uses, as well as to monitor compliance with ordinances, citations, and abatement orders. *See* MC §§ 6-1-6, 11-5A-2(C)(1)(a)-(d). Acting in his official capacity as a Code Enforcement Officer, Officer Negrete, among other things described in this Complaint, issued notices of violation and abatement orders to Plaintiffs on June 14, 2022. He is sued in his official capacity as a Code Enforcement Officer.

IV. STATEMENT OF FACTS

A. **The country's housing crisis is at its worst in Idaho's Treasure Valley.**

27. *Fortune Magazine* has called Boise “the poster child of the pandemic housing boom.”

28. Home prices are historically high. In April 2022, the median sales price of a home in Ada County, home to Meridian, was \$595,000—a record high for the county according to Boise Regional Realtors. In May 2022, the same figure eclipsed \$600,000. In June 2022, the median home price was down to \$592,000 but remained more than 12 percent higher than prices a year before.

29. According to experts, the high prices are also too high. According to Moody's Analytics, homes in Boise City, Idaho, are nearly 70 percent overvalued. An *Idaho Statesman* piece quoted two university researchers who put that figure at 72 percent.

30. The crisis is not limited to home buyers, but also to renters. According to one source, average rent for an apartment in Meridian in July 2022 was \$1,798 per month. According to another, 77 percent of rentals in Meridian cost more than \$1,500 per month, and 99 percent cost more than \$1,000 per month.

31. Although home and apartment prices may correct to some degree, that is likely to take years. And the correction is unlikely to return home and apartment prices in the Boise area to their pre-pandemic, normal levels.

32. The end result of these skyrocketing housing costs is that many middle- and low-income people, including many natives of the area like Chasidy, have been priced out of living in Idaho's Treasure Valley.

B. Chasidy and Robert agreed on a simple solution: She could live in her tiny home on wheels on his private property.

33. Chasidy is a native of the Treasure Valley. Although she left for Reno in 2019 to help her mother following the death of Chasidy's grandfather, she always intended to return to the Boise area she called home.

34. By the beginning of 2022, she was ready to return home. But the real estate market in Boise and the surrounding areas left her with no affordable options to buy or rent.

35. But she already had a simple, safe solution: A tiny home on wheels.

36. With some inheritance from Chasidy's grandfather, Chasidy's mother gave Chasidy the money to purchase an attractive, 252-square foot tiny home on wheels professionally manufactured by Tiny Idahomes in May 2019. The home is of quality construction and conforms to best practices for tiny home construction. The home has utility hook ups for water, electric, and sewer. And Chasidy had been safely, happily living in it in Nevada for years.

37. Chasidy was searching for months for a place near Boise to live in her tiny house on wheels along with her small dog, Skiba, and her cat, Jax. She found that space when she and Robert Calacal connected online.

38. Robert, who is from California, had recently purchased a home in Meridian at 1926 Leisure Lane. He purchased the home for his son to live in after his son had been priced out of Boise's real estate market. His son, like Chasidy, had out-of-state license plates on his car when he moved in.

39. Robert chose the home at 1926 Leisure Lane specifically because it had RV hook ups that previous owners had installed and that he could rent out, which would help him pay the mortgage on the property.

40. He placed an ad on Craigslist offering space for a tiny home or RV to be parked alongside the primary residence.

41. Robert believed he was allowed to rent out the RV hook ups. The home at 1926 Leisure Lane is on a private road and is not subject to any covenants, conditions, or restrictions. Other homes in the neighborhood have RV hook ups in use and several other properties in the neighborhood have tiny homes or RVs placed alongside the primary residences. The former owner of 1926 Leisure Lane also had allowed someone to live in an RV alongside the home, using those hook ups, for several years.

42. In May 2022, Chasidy and Robert entered into a lease that would allow Chasidy to park her tiny home on wheels next to Robert's house on a gravel driveway and to use the RV hook ups for water, sewer, and electric utilities. In return, Chasidy would pay Robert \$600 per month in rent plus about \$100 per month for utilities.

43. Chasidy moved in with her tiny home on or around May 17, 2022. She parked her Jeep behind the tiny home. Both her tiny home and her jeep had out-of-state license plates, but Chasidy was back home in Idaho's Treasure Valley.

C. Code Enforcement visits 1926 Leisure Lane.

44. City Code Enforcement Officer Anthony Negrete came to the property the day after Chasidy parked her tiny home there.

45. Officer Negrete told Robert that Chasidy could not live in the tiny home. He further directed Robert either to move the tiny home to a concrete slab or to enclose it with a fence. He also told Robert that the tiny home would have to be unplugged from the RV hook ups.

46. Officer Negrete did not, however, issue any form of written warning, notice of violation, or order to Robert or Chasidy.

47. Officer Negrete allowed Chasidy and Robert only 10 days to comply with his directions.

48. Robert asked for an extension of 60 days, but Officer Negrete refused. He told Robert that if he did Chasidy and Robert a favor, he would have to do everyone a favor.

49. On information and belief, Officer Negrete ignored other properties on Leisure Lane with people living in RVs or with other similar code violations, such as having mobile homes, broken-down cars, mechanical equipment, large shipping containers, or debris on their lawns. Almost all these structures are plainly visible on the properties, and not enclosed behind fences.

D. Chasidy sought help and spoke out to try to save her home.

50. With only 10 days before she would become homeless, Chasidy sought and received help from Jason Jones, an advocate for tiny homes in Idaho.

51. Mr. Jones emailed the City Council and the City Attorney's Office on Chasidy's behalf. Mr. Jones stated that the City should not force Chasidy to move. He also stated that at the very least, the City should give Chasidy more than 10 days to move.

52. Deputy City Attorney, Emily Kane, recommended Chasidy look for space in an RV park to live in the tiny home, but she said the City would not allow her to live in the tiny home next to Robert's house. Deputy City Attorney Kane also said it was possible Chasidy could ask Code Enforcement for an extension for more time, although Robert had already tried that without success.

53. Jason also contacted the *Idaho Statesman* for Chasidy.

54. The newspaper covered Chasidy's plight in a June 8, 2022, piece.

55. The piece recounted how Chasidy "worried that the city's move to effectively evict her would leave her homeless." It mentioned a "Meridian code enforcement officer" several times, although not by name. It also emphasized that the Code Enforcement officer had given Chasidy only 10 days, and Chasidy was desperately hoping the City would give her an extension of time.

56. The article also featured video of the tiny home's exterior and interior.

57. Deputy City Attorney Kane provided a statement to the *Idaho Statesman* that Chasidy could live in the tiny home on wheels in Meridian, but only in an RV park.

58. As the article explained, however, the nearby RV parks were full and would not have space for many months, if not years. Additionally, many RV parks in the area do not accept tiny homes on wheels like Chasidy's.

E. After the *Idaho Statesman* story, City Code Enforcement retaliated.

59. Immediately after the *Idaho Statesman* article, Officer Negrete returned to 1926 Leisure Lane.

60. On or about June 9, the day after the *Idaho Statesman* was published, Officer Negrete returned and stated that cars parked on the lawn had expired registrations and were improperly parked.

61. After Officer Negrete left, Elsa—Robert’s wife—mentioned that his visit was odd and that it seemed like he was retaliating against them for the *Idaho Statesman* article.

62. On information and belief, or around June 14, 2022, Code Enforcement again monitored and observed 1926 Leisure Lane for potential code violations. The same day, Officer Negrete issued Notices of Criminal Violation of Unified Development Code and Orders to Abate to Chasidy and to Robert.

63. Both Chasidy and Robert were cited because cars with expired registrations were parked in the side yard (although on gravel). They were given until June 27, 2022, to comply with that order by removing the cars or constructing a fence that would conceal the cars.

64. Robert was cited as well for a truck that was parked in the front yard (although on gravel) on June 9, 2022. He was given until June 27, 2022, to remove the truck or to improve the grass into a parking surface.

65. Each separate offense in the citations threatened up to a \$1,000 daily fine and potential jail time.

66. After Chasidy received the citation, she mentioned it to a neighbor. The neighbor mentioned that he also had vehicles with expired registration but had never been cited.

67. In fact, many nearby properties have cars with expired registrations, and have never been cited.

68. Many nearby properties also have cars parked on the grass and in side yards and have never been cited.

69. On information and belief, Officer Negrete had issued the citations to retaliate against Chasidy and Robert for the *Idaho Statesman* article.

70. On June 14, both Chasidy and Robert were also cited for violating Section 11-3A-20 of Meridian's Code, which prohibits using an RV as a residence or living quarters outside an approved RV park. Both were ordered to abate the violation by August 1, 2022.

71. On information and belief, the reason the notice said August 1 was because City officials had ordered Officer Negrete to give Chasidy more time than the original 10 days he had given.

F. Officer Negrete confirms suspicions that he was angry about the *Idaho Statesman* article.

72. Chasidy moved out of her tiny house on August 1, as directed by the violation notice.

73. Chasidy returned to the tiny home the next morning at approximately 6:45 a.m. briefly to take care of some things.

74. To her great surprise, Officer Negrete confronted her there.

75. This was the first time that Chasidy had ever been alone with Officer Negrete.

76. Officer Negrete confronted her angrily and disputed portions of the *Idaho Statesman* piece.

77. He said that the article unfairly portrayed him because it said he was "evicting" Chasidy. But Officer Negrete told Chasidy he never used the word "eviction" when he wrote the violation notice.

78. Officer Negrete also warned Chasidy that Code Enforcement officers would be by the property “at all hours of the day and night” to make sure Chasidy and Robert were complying with the code.

79. Officer Negrete further warned Chasidy that she shouldn’t bring a lawsuit against the City. (This was an odd statement, considering that neither Chasidy nor Robert had ever mentioned a lawsuit to Officer Negrete.) Officer Negrete told Chasidy that if she or Robert brought a lawsuit, it would get “nasty” and cost them tens of thousands of dollars. He also said that the City had a “powerhouse team of attorneys” who would go “toe-to-toe” with them and fight them tooth and nail.

80. At this point in the conversation, Chasidy was visibly sobbing with tears rolling down her cheeks. She asked Officer Negrete why he was singling her out. She told him that other properties had RVs and tiny homes that were being lived in or otherwise hooked up, and other code violations. Officer Negrete said that those property owners were long-time residents of Meridian entitled to grandfathering rights to continue those uses. Officer Negrete also said that if Chasidy had had a lease with the former property owner of 1926 Leisure Lane, she would be able legally to continue living in her tiny home on the property.

81. Officer Negrete said that because Robert was from California and had just bought the home, he and Chasidy had to comply fully with the code.

82. On information and belief, many neighboring properties are not actually entitled to grandfathering rights to violate the code.

83. To be entitled to grandfathering rights in a nonconforming use, property owners must be engaged in that use before a zoning ordinance prohibiting the use goes into effect. Until 1978, Leisure Lane was not subject to Meridian’s zoning ordinances. However, the City annexed

the Leisure Lane area in 1978, making the City's zoning ordinances applicable to the properties there from that time forward.

84. On information and belief, the nonconforming uses on other properties on Leisure Lane did not pre-date the City's annexation of the neighborhood in 1978.

85. On information and belief, Officer Negrete did not investigate or consider whether any of the nonconforming uses on other properties on Leisure Lane pre-dated the City's annexation of the neighborhood in 1978.

86. Similarly, Officer Negrete presumed that the previous owner of Robert's property would have been entitled to grandfathering rights to continue renting out the RV hook ups there, which was incorrect.

87. Even if he had been correct that the former owners were entitled to grandfathering rights, then those rights would have transferred to Robert when he purchased the house.

88. On information and belief, because Robert and Chasidy were new to town and/or from out of state, Officer Negrete did not investigate or consider whether Chasidy and Robert would be entitled to the grandfathering rights he presumed were available to the surrounding neighbors and previous owner. On information and belief, because they were new to town and/or from out of state, Officer Negrete presumed Chasidy and Robert were not entitled to grandfathering rights.

89. Nevertheless, both Chasidy and Robert have complied, or are complying, with the June 14 abatement orders, including by unplugging her tiny home from the RV hook ups and by erecting a six-foot fence to shield the tiny house and parked cars from view.

G. With no effective remedy to get Chasidy back in her home, Chasidy and Robert filed this lawsuit.

90. The June 14 notices did not offer any option for administrative appeal or review.

91. Meridian's code does not provide any option for administrative appeal or review.

No variance, conditional use permit, or other exception or permit available under Meridian's Code would allow Chasidy to live in her tiny home on wheels next to Robert's house.

92. During the August 2 encounter between Officer Negrete and Chasidy, Chasidy asked whether any sort of administrative appeal or review was available. He told her she could ask the City Council to amend Meridian's ordinances. But then, he told her that she could not ask the City Council to do that because she is not a property owner.

93. In any event, even if Chasidy and Robert could resort to the City's administrative procedures, the procedures would be futile because the City's position on this issue is clear.

94. In addition, any administrative procedure would be too time-consuming since Chasidy is now homeless and needs to regain possession of her home immediately.

95. With no other options to restore Chasidy to the home of her choice, Chasidy and Robert filed this suit for declaratory relief and temporary and permanent injunctive relief.

V. INJURIES TO CHASIDY

96. Chasidy wants to, but currently cannot, live in the City of Meridian in her tiny home on the property where she contracted to live in it, which deprives her of the due process right to use her property in safe and reasonable ways that do not interfere with others' enjoyment of their properties.

97. Chasidy entered into a lease to live in her tiny home on Robert's property. She expected to live in it there for the foreseeable future. And she had, in fact, begun living in her tiny house there. The City forced Chasidy to vacate the home and forego the future enjoyment of her

property rights under the lease with Robert because the City will not let her live in her tiny home on Robert's property.

98. Chasidy owns her home and yet has nowhere to live because the City of Meridian prohibits living in her home except in an RV park. But Chasidy does not want to live in an RV park, and there are no spaces available in any RV parks near Meridian anyway.

99. Chasidy cannot afford to purchase a new home or to rent a place to live in the area, even if it made sense for her to do so despite the fact that she already owns a home.

100. But for the City's ban on living in tiny homes on wheels on private property, Chasidy would resume living in her tiny home and paying rent to Robert for it.

101. Chasidy already owns a home to live in, and yet the City's ban on living in tiny homes on wheels outside RV parks has caused her to take time-consuming steps to find places to stay temporarily for herself, her dog, and her cat. Chasidy has not yet found a place to live, and is instead paying to couch surf with friends, while her pets separately stay with still other friends. All of that would be unnecessary but for the City's prohibition on living in mobile tiny homes outside RV parks.

102. Chasidy does not want to be unfairly investigated, monitored, confronted, or harassed by City Code Enforcement.

103. Chasidy wants to be treated equally with her neighbors and others in her community. She does not want to be singled out because she is from out of town, had out-of-state license plates, spoke out against the City, or for any other reason.

104. Chasidy wanted to speak out when she felt the City had unreasonably enforced its prohibition on living in RVs outside RV parks against her and Robert. She did so when she participated in the *Idaho Statesman* piece. But, after she and Robert were visited by Officer

Negrete a few days after the *Idaho Statesman* piece was published and cited by Officer Negrete for trivial parking violations just six days after the piece was published, she feared future reprisals for speaking out on the matter again and that chilled her speech for two months.

105. But for the City's actions, Chasidy would have continued speaking about the matter. However, the City's actions chilled her speech.

VI. INJURIES TO ROBERT

106. Robert currently cannot rent the RV hook ups on his home to Chasidy or any other person with a mobile tiny home looking for a place to live, depriving him of the due process right to use his property in safe and reasonable ways that do not interfere with others' enjoyment of their properties.

107. Robert purchased the property at 1926 Leisure Lane with the expectation that he could use the RV hook ups to earn rental income, but the City's prohibition on living in mobile tiny homes outside approved RV parks deprives him of that expected income. The City does so for no legitimate reason, which violates Robert's due process rights.

108. But for the City's ban on living in tiny homes on wheels on private property, Robert would resume renting the RV hook ups to Chasidy and allowing her to live in her tiny home on his private property.

109. Robert has taken costly and time-consuming steps to come into compliance with the notices of violation that he received, such as hiring a contractor to construct a six-foot fence on his property to screen the cars and Chasidy's home.

110. Robert does not want to be unfairly investigated, monitored, or confronted by City Code Enforcement. But the City's irrational presumption that new residents are not entitled to the same grandfathering rights as are perceived long-time residents has caused, and will continue to

cause, Chasidy and Robert to be so investigated, monitored, or confronted by City Code Enforcement.

111. Robert was cited for trivial parking violations after Chasidy exercised her free speech rights by participating in the *Idaho Statesman* article. But for the City's retaliation against Chasidy, Robert would not have been cited for that violation and obligated to take steps to come into compliance with the relevant parking provision in Meridian's code.

VII. LEGAL CLAIMS

Count 1: Substantive Due Process (Facial Challenge) – Idaho Const. art. I, § 13

112. Plaintiffs repeat and incorporate here the allegations in Paragraphs 1-111.

113. City Code Section 11-3A-20's ban on living in mobile tiny homes facially violates Article I, Section 13 of the Idaho Constitution. That section's "due process of law" clause protects, among other things, property rights.

114. Section 11-3A-20 flatly bans the use of mobile tiny homes as a residence or living quarters outside an approved RV park ("the ban" or "the ordinance"). That ban is an unconstitutional interference with private property rights.

115. Idaho has a long tradition of respecting private property rights, which are protected by the Idaho Constitution. The Constitution requires laws infringing on property rights to have a direct, real, and substantial relation to legitimate government interests.

116. The ordinance fails not only that test, but also the ordinary rational basis test, which prohibits laws that are arbitrary and irrational or otherwise not supported by legitimate governmental purpose.

117. The ordinance fails both tests because it is not supported by a legitimate government interest.

118. The ordinance does not promote health and safety. For example, the ordinance does not prohibit living in mobile tiny homes everywhere in Meridian, just mobile tiny homes outside an RV park. Indeed, Meridian residents can spend indefinite amounts of time occupying a mobile tiny home outside an RV park, just so long as they are not using it as a living quarters or residence. The ordinance also does not promote health and safety because it prohibits all mobile tiny homes regardless of whether the mobile tiny home is safe to be occupied.

119. The ordinance also does not preserve the character or aesthetics of a neighborhood, because it prohibits people only from living in mobile tiny homes; yet it is perfectly legal to park the mobile tiny homes outside RV parks, including at single-family homes. The ordinance also applies regardless of a mobile tiny home's appearance or whether it is even visible from public areas or other private properties.

120. The ordinance does not serve any other legitimate purpose justifying the use of the state's police power.

121. As a result, the Court should find Section 11-3A-20's ban on living in mobile tiny homes to be unconstitutional, on its face, under Article I, Section 13 of the Idaho Constitution.

Count 2: Substantive Due Process (As Applied to Chasidy) – Idaho Const. art. I, § 13

122. Plaintiffs repeat and incorporate here the allegations in Paragraphs 1-111.

123. Under Section 11-3A-20, Chasidy is prohibited from living in her mobile tiny home on Robert's private property.

124. Prohibiting Chasidy from living in her mobile tiny home on Robert's private property does not rationally or substantially promote health or safety in any way.

125. Chasidy's home is safe, well-maintained, and equipped with electric, water, and sewer utilities. It was manufactured by Tiny Idahomes—a professional tiny home construction

company—and is of quality construction and conforms to best practices for tiny home construction. Chasidy has safely lived in it for years.

126. Moreover, the City has not stated or suggested at any point that Chasidy’s tiny home would be unsafe to live in.

127. Indeed, the City has conceded Chasidy’s tiny home would be safe to live in. Both Deputy City Attorney Kane and Officer Negrete stated Chasidy could live in her tiny home in an RV park.

128. Applying Section 11-3A-20 to Chasidy does not rationally or substantially promote health and safety because forcing her into homeless has not improved her health and safety or that of the public.

129. Applying Section 11-3A-20 to Chasidy does not rationally or substantially promote health and safety for the further reason that other Meridian residents still live in RVs, tiny homes, and similar structures outside RV parks.

130. Applying Section 11-3A-20 to Chasidy does not rationally or substantially promote health and safety for the further reason that the City would allow her to continue living in her tiny home on wheels where she had been, if only she had entered into a lease agreement with the previous owners of Robert’s property.

131. Prohibiting Chasidy from living in her tiny home on wheels on Robert’s private property does not rationally or substantially preserve the character or aesthetics of the neighborhood.

132. Chasidy’s tiny home on wheels is attractive and consistent with the neighborhood, but even if it were not, it is behind a six-foot fence which largely screens it from sight from Leisure Lane and from other properties there.

133. Applying Section 11-3A-20 to Chasidy does not rationally or substantially promote any legitimate government interest for the further reason that she is prohibited from living in her tiny home on wheels on Robert's private property only because the City believed she and Robert were new to town.

134. Additionally, the City has substantially undermined any purported justifications for applying Section 11-3A-20 to Chasidy by not enforcing the ban against other Meridian residents.

135. As a result, the Court should find Section 11-3A-20's ban on living in mobile tiny homes to be unconstitutional, as applied to Plaintiff Chasidy Decker, under Article I, Section 13 of the Idaho Constitution.

Count 3: Substantive Due Process (As Applied to Robert) – Idaho Const. art. I, § 13

136. Plaintiffs repeat and incorporate here the allegations in Paragraphs 1-111.

137. Section 11-3A-20 not only prohibits Chasidy from living in her tiny home on wheels on Robert's private property, it also prohibits Robert from using his private property in the reasonable, safe, and ordinary way that he expected to use it when he purchased it.

138. Applying Section 11-3A-20 to Robert is arbitrary and irrational because it interferes with his right to use his private property to earn a living in a safe and ordinary way, and it does so without any rational or substantial connection to a legitimate government interest.

139. Robert purchased the home at 1926 Leisure Lane in large part because the house had RV hook ups that Robert believed he could rent out to help pay the mortgage.

140. In fact, the previous owner of 1926 Leisure Lane had allowed a family member to live outside the house in a trailer hooked up to the RV hookups for years. And as Robert had observed, others in the neighborhood kept their RVs permanently hooked up and appeared to be living in them.

141. Robert entered into a one-year lease agreement with Chasidy that would provide him \$600 per month in rent, which he would use to help pay the mortgage on the home. He no longer collects the full rent, since Chasidy is not allowed to live in the tiny home but can only park it on his property.

142. Applying Section 11-3A-20 to Robert does not rationally or substantially promote health, safety, or any other legitimate government interest for all the reasons that applying Section 11-3A-20 to Chasidy does not rationally or substantially promote those interests.

143. Additionally, the City has substantially undermined any purported justifications for applying Section 11-3A-20 to Robert by not enforcing the ban against other Meridian residents

144. As a result, the Court should find Section 11-3A-20's ban on living in mobile tiny homes to be unconstitutional, as applied to Plaintiff Robert Calacal, under Article I, Section 13 of the Idaho Constitution.

Count 4: Equal Protection (Selective Enforcement) – Idaho Const. art. 1, § 2

145. Plaintiffs repeat and incorporate here the allegations in Paragraphs 1-111.

146. Section 11-3A-20 violates Article I, Section 2 of the Idaho Constitution as applied to Chasidy and Robert.

147. Chasidy and Robert want to use, and were using, their private property in a safe and reasonable way that does not meaningfully differ from how other property owners on Leisure Lane use their private property.

148. There are RVs, tiny homes, broken-down cars, mobile homes, large shipping containers, mechanical equipment, and debris on the yards of other properties on Leisure Lane.

149. Some of the RVs, tiny homes, and other similar structures are plugged into RV hook ups on other properties on Leisure Lane.

150. On information and belief, people live in RVs, tiny homes, and other similar structures on other properties on Leisure Lane.

151. When Chasidy asked Officer Negrete why she has to abide by the code, while other residents in the neighborhood are not required to abide by the code, he told her that other residents have lived in the neighborhood for a long time, while she and Robert just moved there from out-of-state.

152. The City seems to be taking the position that other residents in the neighborhood do not have to abide by the code because their violations of the code are non-conforming preexisting uses. The right to continue a non-conforming preexisting use is also known as a “grandfathering right.”

153. But the City’s apparent position is legally incorrect. The other residents would have grandfathering rights to continue a specific use on their property only if that use started before the code made that use illegal.

154. Thus, these other residents would have grandfathering rights to live in their mobile tiny homes and RVs, to keep RVs hooked up on a permanent basis, or to park or store cars with expired registrations, mechanical equipment, broken-down cars, or debris on their lawns, only if they had started doing so prior to 1978 when the City annexed the Leisure Lane area.

155. On information and belief, many of the other residents do not actually have grandfathering rights, because these activities started after 1978.

156. Even if many of the other residents did have grandfathering rights, the City’s unequal treatment of Chasidy and Robert would still violate Article I, Section 2 of the Idaho Constitution.

157. On information and belief, the City has a practice, custom, or policy of not investigating the grandfathering status of property owners who are perceived to be long-time residents of Meridian in the same way the City investigates the grandfathering status of property owners who are perceived to be from out-of-state or new to Meridian.

158. On information and belief, the City simply presumes that existing and long-time property owners on Leisure Lane are entitled to grandfathering rights to use their property in ways that may otherwise violate Meridian's code.

159. On information and belief, the City further presumes that new property owners on Leisure Lane are not entitled to grandfathering rights to use their property in ways that may otherwise violate Meridian's code.

160. There is no factual or legal basis for those presumptions, which are both arbitrary and legally irrelevant and which result in an unequal application of Meridian's zoning laws.

161. Because of the City's arbitrary, legally irrelevant, and irrational presumptions, Chasidy and Robert have been subjected to heightened investigation, monitoring, and enforcement, when compared to similarly situated property owners and similarly situated property uses on Leisure Lane.

162. Chasidy and Robert have been targeted for heightened investigation of code violations while the City has turned a blind eye toward many indistinguishable property uses elsewhere on Leisure Lane.

163. Chasidy and Robert have been cited for using their property in ways that are indistinguishable from other property uses elsewhere on Leisure Lane.

164. Chasidy and Robert have been targeted for heightened monitoring of their compliance with citations and abatement orders, which have not been issued to many other property owners for indistinguishable property uses elsewhere on Leisure Lane.

165. The unequal investigation, enforcement, and monitoring produced by the City's practice, custom, or policy denies equal treatment under the law to Chasidy and Robert for the sole reason that they are perceived to be from out-of-state or new to Meridian.

166. Whether Chasidy and Robert are from out-of-state or new to Meridian is not a legitimate reason to treat them differently from others on Leisure Lane who are using their properties in ways that are indistinguishable from Chasidy's and Robert's uses.

167. As a result, the Court should find that Section 11-3A-20's ban on living in mobile tiny homes is unconstitutional, as applied to Plaintiffs Chasidy Decker and Robert Calacal, under Article I, Section 2 of the Idaho Constitution.

Count 5: Retaliation in Violation of Freedom of Speech – Idaho Const. art. I, § 9

168. Plaintiffs repeat and incorporate here the allegations in Paragraphs 1-111.

169. The City retaliated against Chasidy and Robert because it did not like the *Idaho Statesman* article about its treatment of Chasidy. The City's actions violate Article I, Section 9 of the Idaho Constitution.

170. Like protections under the Federal First Amendment, Article I, Section 9 of the Idaho Constitution protects freedom of speech. These protections include protections against government officials retaliating against a person because of their free speech.

171. A government official unconstitutionally retaliates against a person when (1) that person engages in protected speech; (2) the defendant's retaliatory conduct adversely affected that protected speech (shown by whether their conduct would deter a person of "ordinary firmness")

from speaking out); and (3) a causal connection exists between the defendant's retaliatory conduct and the adverse effect on plaintiff's speech.

172. Chasidy engaged in constitutionally protected speech when she participated in the *Idaho Statesman* piece.

173. The City's response to Chasidy's protected speech would have chilled the speech of a person of ordinary firmness. Indeed, just a day or two after the article was published, Officer Negrete cited both Chasidy and Robert for vehicle violations of the code. The two violations in the citation to Chasidy threatened criminal penalties, including up to \$2,000 in cumulative daily fines and jail time, if not corrected. The three violations in the citation to Robert also threatened criminal penalties, including up to \$3,000 in cumulative daily fines and jail time, if not corrected.

174. Those citations alone would have chilled the speech of a reasonable person of ordinary firmness.

175. But the City went even further to retaliate against Chasidy's protected speech in the *Idaho Statesman* when Officer Negrete returned to 1926 Leisure Lane and angrily confronted Chasidy before 7:00 a.m. about the *Idaho Statesman* article.

176. Officer Negrete's heated confrontation with Chasidy left her visibly in tears.

177. There is a causal connection (and truly, much more than a causal connection) between the City's actions and Chasidy's protected speech.

178. Chasidy feared further reprisals from the City against herself or Robert if she continued to speak out about how she and Robert were being treated by the City.

179. Chasidy was afraid to "rock the boat" and bring further reprisals from the City. So, she kept her head down.

180. As a result, Chasidy immediately refrained from speaking out against the City and her speech was so chilled for two months. But for the City's actions, she would have spoken out against the City during that time.

181. Chasidy did not speak out again against the City until she brought this lawsuit on August 15, 2022.

182. As a result, the Court should enter a declaratory judgment finding that the City retaliated against Chasidy in violation of her right to freedom of speech under Article I, Section 9 of the Idaho Constitution and should order payment of nominal damages for that violation.

PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court enter an order granting Plaintiffs the following relief:

1. A declaration that Section 11-3A-20's prohibition on living in mobile tiny homes facially violates Article I, Section 13 of the Idaho Constitution.
2. A permanent injunction prohibiting Defendants from further enforcing Section 11-3A-20 in all its applications against mobile tiny homes.
3. A declaration that Section 11-3A-20's prohibition on living in mobile tiny homes violates Article I, Section 13 of the Idaho Constitution as applied to Plaintiff Chasidy Decker.
4. A declaration that the City's selective enforcement of Section 11-3A-20 violates Article I, Section 2 of the Idaho Constitution as applied to Plaintiff Chasidy Decker.
5. Preliminary and permanent injunctions prohibiting Defendants from further enforcing Section 11-3A-20 against Plaintiff Chasidy Decker.
6. A declaration that Section 11-3A-20's prohibition on living in mobile tiny homes violates Article I, Section 13 of the Idaho Constitution as applied to Plaintiff Robert Calacal.

7. A declaration that the City's selective enforcement of Section 11-3A-20 violates Article I, Section 2 of the Idaho Constitution as applied to Plaintiff Robert Calacal.

8. Preliminary and permanent injunctions prohibiting Defendants from further enforcing Section 11-3A-20 against Plaintiff Robert Calacal.

9. A declaration that the City violated Plaintiff Chasidy Decker's freedom of speech rights under Article I, Section 9 of the Idaho Constitution by retaliating against her for her protected speech.

10. Preliminary and permanent injunctions prohibiting the City from further retaliating against Plaintiff Chasidy Decker for her protected speech in violation of Article I, Section 9 of the Idaho Constitution.

11. An award of nominal damages to each Plaintiff for each violation of their constitutional rights.

12. An award of Plaintiffs' reasonable attorneys' fees and costs in this action.

13. Such other and further relief as the Court deems just and appropriate.

DATED this 15th day of August, 2022.

RUNFT DINDINGER KOHLER, PLLC

/s/ Edward W. Dindinger
Edward William Dindinger, Esq.
Attorney for Plaintiffs