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*Admitted Pro Hac Vice

*Attorneys for Plaintiffs Chasidy Decker
and Robert Calacal*

**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)	
CALACAL,)	Case No. CV01-22-11962
)	
)	PLAINTIFFS' INDEX OF
Plaintiffs,)	EXHIBITS IN SUPPORT OF
)	MOTION FOR PRELIMINARY
v.)	INJUNCTION
)	
CITY OF MERIDIAN, et al.,)	
)	
Defendants.)	

Plaintiffs respectfully submit the following Index of Exhibits submitted in support of
the Motion for Preliminary Injunction filed contemporaneously herewith:

DECLARANT	EXHIBIT	DESCRIPTION
Chasidy Decker	1	Email from Deputy City Attorney Kane (June 1, 2022)
	2	Email from Officer Negrete (Aug. 2, 2022)
	3	Notice of Criminal Violation of Unified Development Code and Order to Abate (June 14, 2022) (Tiny House on Wheels)
	4	Notice of Criminal Violation of Unified Development Code and Order to Abate (June 14, 2022) (Parking)
	5	Nearby Property on Leisure Lane (July 28, 2022)
	6	Nearby Property on Leisure Lane (July 28, 2022)
	7	Nearby Property on Leisure Lane (Aug. 14, 2022)
	8	Nearby Property on Leisure Lane (Sept. 3, 2022)

DECLARANT	EXHIBIT	DESCRIPTION
	9	Chasidy's Tiny Home on Wheels (Aug. 14, 2022)
	10	Photograph of Aspen Trail trailer (Sept. 3, 2022)
	11	Photograph of Aspen Trail trailer (Sept. 3, 2022)
	12	Photograph of Aspen Trail trailer (Sept. 11, 2022)
	13	Photograph of Aspen Trail trailer (Sept. 11, 2022)
	14	Google Maps Street View photograph of Aspen Trail trailer (Aug. 2019)
	15	Photograph of Micro Lite trailer (Sept. 3, 2022)
	16	Photograph of Micro Lite trailer (Sept. 11, 2022)
	17	Photograph of Micro Lite trailer (Sept. 11, 2022)
	18	Photograph of Nash trailer (Sept. 3, 2022)
	19	Photograph of Nash trailer (Sept. 11, 2022)
	20	Photograph of Nash trailer (Sept. 11, 2022)
	21	Photograph of second Nash trailer (Sept. 3, 2022)
	22	Photograph of second Nash trailer (Sept. 11, 2022)
	23	Photograph of second Nash trailer (Sept. 11, 2022)
	24	Photograph of Reflection trailer (Sept. 3, 2022)
	25	Photograph of Reflection trailer (Sept. 11, 2022)
	26	Photograph of Reflection trailer (Sept. 11, 2022)
	27	Google Maps Street View photograph of Reflection trailer (Aug. 2019)
	28	Photograph of Cruise Lite by Salem trailer (Sept. 3, 2022)
	29	Photograph of Cruise Lite by Salem trailer (Sept. 11, 2022)
	30	Google Maps Street View photograph of Cruise Lite by Salem trailer (Aug. 2019)
	31	Google Maps photograph of Cruise Lite by Salem (Zillow.com, undated)
	32	Photograph of Shamrock trailer (Sept. 3, 2022)
	33	Photograph of Shamrock trailer (Sept. 11, 2022)
	34	Photograph of Shamrock trailer (Sept. 11, 2022)
	35	Photograph of Wolf Pup trailer (Sept. 3, 2022)
	36	Photograph of Wolf Pup trailer (Sept. 11, 2022)
	37	Photograph of Wolf Pup trailer (Sept. 11, 2022)
	38	Photograph of Cruiser Aire trailer (Sept. 3, 2022)
	39	Photograph of Cruiser Aire trailer (Sept. 3, 2022)
	40	Photograph of Sundance trailer (Sept. 3, 2022)
	41	Photograph of Sundance trailer (Sept. 3, 2022)
	42	Photograph of Sundance trailer (Sept. 11, 2022)
	43	Photograph of Sundance trailer (Sept. 11, 2022)
	44	Photograph of Pioneer Trailblazer trailer (Sept. 3, 2022)
	45	Photograph of Pioneer Trailblazer trailer (Sept. 3, 2022)
	46	Photograph of Pioneer Trailblazer trailer (Sept. 11, 2022)
	47	Photograph of Pioneer Trailblazer trailer (Sept. 11, 2022)

**INDEX OF EXHIBITS IN SUPPORT OF
MOTION FOR PRELIMINARY INJUNCTION - 2**

DECLARANT	EXHIBIT	DESCRIPTION
	48	Photograph of Coleman trailer (Sept. 3, 2022)
	49	Photograph of Coleman trailer (Sept. 11, 2022)
	50	Photograph of Mercedes Leisure Van RV (Sept. 11, 2022)
Robert Calacal	51	Notice of Criminal Violation of Unified Development Code and Order to Abate (June 14, 2022)
Dan Alban	52	Email chain re forbearance of enforcement against Chasidy (Aug. 18, 2022)
	53	Email chain re Preliminary Injunction motion (Sept. 8, 2022)
	54	<i>Idaho Statesman</i> Article (June 9, 2022)
	55	<i>Sepulveda v. City of Pasadena</i> (Harris Cnty. Dist. Ct. Mar. 21, 2022)
	56	Investigation Report prepared by Officer Negrete (May-June, 2022)

CERTIFICATE OF SERVICE

I hereby certify that on this September 12, 2022, a true and correct copy of the foregoing Index of Exhibits was served using the iCourt e-File system which will send notification of such to:

City of Meridian, Idaho
Meridian City Hall
33 E. Broadway Ave, Suite 104
Meridian, ID 83642

By iCourt:
Michael Elia, mje@melawfirm.net
Peter Thomas, peter@melawfirm.net
Counsel for Defendants

Meridian City Council
Meridian City Hall
33 E. Broadway Ave, Suite 300
Meridian, ID 83642

Mayor Robert Simison
Meridian City Hall
33 E. Broadway Ave, Suite 300
Meridian, ID 83642

Code Enforcement Officer Anthony Negrete
Meridian Police Department
1401 E. Watertower St.
Meridian, ID 83642

/s/ Robert Belden
Robert Belden

EXHIBIT 1



Tiny Home Eviction

1 message

Emily Kane <ekane@meridiancity.org>

Wed, Jun 1, 2022 at 3:11 PM

To: weeboise@gmail.com <weeboise@gmail.com>

Cc: Robert Simison <rsimison@meridiancity.org>, Liz Strader <lstrader@meridiancity.org>, Joe Borton <jborton@meridiancity.org>, Brad Hoaglund <bhoaglund@meridiancity.org>, Treg Bernt <tbernt@meridiancity.org>, Jessica Perreault <jperreault@meridiancity.org>, Luke Cavener <lcavener@meridiancity.org>, chazrondayzer@gmail.com <chazrondayzer@gmail.com>

Hi, Mr. Jones. Mayor Simison asked me to respond to your message. If your friend has been contacted by Meridian Code Enforcement regarding her tiny home, I would encourage her to contact the investigating Code Enforcement Officer and request an extension of the compliance deadline. Under the circumstances you describe, the officer will readily allow for more time to comply. If your friend isn't sure who to contact, she can call the general Code Enforcement number: 208-846-7326.

Secondary dwelling units (two homes on one lot) are generally not allowed on residential properties in Meridian. In any case, each residence in the city must comply with the International Residential Code, must be placed on a foundation, and must be connected to City water and sewer, among other requirements. The only exception at this time is for a recreational vehicle parked in a designated RV park. This may be an option for your friend to place her tiny home.

I would also encourage your friend to contact other local planning departments (e.g., Boise, Eagle, Kuna, Ada County) for information about tiny home placement in those jurisdictions. For example, I understand that the City of Boise is undertaking a pilot program that includes a tiny home component. Information about this program is available at <https://www.leaphousing.org/boise-housing-pilot>.

Again, as a first step, please have your friend contact Meridian Code Enforcement. The 10-day compliance deadline is standard, but it can be extended as needed to accommodate extenuating circumstances. Please contact me if I may be of further assistance. Thank you.

Emily

Emily Kane | Deputy City Attorney

City of Meridian | City Attorney's Office

33 E. Broadway Ave., Meridian, Idaho 83642

Phone: 208-898-5506



Built for Business, Designed for Living

All e-mail messages sent to or received by City of Meridian e-mail accounts are subject to Idaho law with regard to both release and retention, and may be released upon request, unless exempt from disclosure by law

----- Original message -----

From: Wee Boise <weeboise@gmail.com>

Date: 6/1/22 9:46 AM (GMT-07:00)

To: Robert Simison <rsimison@meridiancity.org>, Liz Strader <lstrader@meridiancity.org>, Joe Borton <jborton@meridiancity.org>, Brad Hoaglund <bhoaglund@meridiancity.org>, Treg Bernt <tbernt@meridiancity.org>, Jessica Perreault <jperreault@meridiancity.org>, Luke Cavener <lcavener@meridiancity.org>, chazrondayzer@gmail.com

Subject: Tiny Home Eviction

External Sender - Please use caution with links or attachments.

Mayor Simison and City Council Members, I'm reaching out on behalf of a Meridian resident who is facing a 10 day notice that will effectively evict them from a property where they moved a tiny home after signing a 1 year lease with the property owners. The owner of the Tiny Home now realizes that living in the Tiny Home at this location is not allowed, but the property owner believed that it was and advertised it as an allowed use. The Tiny Home owner wants to comply, but 10 days is such short notice to find another place to move a Tiny Home, that she is worried that she will end up homeless if she can't find a place to legally move it.

[Quoted text hidden]

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EXHIBIT 2



1926 Leisure Lane

1 message

Tony Negrete <tnegrete@meridiancity.org>
To: Chasidy Decker <chazrondayzer@gmail.com>

Tue, Aug 2, 2022 at 3:30 PM

Good afternoon Ms. Decker,

Mr. Calacal emailed me this afternoon and informed me you needed to gather some things from your place this evening. That would be great if a spot opened up for you at an RV park. Do you have an estimate on how long you need to relocate your dog?

Cordially,

Tony Negrete | Code Enforcement Officer

Community Services Division

Meridian Police Department

1401 E. Watertower St., Meridian, Idaho 83642

Office: (208) 846-7369 | Fax: (208) 846-7366



All e-mail messages sent to or received by City of Meridian e-mail accounts are subject to the Idaho law, in regards to both release and retention, and may be released upon request, unless exempt from disclosure by law.

From: Chasidy Decker <chazrondayzer@gmail.com>
Sent: Tuesday, August 02, 2022 3:19 PM
To: Tony Negrete <tnegrete@meridiancity.org>
Subject: 1926 Leisure Lane

External Sender - Please use caution with links or attachments.

[Quoted text hidden]

EXHIBIT 3



MERIDIAN POLICE DEPARTMENT

1401 E. Watertower • Meridian, ID 83642
Phone (208) 888-6678 • Fax (208) 846-7366
www.meridianpolice.org

Tracy Rasmussen, Chief

NOTICE OF CRIMINAL VIOLATION OF UNIFIED DEVELOPMENT CODE AND ORDER TO ABATE

DATE: June 14, 2022

TO: Chirsidy A. Abasta-Decker
1926 N. Leisure Lane
Meridian ID 83646

FROM: Tony Negrete, City of Meridian Code Enforcement Officer
Meridian Police Department - Code Enforcement Division

RE: Real Property at 1926 N. Leisure Lane, Meridian, Idaho
Parcel no. S120114671, PAR #6711 of SE4SW4

YOU ARE HEREBY NOTIFIED that the Code Enforcement Officer has investigated the above-named subject real property, zoned R-4, the primary use of which is for a single-family residence, and has determined the following activity thereon to violate the Meridian Unified Development Code (UDC): Use of recreational vehicle as a residence or living quarters, a violation UDC section 11-3A-20.

FACTS UNDERLYING THESE VIOLATIONS include the following:

Since at least May 19, 2022, and as of June 14, 2022, a recreational vehicle has been and is parked on the north side of the primary residence at the above-named real property, and has been used as a residence or living quarters, which is a violation of UDC section 11-3A-20. That provision reads, in relevant part, "No motor vehicle or trailer including, but not limited to, travel trailers, fifth wheels, recreational vehicles, mobile tiny houses and/or motor coaches, shall be used as a residence or as living quarters except within an approved recreational vehicle park."

YOU ARE HEREBY ORDERED TO ABATE THIS VIOLATION AS FOLLOWS:

By 5:00 p.m. on Monday, August 1, 2022: You must cease use of the recreational vehicle at the above-named real property as a residence or living quarters.

This abatement must be completed by 5:00 p.m. on Monday, August 1, 2022. If abatement is not completed by this time, you will be subject to criminal prosecution for these violations. Pursuant to UDC section 11-1-12(A), a violation of the UDC is a misdemeanor. Each day of noncompliance with any of the provisions of the UDC may constitute a separate offense.

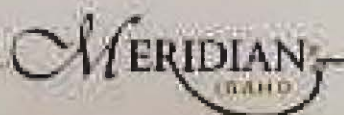


EXHIBIT 4



MERIDIAN POLICE DEPARTMENT

1401 E. Watertower • Meridian, ID 83642
Phone (208) 888-6678 • Fax (208) 846-7366
www.meridianpolice.org

Tracy Basterrechea, Chief

NOTICE OF CRIMINAL VIOLATION OF UNIFIED DEVELOPMENT CODE AND ORDER TO ABATE

DATE: June 14, 2022

TO: Chasidy A. Abasta-Decker
1926 N. Leisure Lane
Meridian ID 83646

FROM: Tony Negrete, City of Meridian Code Enforcement Officer
Meridian Police Department – Code Enforcement Division

RE: Real Property at 1926 N. Leisure Lane, Meridian, Idaho
Parcel no. S1201346711, PAR #6711 of SE4SW4

YOU ARE HEREBY NOTIFIED that the Code Enforcement Officer has investigated the above-named subject real property, zoned R-4, the primary use of which is for a single-family residence, and has determined the following conditions thereon to violate the Meridian Unified Development Code (UDC):

1. Vehicle(s) parked in the side yard, a violation of UDC section 11-3C-4(A)(2)(c)(2);

FACTS UNDERLYING THESE VIOLATIONS include the following:

1. As of June 14, 2022, two vehicles with expired registration, to-wit, a black Jeep Renegade, Nevada license plate no. 455L03, and a white Chevrolet Caprice, Idaho license plate no. 2F37167, are parked in the side yard at the above-named real property, which is a violation of UDC section 11-3C-4(A)(2)(c)(2). That provision reads: "Except as otherwise allowed by this section, the following vehicles shall be parked in the rear or side yard and shall be screened by a solid fence, six (6) feet in height: . . . (2) Vehicles without current registration[.]"

YOU ARE HEREBY ORDERED TO ABATE THESE VIOLATIONS AS FOLLOWS:

1. **By 5:00 p.m. on Monday, June 27, 2022:** You must remove the unregistered vehicles parked in the side yard at the above-named real property, or screen any vehicles parked in the side yard beside yard a solid fence, six (6) feet in height. Please note that prior to installing a fence, a fence permit from the Meridian Community Development Department is required.



EXHIBIT 5



EXHIBIT 6



EXHIBIT 7



EXHIBIT 8



EXHIBIT 9



EXHIBIT 10



EXHIBIT 11



EXHIBIT 12



EXHIBIT 13



EXHIBIT 14

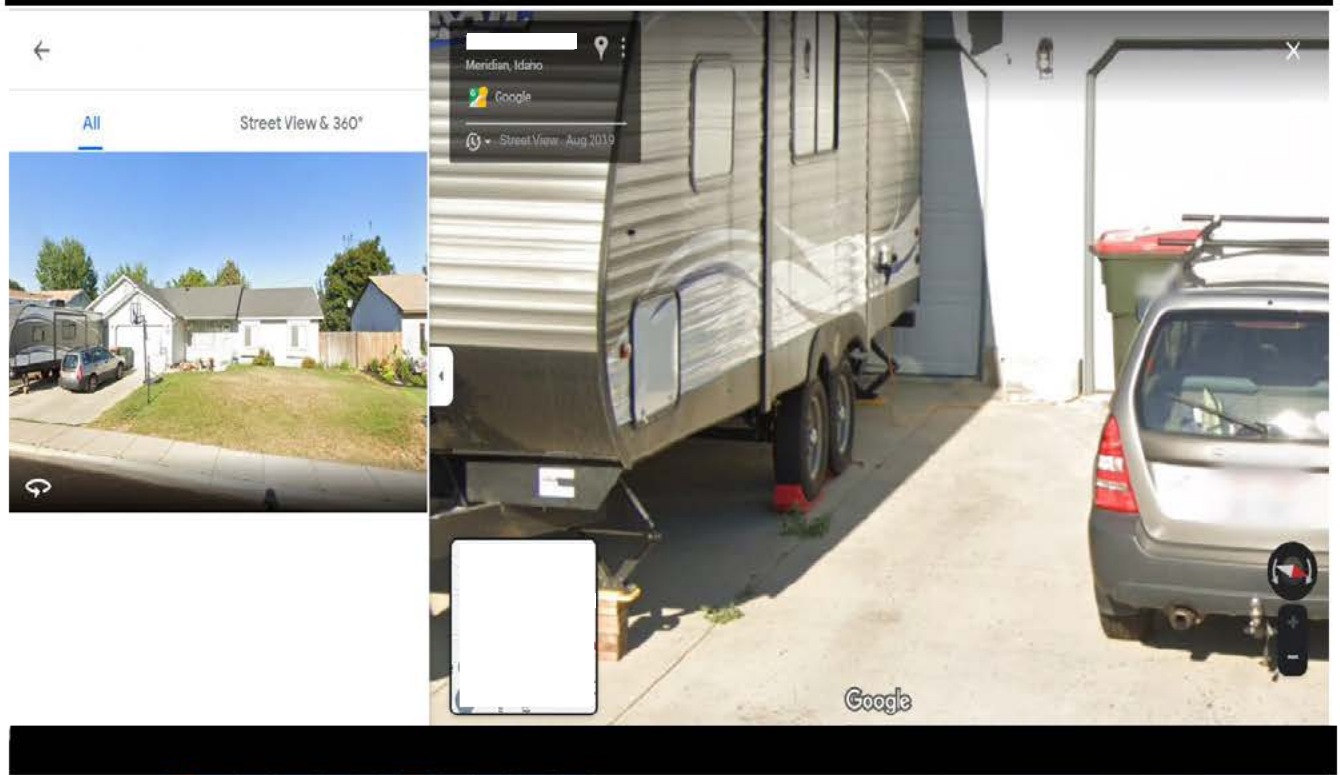


EXHIBIT 15



EXHIBIT 16



EXHIBIT 17



EXHIBIT 18



EXHIBIT 19



EXHIBIT 20



EXHIBIT 21



EXHIBIT 22



EXHIBIT 23



EXHIBIT 24



EXHIBIT 25



EXHIBIT 26



EXHIBIT 27

Google Maps



Image capture: Aug 2019 © 2022 Google



All

Street View & 360°

EXHIBIT 28



EXHIBIT 29



EXHIBIT 30



EXHIBIT 31

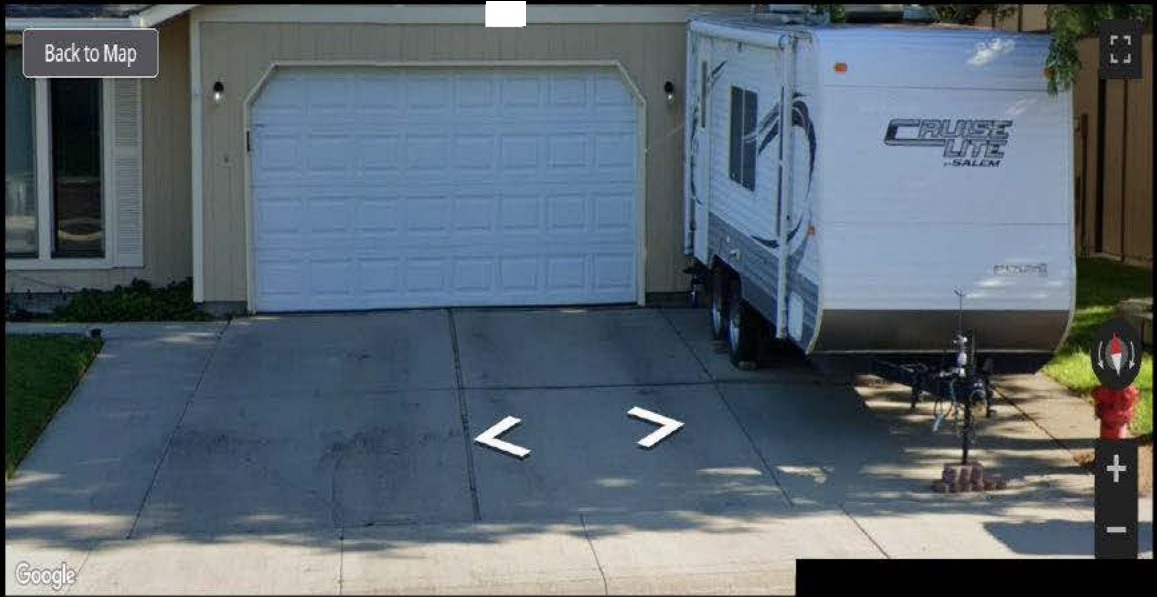


EXHIBIT 32

Shamrock
by Flagstaff



EXHIBIT 33



EXHIBIT 34



EXHIBIT 35



EXHIBIT 36



EXHIBIT 37



EXHIBIT 38



EXHIBIT 39



EXHIBIT 40



EXHIBIT 41



EXHIBIT 42



EXHIBIT 43



EXHIBIT 44



PIONEER
TRAIL BLAZER

PIONEER

NEON

EXHIBIT 45



MY
TREASURE
HANDYMAN
208.58

PIONEER
TRAIL BLAZER

EXHIBIT 46



EXHIBIT 47



EXHIBIT 48



EXHIBIT 49



EXHIBIT 50



EXHIBIT 51



MERIDIAN POLICE DEPARTMENT

1401 E. Watertower • Meridian, ID 83642

Phone (208) 888-6678 • Fax (208) 846-7366

www.meridianpolice.org

Tracy Basterrechea, Chief

NOTICE OF CRIMINAL VIOLATION OF UNIFIED DEVELOPMENT CODE AND ORDER TO ABATE

DATE: June 14, 2022

TO: Robert Calacal
1926 N. Leisure Lane
Meridian ID 83646

FROM: Tony Negrete, City of Meridian Code Enforcement Officer
Meridian Police Department – Code Enforcement Division

RE: Real Property at: 1926 N. Leisure Lane, Meridian, Idaho
Parcel no. S1201346711, PAR #6711 of SE4SW4

YOU ARE HEREBY NOTIFIED that the Code Enforcement Officer has investigated the above-named subject real property, zoned R-4, the primary use of which is for a single-family residence, and has determined the following conditions thereon to violate the Meridian Unified Development Code (UDC):

1. Use of recreational vehicle as a residence or living quarters, a violation UDC section 11-3A-20;
2. Vehicle(s) parked in the side yard, a violation of UDC section 11-3C-4(A)(2)(c)(2); and
3. Vehicle parked in the street yard on an unimproved surface, a violation of UDC section 11-3C-4(B).

FACTS UNDERLYING THESE VIOLATIONS include the following:

1. Since at least May 19, 2022, and as of June 14, 2022, a recreational vehicle has been and is parked on the north side of the primary residence at the above-named real property, and has been used as a residence or living quarters, which is a violation of UDC section 11-3A-20. That provision reads, in relevant part: "No motor vehicle or trailer including, but not limited to, travel trailers, fifth wheels, recreational vehicles, mobile tiny houses and/or motor coaches, shall be used as a residence or as living quarters except within an approved recreational vehicle park."
2. As of June 14, 2022, two vehicles with expired registration, to-wit, a black Jeep Renegade, Nevada license plate no. 455L03, and a white Chevrolet Caprice, Idaho license plate no.



2F37167, are parked in the side yard at the above-named real property, which is a violation of UDC section 11-3C-4(A)(2)(c)(2). That provision reads: "Except as otherwise allowed by this section, the following vehicles shall be parked in the rear or side yard and shall be screened by a solid fence, six (6) feet in height: . . . (2) Vehicles without current registration[.]"

3. As of June 9, 2022, a vehicle, to-wit, a black Toyota Tacoma pickup truck, Idaho license plate no. 1A605CA, is parked in the street yard at the above-named real property, on an unimproved surface, which is a violation of UDC section 11-3C-4(B). That provision reads, in relevant part: "No person shall park, or allow to be parked, any vehicle in the required street yard on any surface other than compacted gravel base, not less than four (4) inches thick, surfaced with concrete or asphaltic pavement."

YOU ARE HEREBY ORDERED TO ABATE THESE VIOLATIONS AS FOLLOWS:

1. **By 5:00 p.m. on Monday, August 1, 2022:** You must cease use of the recreational vehicle at the above-named real property as a residence or living quarters.
2. **By 5:00 p.m. on Monday, June 27, 2022:** You must remove the unregistered vehicles parked in the side yard at the above-named real property, or screen any vehicles parked in the side yard beside yard a solid fence, six (6) feet in height. Please note that prior to installing a fence, a fence permit from the Meridian Community Development Department is required.
3. **By 5:00 p.m. on Monday, June 27, 2022:** You must remove the vehicle parked in the street yard at the above-named real property and discontinue use of the street yard for parking this or any vehicle unless and until such parking area is improved as required by UDC section 11-3C-4(B).

If abatement is not completed by the specified times, you will be subject to criminal prosecution for these violations. Pursuant to UDC section 11-1-12(A), a violation of the UDC is a misdemeanor. Each day of noncompliance with any of the provisions of the UDC may constitute a separate offense.

Signed: _____

T. Negrete
Tony Negrete
Code Enforcement Officer
(208) 846-7369

Dated: _____

06/14/22

EXHIBIT 52

Robert Belden

From: Robert Belden
Sent: Thursday, August 18, 2022 7:18 PM
To: Bill Nary; Emily Kane
Cc: Erica Smith Ewing; Dan Alban; Edward Dindinger; Tishra Murray; Michael Elia
Subject: RE: Chasidy Decker and Robert Calacal v. City of Meridian, et al. - No. CV01-22-11962

Thank you, Mr. Nary. A call would work better for us. I'll circulate a calendar invite for 11:30 a.m. MT with dial-in information.

Bob Belden

*Attorney**

[Institute for Justice](#)

901 N. Glebe Road, Suite 900

Arlington, VA 22203

(703) 682-9320

*Licensed in D.C. and New York

From: Bill Nary <bnary@meridiancity.org>
Sent: Thursday, August 18, 2022 6:23 PM
To: Robert Belden <rbelden@ij.org>; Emily Kane <ekane@meridiancity.org>
Cc: Erica Smith Ewing <esmith@ij.org>; Dan Alban <dalban@ij.org>; Edward Dindinger <ewd@rdkboise.com>; Tishra Murray <tmurray@meridiancity.org>; Michael Elia <mje@melawfirm.net>
Subject: RE: Chasidy Decker and Robert Calacal v. City of Meridian, et al. - No. CV01-22-11962

Mr. Belden;

11:30 would work for us. The City has used Microsoft Teams as a platform, would that work for you or do you prefer a conference call?

Bill Nary | City Attorney & Risk Manager
City of Meridian | City Attorney's Office
33 E. Broadway Ave., Meridian, Idaho 83642
Phone: | (208) 898-5506



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All e-mail messages sent to or received by City of Meridian e-mail accounts are subject to the Idaho law, in regards to both release and retention, and may be released upon request, unless exempt from disclosure by law.

From: Robert Belden <rbelden@ij.org>
Sent: Thursday, August 18, 2022 12:13 PM
To: Emily Kane <ekane@meridiancity.org>
Cc: Bill Nary <bnary@meridiancity.org>; Kurt Starman <kstarman@meridiancity.org>; Erica Smith Ewing

<esmith@ij.org>; Dan Alban <dalban@ij.org>; Edward Dindinger <ewd@rdkboise.com>

Subject: Chasidy Decker and Robert Calacal v. City of Meridian, et al. - No. CV01-22-11962

External Sender - Please use caution with links or attachments.

Good morning, Ms. Kane,

Are you available for a phone call tomorrow? We are preparing to file a TRO due to our client's current homelessness and would like to discuss next steps and/or whether the need to seek emergency relief can be averted.

We're generally available except from 11:30 a.m. to 2:00 p.m. MT.

Best regards,

Bob Belden

*Attorney**

[Institute for Justice](#)

901 N. Glebe Road, Suite 900

Arlington, VA 22203

(703) 682-9320

*Licensed in D.C. and New York

EXHIBIT 53

Robert Belden

From: Robert Belden
Sent: Thursday, September 8, 2022 4:40 PM
To: Peter Thomas; Service@rdkboise.com; Dan Alban; Erica Smith Ewing
Cc: Michael Elia; Linda Higgins
Subject: RE: Decker v. Meridian deposition dates.

Hi Peter,

Thanks to you and Mike for hopping on the call with Dan and me. We'll plan to ask the Court for a joint hearing on our forthcoming PI Motion and the City's MTD. We'll ask for a date from October 11th to October 14th. When we have that date, we'll share it with you, and you can withdraw the MTD hearing notice.

When we have confirmation from you that the City's 30(b)(6) witness is available for a deposition either September 28 or 29, we'll amend our current 30(b)(6) notice.

Regards,

Bob Belden

*Attorney**

[Institute for Justice](#)

901 N. Glebe Road, Suite 900

Arlington, VA 22203

(703) 682-9320

*Licensed in D.C. and New York

From: Peter Thomas <peter@melawfirm.net>
Sent: Thursday, September 8, 2022 2:38 PM
To: Robert Belden <rbelden@ij.org>; Service@rdkboise.com; Dan Alban <dalban@ij.org>; Erica Smith Ewing <esmith@ij.org>
Cc: Michael Elia <mje@melawfirm.net>; Linda Higgins <linda@melawfirm.net>
Subject: RE: Decker v. Meridian deposition dates.

Perfect, talk to you soon.

Peter Thomas

MOORE ELIA
& KRAFT LLP

702 W. Idaho Street, Suite 800 | Boise, ID 83702
P.O. Box 6756 | Boise, ID 83707
Telephone: (208) 336-6900 Fax: (208) 336-7031
www.melawfirm.net

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From: Robert Belden <rbelden@ij.org>
Sent: Thursday, September 8, 2022 12:38 PM

To: Peter Thomas <peter@melawfirm.net>; Service@rdkboise.com; Dan Alban <dalban@ij.org>; Erica Smith Ewing <esmith@ij.org>
Cc: Michael Elia <mje@melawfirm.net>; Linda Higgins <linda@melawfirm.net>
Subject: RE: Decker v. Meridian deposition dates.

That works for us. I'll send around a dial-in.

Bob Belden

*Attorney**

[Institute for Justice](#)

901 N. Glebe Road, Suite 900

Arlington, VA 22203

(703) 682-9320

*Licensed in D.C. and New York

From: Peter Thomas <peter@melawfirm.net>
Sent: Thursday, September 8, 2022 2:27 PM
To: Robert Belden <rbelden@ij.org>; Service@rdkboise.com; Dan Alban <dalban@ij.org>; Erica Smith Ewing <esmith@ij.org>
Cc: Michael Elia <mje@melawfirm.net>; Linda Higgins <linda@melawfirm.net>
Subject: RE: Decker v. Meridian deposition dates.

No problem, how's 1:00pm Mountain Time?

Peter Thomas

MOORE ELIA
& KRAFT LLP

702 W. Idaho Street, Suite 800 | Boise, ID 83702
P.O. Box 6756 | Boise, ID 83707
Telephone: (208) 336-6900 Fax: (208) 336-7031
www.melawfirm.net

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From: Robert Belden <rbelden@ij.org>
Sent: Thursday, September 8, 2022 11:49 AM
To: Peter Thomas <peter@melawfirm.net>; Service@rdkboise.com; Dan Alban <dalban@ij.org>; Erica Smith Ewing <esmith@ij.org>
Cc: Michael Elia <mje@melawfirm.net>; Linda Higgins <linda@melawfirm.net>
Subject: RE: Decker v. Meridian deposition dates.

Hi Peter,

We'd like to have a phone call to discuss scheduling. No need to have your clients on. Can you let us know when you're available?

Thanks,

Bob Belden

*Attorney**

[Institute for Justice](#)

901 N. Glebe Road, Suite 900

Arlington, VA 22203

(703) 682-9320

*Licensed in D.C. and New York

From: Peter Thomas <peter@melawfirm.net>

Sent: Thursday, September 8, 2022 11:38 AM

To: Robert Belden <rbelden@ij.org>; Service@rdkboise.com; Dan Alban <dalban@ij.org>; Erica Smith Ewing <esmith@ij.org>

Cc: Michael Elia <mje@melawfirm.net>; Linda Higgins <linda@melawfirm.net>

Subject: RE: Decker v. Meridian deposition dates.

Hi Bob,

Just to clarify, are you hoping to speak with *us* (defense counsel) or defendants, and if so, are you envisioning something similar to what we did last time?

Thanks!

Peter

Peter Thomas

**MOORE ELIA
& KRAFT LLP**

702 W. Idaho Street, Suite 800 | Boise, ID 83702
P.O. Box 6756 | Boise, ID 83707
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From: Robert Belden <rbelden@ij.org>

Sent: Wednesday, September 7, 2022 11:31 AM

To: Peter Thomas <peter@melawfirm.net>; Service@rdkboise.com; Dan Alban <dalban@ij.org>; Erica Smith Ewing <esmith@ij.org>

Cc: Michael Elia <mje@melawfirm.net>; Linda Higgins <linda@melawfirm.net>

Subject: RE: Decker v. Meridian deposition dates.

Hi Peter,

Are Defendants available for a call tomorrow or Friday?

Thanks,

Bob Belden

*Attorney**

[Institute for Justice](#)

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From: Robert Belden

Sent: Tuesday, September 6, 2022 4:10 PM

To: Peter Thomas <peter@melawfirm.net>; Service@rdkboise.com; Dan Alban <dalban@ij.org>; Erica Smith Ewing <esmith@ij.org>

Cc: Michael Elia <mje@melawfirm.net>; Linda Higgins <linda@melawfirm.net>

Subject: RE: Decker v. Meridian deposition dates.

Hi Peter,

Do you have any availability for the 30(b)(6) deposition the rest of the week of the 19th? If not, what about before the end of the month? We don't plan to withdraw the notice, but if we can find a September date that works, then we could amend the notice to reflect that new date.

Also, we plan to file a motion for preliminary injunction this Friday (9/9) or next Monday (9/12). Would Defendants be willing to schedule a joint hearing on that PI motion and Defendants' motion to dismiss for some time in mid-October?

Please let us know.

Regards,

Bob Belden

*Attorney**

[Institute for Justice](http://www.instituteofjustice.org)

901 N. Glebe Road, Suite 900

Arlington, VA 22203

(703) 682-9320

*Licensed in D.C. and New York

From: Peter Thomas <peter@melawfirm.net>

Sent: Tuesday, September 6, 2022 11:30 AM

To: Service@rdkboise.com; Robert Belden <rbelden@ij.org>; Dan Alban <dalban@ij.org>; Erica Smith Ewing <esmith@ij.org>

Cc: Michael Elia <mje@melawfirm.net>; Linda Higgins <linda@melawfirm.net>

Subject: Decker v. Meridian deposition dates.

Hi all,

Unfortunately, we are not available for a deposition on September 19, 2022, due to previously scheduled deadlines and hearings in other matters.

We would be happy to help coordinate a deposition by reaching out to our clients to see when they would be available for such a deposition if you are amenable to withdrawing your Notice of Rule 30(b)(6) Deposition to City of Meridian.

Please advise if you are not willing to withdraw that Notice of Deposition so that we may prepare and file a protection order.

Feel free to reach out if you have any questions or concerns. Our office number is (208) 336-6900.

Thanks,

Peter

Peter Thomas

MOORE ELIA
& KRAFT LLP

702 W. Idaho Street, Suite 800 | Boise, ID 83702
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EXHIBIT 54

NewsRoom

6/9/22 Idaho Statesman 1477
2022 WLNR 18066762

Idaho Statesman (Boise)

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June 9, 2022

She bought and set up her tiny Meridian home. Now she fears homelessness. This is why

By Rachel Spacek, Idaho Statesman

Affording Boise: Rental housing

Soaring rents. Skyrocketing home prices. The double-digit rates of increase in the costs of Boise-area housing create increasingly urgent problems for low-income, working-class and even moderate-income Idahoans who need places to live. Affording Boise is a series of Idaho Statesman special reports on housing. This collection focuses on rental homes, including apartments. A separate collection focuses on homeownership.

Chasidy Decker wants to live a good life.

After paying a mortgage on a home in Boise's North End, then later renting a three-bedroom apartment, Decker decided that she didn't want her life to be about work anymore. She turned to the tiny home movement.

She custom-built her 252-square-foot tiny home from Tiny Idahomes, an Emmett builder, for \$75,000. She finally found a place to park it in Idaho, next to a single-family home in Meridian. She moved it there last month.

But much to her dismay, a Meridian code-enforcement officer dropped by on her second day there and told her she had to move her home. She was given 10 days.

affording boise series icon logo by darin low res.jpg Affording Boise is an occasional Idaho Statesman series about housing in the Treasure Valley.

No other municipalities in Ada County allow tiny homes to be parked on residential properties, the Idaho Statesman previously reported. Boise started a pilot program for tiny homes this month, but it is limited. This leaves Decker with nowhere to go, she said, in a region facing a housing crisis and an increase in its homeless population.

Today, Decker's gray-and-black home, with a maroon door, sits next to a home on Leisure Lane in Meridian, near Cherry Lane and Linder Road. Decker signed a lease with the property owners for a year to hook up to their water, sewer and electricity and park next to their home.

Decker's home has two lofts, a jacuzzi bathtub, and a washer and dryer.

BOI_060702tinyhomesite"I feel like this situation is a little bit more sensitive than maybe weeds that are just a little too high," Chasidy Decker said after being told by a Meridian code enforcer that living in her tiny house on wheels was a violation, and that she had to vacate the house in 10 days. "... Especially in the housing market this valley is experiencing right now," she said.

"People really don't need more than what I have — I don't feel like I go without," Decker said, while giving a tour of her small home.

Decker first got hooked on the tiny home movement four years ago when she realized she was mostly using one corner of her three-bedroom apartment.

"I worked a corporate job, I owned a home in the North End, and while I was doing it I thought, 'This is what everyone says you're supposed to do,'" Decker said. "But it wasn't for me. I don't want to just work in order to live."

Before renting the space in Meridian, Decker stored her tiny home at a lot in Twin Falls. She had been living in Reno after a death in her family but had been trying to move back to the Boise area ever since stabilizing things with her family.

Decker, her boyfriend, dog and cat were all moved into their new home in Meridian before they got the news that they couldn't stay.

20220603_175314.jpgChasidy Decker's tiny home sits on a property in Meridian. She said people always walk by to compliment it in the neighborhood.

Decker's landlords purchased the single-family home in mid-May. They believed they lived in unincorporated Ada County, and since they didn't have a covenants, conditions and restrictions

declaration that is often required in single-family homes with homeowner's associations, they believed they could rent their property to Decker for her tiny home to make some extra money.

Decker pays \$600 for the space. She is between jobs, having worked as a cage cashier at a casino in Reno before moving back to Idaho. She said the death in her family brought some additional money, so she could buy the tiny home outright.

But Meridian had annexed Decker's host home into the city, and the city code has strict guidelines around tiny homes.

Decker said most people in her neighborhood were excited about her tiny home and asked about it when they walked or drove by, but she thinks one of her neighbors likely reported her to the city.

The code enforcement officer gave Decker just 10 days to move. Ten days is the typical time frame code enforcement gives people to correct first violations, a city spokesperson told the Statesman.

20220606_141235.jpgThe inside of Chasidy Decker's home. It is equipped with two lofts and a jacuzzi bath tub.

Decker worried that the city's move to effectively evict her would leave her homeless.

Decker said code enforcement told her she could not have her tiny home in the location at all. In email correspondence with the Statesman, the city initially said secondary homes were against the law in Meridian. But city spokesperson Stephany Galbreath corrected that later to say a residential property can have a secondary dwelling unit that is an accessory to the main home.

The owner of the home must live on the site, and the secondary unit may not exceed 700 square feet, may not have more than one bedroom, and must match the primary home in design.

"Tiny homes are allowed, but like every residence in the city, they must comply with the International Residential Code, must be placed on a foundation, and must be connected to city water and sewer, among other requirements," Galbreath said in the email.

Decker said code enforcement did not give her the option to move the tiny home onto a foundation. She said the homeowners would be happy to put a pad in under her home.

Galbreath said the city can't talk about individual code enforcement cases.

10 days is too little time, Decker says

"I just need more than 10 days because if not, I'm homeless," Decker said, speaking to the Idaho Statesman in front of her home. "I don't know where I'm going to put my tiny home and I have no idea where I'm gonna go."

In an email provided to the Statesman, Emily Kane, deputy city attorney, suggested Decker could move her home into an RV park. Previous Statesman reporting found a majority of RV parks in the Treasure Valley are full and many have years long wait lists.

Decker said she looked into RV parks and they were all full and most did not accept tiny homes.

Jason Jones, a developer with Wee Boise, a Garden City development company that specializes in modular homes and buildings, is assisting Garden City with a code amendment to allow tiny homes on single properties. Jones said "there is almost no chance she can find a place to put it in 10 days."

Kane said in an email that code enforcement could give Decker an extension.

When asked if the city could assist Decker in other ways given the housing affordability crisis in the Treasure Valley, Galbreath emailed a statement that Mayor Robert Simison gave in his State of the City address about exploring solutions.

"We don't have the answers yet, but we do know we have some existing development tools available, and we are looking to others as well," Simison said.

Decker gawked at what she sees is the city's lack of caring in her situation.

"We have this homeless issue, yet (the city is) willing to be like, 'well, whatever, I guess you're going to be added to the homeless population,'" Decker said.

City of Boise tiny home pilot program

Last summer, the city of Boise held a public viewing of a tiny home at Terry Day Park, off Federal Way in southeast Boise, ahead of its plans to start its pilot program. The Statesman reported that the viewing attracted around 80 people, who said they would join a city program to allow tiny homes on their property.

"What stood out most from that experience was just the outpouring of community support and excitement," said Kyle Patterson, a data analyst with the city of Boise, at the time.

The city teamed up with LEAP Housing, an affordable housing developer, to select 16-18 households to participate. Up to six tiny homes could be chosen to take part in the program, according to LEAP's website.

Jones said Garden City is working through a draft of code to allow tiny homes on single-family dwelling unit property, but it isn't "there" yet, he said.

"This is really something that should be allowed; why wouldn't we allow this?" Jones said.

Galbreath said Meridian is not considering changing its zoning code about tiny homes.

Decker said she had not heard anything from the city about an extension by Wednesday afternoon, but suspected she would hear by the end of the week. Friday is the 10-day mark.

Recorded live: Q&A discussion on the State of Homelessness in the Treasure Valley

'Nowhere to go:' Eviction of 11 Latino families sheds light on Ketchum housing crunch

---- Index References ----

Company: EMMETT INVESTMENT MANAGEMENT, LP; THE GARDEN CITY COMPANY; Meridian Corporation

News Subject: (Health, Education & Welfare (1HE31); Social Issues (1SO05); Social Welfare (1SO83))

Industry: (Housing (1HO38); Real Estate (1RE57); Rental Real Estate (1RE07); Residential Real Estate (1RE67))

Region: (Americas (1AM92); Idaho (1ID22); North America (1NO39); U.S. West Region (1WE46); USA (1US73))

Language: EN

Other Indexing: (Tiny Idahomes; Wee Boise; LEAP Housing; Emmett; Garden City; Meridian) (Chasidy Decker; darin; Boise; Stephany Galbreath; Emily Kane; Jason Jones; Robert Simison; Kyle Patterson; Meridian)

Word Count: 1538

NewsRoom

EXHIBIT 55

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 Almdendares, 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 Almdendares. 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, Plaintiff shall post a \$2,500 bond. ~~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~~

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

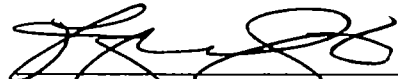

The Honorable Tanya Garrison

EXHIBIT 56

MERIDIAN POLICE DEPARTMENT**Code Enforcement**

RD: 731

Inc. #307869

IncidentComplaint Date
05/19/2022 11:47Location of Occurrence
1928 N LEISURE LN, MERIDIAN, ID
83646
ParcelNo: S1201346681Location
20 - RESIDENCE/HOME

Method of Complaint: PHONE

Complaint Type: OTHER

Charges

Chg# Offense/Charge

Law Section

Severity

Initial Complaint

On 5/19/22 at 1147 hours, reporting party [REDACTED] called in and advised neighbor may have someone living in a tiny house on the property.

Vehicles**People Involved****Reporting Party**

Race: [REDACTED] Sex: [REDACTED] DOB: [REDACTED] Age: [REDACTED]

Address: [REDACTED]

[REDACTED] Hair Color: [REDACTED] Eye Color: [REDACTED]

Occupation:
Bus or School:
, IDRes Phone: () - [REDACTED] SSN: [REDACTED]
Cell Phone: [REDACTED] OLN/St: [REDACTED]
Bus Phone: () - [REDACTED]Relationship:
Injury Type:
How Ident.:**Person w/
Knowledge**

Race: [REDACTED] Sex: [REDACTED] DOB: [REDACTED] Age: [REDACTED]

Address: [REDACTED]

[REDACTED] Hair Color: [REDACTED] Eye Color: [REDACTED]

Occupation:
Bus or School:Res Phone: [REDACTED] SSN: [REDACTED]
Cell Phone: [REDACTED] OLN/St: [REDACTED]
Bus Phone: () - [REDACTED]
Email: [REDACTED]Relationship:
Injury Type:
How Ident.:**Person w/
Knowledge**

Race: [REDACTED] Sex: [REDACTED] DOB: [REDACTED] Age: [REDACTED]

Address: [REDACTED]

[REDACTED] Hair Color: [REDACTED] Eye Color: [REDACTED]

Occupation:
Bus or School:Res Phone: () - [REDACTED] SSN: [REDACTED]
Cell Phone: [REDACTED] OLN/St: [REDACTED]
Bus Phone: () - [REDACTED]Relationship:
Injury Type:
How Ident.:

Vehicle: #1 [REDACTED]

Notes

Created on 5/19/2022 3:36:44 PM by Ofc. Tony Negrete

On 5/19/22 at 1147 hours, reporting party [REDACTED] called in and advised neighbor may have someone living in a tiny house on the property. She said, her neighbor had the brown two story tiny home delivered about a month ago, and she believes someone is living in it. The tiny house is next to the garage door of the residence and is parked in the lawn area. At 1245 hours, I arrived at the location and I noticed the described tiny home. I called [REDACTED] and asked her if it would be okay to go onto her property and take pictures of her neighbor brown tiny home and she said, yes. Using a police database, I located the owner of the property [REDACTED]. I attempted to make contact at the front door of the residence and there was no answer. I left my business card on the front door and wrote on the back to

Admin

Officer(s) Reporting

Ofc. Tony Negrete

Ada No.

10680

Assigned To

Ofc. Tony Negrete

Ada No

10680

MERIDIAN POLICE DEPARTMENT

Code Enforcement

RD: 731

Inc. #307869

please call me regarding the tiny home. As I was walking up to the front door of the residence, I noticed the tiny house was on wheels parked in a dirt/grass area of the property next to the garage door. I could not see if anyone was living it. At 1444 hours, I called [REDACTED] and left him a message. I identified myself and explained the reason for the call regarding the tiny house. I took photos from [REDACTED] property and from [REDACTED] property as I was approaching the front door to make contact with him. I will follow up on 05/23/22.

On 06/09/22 at 0619 hours, I followed up at the location and noticed the tiny house was behind a 6' solid fence and is unattached from the residence with no utilities. I took photos from the public roadway. No further action necessary.

On 05/23/22 at 0818 hours, I did not receive any message from [REDACTED]. I called him and left him another message. At 0822 hours, I emailed [REDACTED] at: [REDACTED] to please call me in regards to the Tiny Home on their property. At 1243 hours, I followed up at the location and noticed my business card was gone from the front door. I knocked on the front door and rang the ring door bell and there was not response. At 1246 hours, I received a call from [REDACTED], she said, she received my email. She advised she was out of town for a few days and did not see by business card on the front door until last night. I thanked her for returning my call. I informed her, as long as the tiny house is on wheels it would have to be parked on an improved surface such as concrete or asphalt. I also shared with [REDACTED], the tiny house could be moved behind her 6' solid fence. She said, she will repair her fence and gate, then move the tiny house in the back yard. I informed her nobody can live in it and she said, her kids use it as a club house and do their crafts. She added, nobody live in the tiny home. She asked to have this weekend to move the tiny home and repair her fence. I agreed and said, I would follow up on 05/31/22 and if she or her husband had any additional questions to please call me. I will follow up on 05/31/22.

On 05/26/22 at 2045 hours, [REDACTED], sent me an email requesting the agreement signed with the city for the annexation of Leisure Ln. She stated, she spoke with some of her neighbors and they are informed her they were grandfathered in.

On 05/31/22 at 0700 hours, I sent [REDACTED] the link: <https://weblink.meridiancity.org/WebLink/DocView.aspx?id=45840&dbid=0&repo=MeridianCity&cr=1>

I also shared with [REDACTED], there is conforming and non-conforming clauses in the agreement. No one is grandfathered in unless it is stated in the agreement. At 1341 hours, I followed up at the location and noticed the tiny house did not move. I called [REDACTED] at [REDACTED] and spoke with her regarding her decision with the tiny house. She said, she intends on moving the tiny house into her back yard behind her 6'solid fence. I asked her if she received my email with the city agreement for Leisure Ln and she said, she did receive it. She asked for some more time, her son is graduating high school and they are having a celebration this Saturday. I informed her this needed to be done within 10 days and I would follow up at her residence to see if the tiny house was moved. She said, she would have it done by then. I took a photo from the public roadway. I will follow up on 06/10/22.

On 06/02/22 at 0816 hours, [REDACTED] emailed me advising, they are repairing there 6' solid fence and are re-attaching their gates to the backyard. The tiny house is being moved to the backyard. At 0844 hours, I replied to [REDACTED] email and thanked her for the update.

Admin

Officer(s) Reporting

Ofc. Tony Negrete

Approved Supervisor

Ada No.

10680

Ada No

Approved Date












Meridian Police Department

General PHOTO LOG

RD: 731 DR# -

Report By: TNEGRETE (10680)

Incident Date: 15 Photos

Ctr	Created on	Title / Comment		Filename
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0002	05/19/22 15:30			C:\Users\tnegrete\AppData\Local\Temp\tmpB539\1104138.jpg
0003	05/19/22 15:31			C:\Users\tnegrete\AppData\Local\Temp\tmpDC74\1104145.jpg
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0009	05/23/22 12:45	05/23/22 / Follow up		IMG_6454.JPG
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0014	06/09/22 06:25	06/09/22 / Follow up		IMG_6857.JPG

Admin

Officer(s) Reporting
Ofc. Tony Negrete
Approved Supervisor
N/A

Ada No.
10680
Ada No
N/A

Approved Date

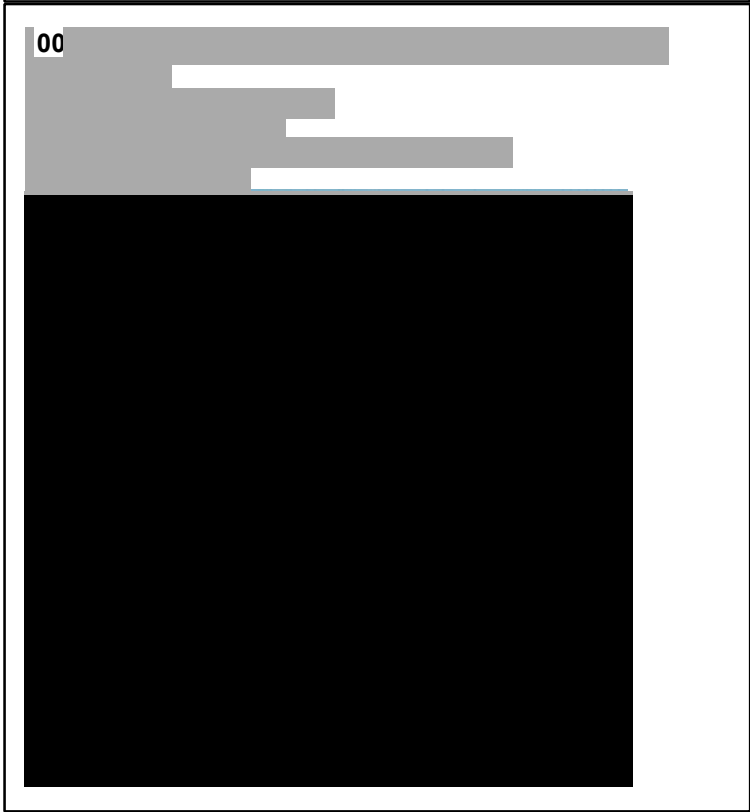
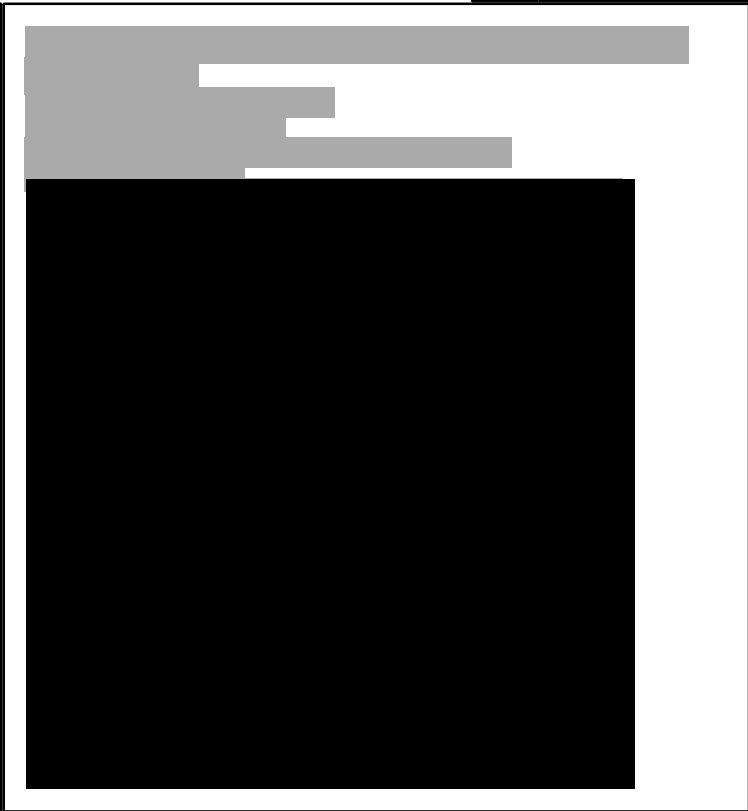
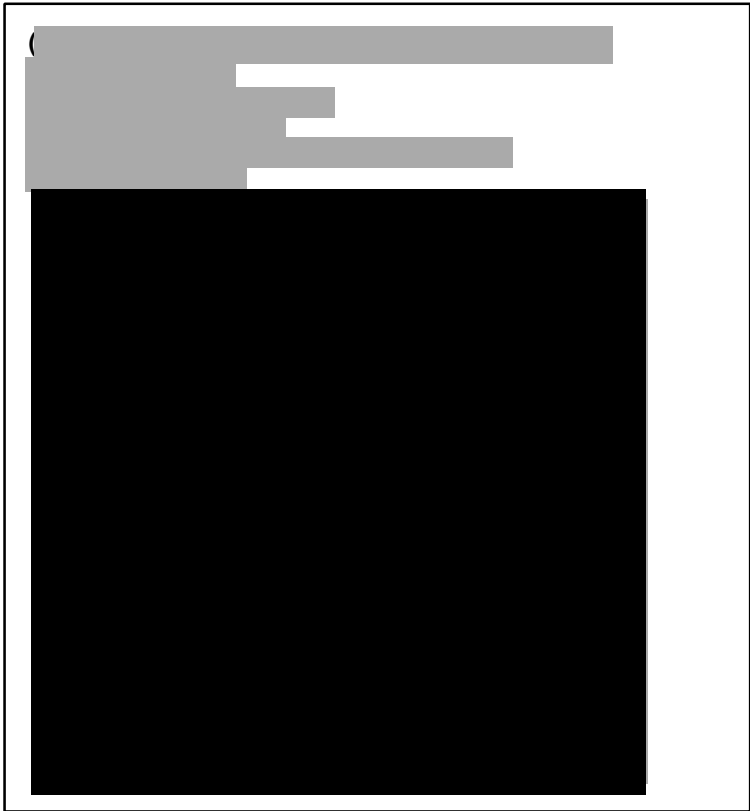
Meridian Police Department
General PHOTO LOG

RD: **731** DR# -


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Meridian Police Department
Report Photos

RD: 731 DR# -



(0004) 05/19/22 / 1928 N. Leisure Ln.
Added By: TNEGRETE (10680)
Created: 05/19/2022 14:39
Filename: IMG_6412.JPG

A photograph of a residential property. A white minivan is parked on a gravel driveway in front of a small, light-colored wooden shed. A dark-colored car is parked further back on the right. The area is surrounded by green trees and a wooden fence.

Meridian Police Department Report Photos

RD: 731 DR# -

(0005) 05/19/22 / 1928 N. Leisure Ln.

Added By: TNEGRETE (10680)

Created: 05/19/2022 14:39

Filename: IMG_6413.JPG



(0006) 05/19/22 / 1928 N. Leisure Ln.

Added By: TNEGRETE (10680)

Created: 05/19/2022 14:42

Filename: IMG_6414.JPG

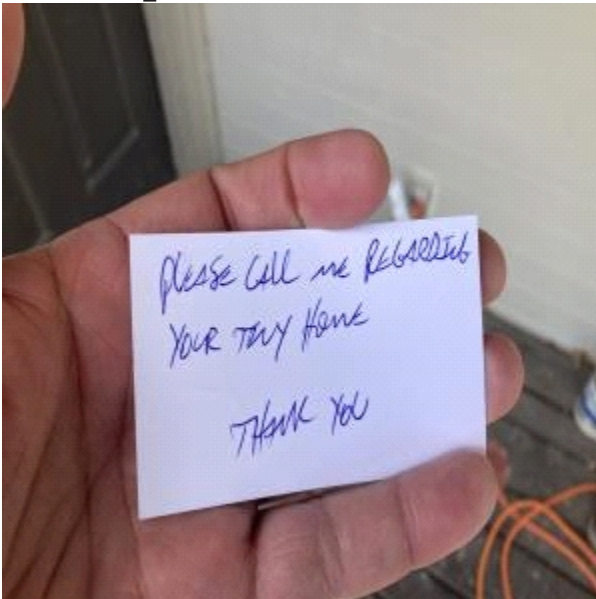


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Added By: TNEGRETE (10680)

Created: 05/19/2022 14:42

Filename: IMG_6415.JPG



(0008) 05/19/22 / 1928 N. Leisure Ln.

Added By: TNEGRETE (10680)

Created: 05/19/2022 14:42

Filename: IMG_6416.JPG



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RD: 731 DR# -

(0009) 05/23/22 / Follow up

Added By: TNEGRETE (10680)
Created: 05/23/2022 12:45
Filename: IMG_6454.JPG



(0010) 05/23/22 / Follow up

Added By: TNEGRETE (10680)
Created: 05/23/2022 12:45
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(0011) 05/31/22 / Follow up

Added By: TNEGRETE (10680)
Created: 05/31/2022 15:16
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(0012) 05/19/22 / 1928 N. Leisure Ln

Added By: TNEGRETE (10680)
Created: 05/19/2022 13:16
Filename: IMG_6405.JPG



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RD: 731 DR# -

(0013) 05/19/22 / 1928 N. Leisure Ln

Added By: TNEGRETE (10680)
Created: 05/19/2022 13:16
Filename: IMG_6406.JPG



(0014) 06/09/22 / Follow up

Added By: TNEGRETE (10680)
Created: 06/09/2022 06:25
Filename: IMG_6857.JPG



(0015) 06/09/22 / Follow up

Added By: TNEGRETE (10680)
Created: 06/09/2022 06:25
Filename: IMG_6858.JPG



Admin

Officer(s) Reporting
Ofc. Tony Negrete
Approved Supervisor

Ada No.
10680
Ada No

Approved Date