

Edward W. Dindinger, Esq. (ISB #10144)
RUNFT DINDINGER KOHLER, PLLC
1020 West Main Street, Suite 400
Boise, Idaho 83702
P.O. Box 1406
Boise, Idaho 83701-1406
TEL: (208) 616-5459
Email: service@rdkboise.com

Robert M. Belden (NY Bar No. 5429006)*
Dan Alban (DC Bar No. 978051)*
Erica Smith (NY Bar No. 4963377)*
Sam Gedge (VA Bar No. 80387)*
Diana Simpson (CO Bar No. 43591)*
INSTITUTE FOR JUSTICE
901 North Glebe Road, Suite 900
Arlington, Virginia 22203
TEL: (703) 682-9320
Email: rbelden@ij.org; dalban@ij.org;
esmith@ij.org; sgedge@ij.org;
diana.simpson@ij.org
*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)	Case No. CV01-22-11962
CALACAL,)	
)	JOINT STIPULATION OF FACTS
Plaintiffs,)	FOR TRIAL
)	
v.)	
)	
CITY OF MERIDIAN and MAYOR)	
ROBERT SIMISON, in his official capacity,)	
)	
Defendants.)	

The parties have met and conferred and jointly agree to stipulate to the following stipulations of fact for trial:

Meridian Code Sections 11-3A-20 and 11-4-3-12 and Related Code Provisions

1. Meridian Code Section 11-3A-20 (“Traveling Living Quarters”) provides, “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. No recreational equipment, including, but not limited to, tents, tepees, yurts, and/or huts, shall be used as a residence or as living quarters. prohibits using traveling living quarters, including mobile tiny houses, as a residence outside an approved recreational vehicle park.”

2. Meridian Code Section 11-1A-1 defines a recreational vehicle park as, “A premises upon which two (2) or more parking sites are located, established, or maintained for occupancy by recreational vehicles for temporary use for recreation or vacation purposes.”

3. Recreational vehicle parks are allowed as permitted uses in the C-G zoning district.

4. Recreational vehicle parks are allowed as conditional uses in the R-40 zoning district and in the I-L zoning district.

5. Meridian Code Section 11-1A-1 defines a secondary dwelling (“Dwelling, secondary”) as, “A habitable dwelling unit established in conjunction with and subordinate to a single-family dwelling unit constructed on a foundation and connected to municipal services. The term shall include guesthouse, granny flat, tiny house, carriage house, and garage apartment and caretaker unit.”

6. Meridian Code Section 11-4-3-12 (“Dwelling, secondary.”) provides in subsections (A) through (I):

- A. *Permitted.* One (1) secondary dwelling unit is permitted on the same property in conjunction with and clearly subordinate to a single-family dwelling.
- B. *Owner occupancy.* To create and maintain a secondary dwelling unit, the property owner shall reside on the property for more than six (6) months in any twelve-month period. The applicant for a secondary dwelling unit shall demonstrate that either the single-family dwelling or the secondary unit is occupied by the owner of the property. Owner occupancy is demonstrated by title records, vehicle registration, voter registration or other similar means. Secondary dwelling units shall not be subdivided or otherwise segregated in ownership from the single-family dwelling unit.

- C. *Maximum size.* Secondary dwelling units shall be limited to a maximum of nine hundred (900) square feet or no more than fifty (50) percent of the primary dwelling, whichever is less, and two (2) bedrooms constructed in accord with the adopted residential building code.
- D. *Location.* The secondary dwelling unit may be located within or attached to the primary dwelling; a detached structure; or above or beside a detached structure, such as a garage. Detached secondary dwelling units shall be located to the side or rear of a primary dwelling.
- E. *Parking.* Required parking for the property shall be as set forth in Section 11-3C-6, Table 11-3C-6 of this Title for single-family dwellings, as determined by the total number of bedrooms on the property. The conversion of a covered parking area (garage/carport) into a secondary dwelling unit is not allowed unless the required parking can be provided elsewhere on site.
- F. *Entrance.* Only one (1) entrance door of either the single-family dwelling or the secondary dwelling unit shall be located facing any one (1) street.
- G. *Design.* The secondary unit shall be consistent in design with the single-family dwelling, including roof pitch, siding, color, materials, and window treatments.
- H. *Prohibitions.* Manufactured and mobile homes, and recreation vehicles shall be prohibited for use as a secondary dwelling unit.
- I. *Number of occupants.* The total number of occupants in both the single-family dwelling and the secondary dwelling shall not exceed the maximum number established for a “family”, as defined in Chapter 1, Article A, “definitions”, of this Title.

7. Secondary dwelling units are allowed as accessory uses in the R-2, R-4, R-8, R-15, and R-40 zoning districts, and in the O-T, TN-C, and TN-R zoning districts.

8. Then-City Planning Director Anna Canning described secondary dwellings at a February 10, 2005, Planning & Zoning Commission Special Meeting as “brand new” and further as follows: “[T]he allowances for secondary dwelling units are very liberal. I think we allowed them along with all the residential districts. It’s potentially a doubling density, but it’s necessary. I mean, we have got a lot of old folks coming up that are new (inaudible) -- .”

9. Meridian Code Section 11-4-3-12(H) prohibits the use of recreational vehicles as secondary dwelling units under any circumstances.

10. Meridian Code Section 11-1A-1 defines a “recreational vehicle” as, “A vehicle or portable structure primarily designed as temporary living accommodation for recreational,

camping, and travel use. The term shall include, but not be limited to, motor home, travel trailer, fifth wheel trailer, truck camper, fold down camping trailer, park trailer, mobile tiny homes and travel trailer.”

11. On June 11, 2019, the Meridian City Council amended its code to define recreational vehicles specifically to include mobile tiny houses.

12. At the June 11, 2019, Meridian City Council Meeting, City Code Enforcement Officer Rich Everett explained the amendment as follows, “We are dealing with an issue with tiny homes and mobile tiny homes. Mobile tiny homes are built upon a chassis, a framework with wheels, that could be pulled behind something and we are including the mobile tiny home into the recreational vehicle definition. So, it will be treated just the same. If that mobile home -- or that mobile tiny home, I’m sorry, can be pulled behind the vehicle, it’s going to be treated as a recreational vehicle. We didn’t want to create another class of homes that we were going to apply codes to or another class of vehicles that we were going to apply codes to, we decided to bring it right into the recreational vehicle definition and the codes that already applied to those to simplify things.”

13. On November 1, 2022, the Meridian City Council amended Section 11-4-3-12(C) to add the requirement that secondary dwelling units be “constructed in accord with the adopted residential building code.”

14. Meridian Code Section 11-1A-1 defines “alternative compliance” as, “An administrative determination that a specific application achieves or exceeds specific requirements as set forth in this title. Consideration of alternative compliance is limited in circumstances as identified in this title.”

15. Meridian Code Section 11-5B-5 (“Alternative compliance.”) provides: “(A) *Purpose.* The purpose of this process is to provide for alternative means in which to meet the intended purposes of certain development regulations when explicit compliance is not feasible or the alternative means is superior to what is required. The regulations of this section are intended to encourage creative solutions to land use problems. The city recognizes that some specific requirements of this title do not anticipate all possible situations. Further, the city recognizes that there may be land use proposals that conform to the purpose, intent, and objectives of the regulations in this title but were not anticipated in the specific regulations. This section sets forth an alternative method of compliance in the event of these situations.”

16. Meridian Code Table 11-5B-5 (“Alternative Compliance”) lists the types of uses, permits, or proposals that are eligible for alternative compliance. Table 11-5B-5 does not include mobile tiny houses or secondary dwelling units.

17. Meridian Code Section 11-3A-4 (“Accumulation of junk.”) provides, “The accumulation of junk on any property is prohibited, except as provided in section 11-4-3-40,” which regulates businesses of “Vehicle wrecking or junk yard.”

18. There are no Section 11-4-3-40 “Vehicle wrecking or junk yards” on N. Leisure Lane.

19. Meridian Code Section 11-3A-14 (“Outdoor storage as an accessory use.”) provides, in relevant part, “C. For properties in residential districts, all materials, equipment, inventory, personal property and/or supplies, shall only be stored in the rear or side yard and shall be screened by a solid fence, six (6) feet in height. No outdoor storage of materials, equipment, inventory, personal property and/or supplies shall be allowed in the required street yard, except as follows. On corner properties, such materials may be stored in the street side

yard where such area is screened by a solid fence, six (6) feet in height; see **section 11-3A-7** of this article for fencing regulations in street side yards.”

20. For any property with a single-family dwelling, duplex, townhouse, or secondary dwelling, Meridian Code Section 11-3C-4(A)(2)(c) provides: “*Rear or side yard.* 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: (1) Vehicles other than automobiles and motorcycles; (2) Vehicles without current registration; and/or (3) Vehicles without license plates assigned to the vehicle.”

21. For any property with a single-family dwelling, duplex, townhouse, or secondary dwelling, Meridian Code Section 11-3C-4(B) provides: “*Improvements.* Off-street parking areas in the street yard and driveways into and through a parking area in the street yard shall be improved with a compacted gravel base, not less than four (4) inches thick, surfaced with concrete or asphaltic pavement. 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.”

Facts About the City of Meridian and Its Zoning Districts

22. The City of Meridian is comprised of no less than 23,547 acres.

23. There are approximately 133,000 residents in the City of Meridian.

24. Property zoned as Residential Area (R-2, R-4, R-8, R-15, and R-40) comprises 16,851 acres, or 71.3 percent, of the City. Respectively, the districts are 314 acres (R-2); 8,277 acres (R-4); 6,660 acres (R-8); 1,334 acres (R-15); and 266 acres (R-40).

25. Property zoned as Traditional Area (O-T, TN-C, and TN-R) comprises 393 acres, or 1.67 percent, of the City. Respectively, the districts are 141 acres (O-T); 65 acres (TN-C); and 187 acres (TN-R).

26. Property zoned as general retail and service commercial space (C-G) comprises 3,023 acres, or 12.84 percent, of the City of Meridian.

27. Property zoned as light industrial space (I-L) comprises 1,451 acres, or 6.16 percent, of the City of Meridian.

28. Forty (40) acres of property zoned R-40 is undeveloped, and such property comprises 0.17 percent of the City of Meridian.

29. Seven-hundred-twenty-one (721) acres of property zoned C-G is undeveloped, and such property comprises 3.06 percent of the City of Meridian.

30. One-hundred-thirty-four (134) acres of property zoned I-L is undeveloped, and such property comprises 0.57 percent of the City of Meridian.

31. Undeveloped property in zoning districts where RV parks may lawfully be permitted—the R-40 (40 acres), C-G (721 acres), and I-L (134 acres) zoning districts—comprises 895 acres, or 3.8 percent, of the City of Meridian.

Facts About the One RV Park in the City

32. There is only one recreational vehicle park in the City of Meridian.

33. The one RV Park in the City does not accept mobile tiny houses for stays longer than 27 days. The one RV Park in the City confirmed that in response to email inquiries for such spots, including on specific instances in July 2016, August 2018, November 2020, and October 2022.

34. The one RV Park in the City comprises less than .05 percent of the City of Meridian.

35. The one RV Park in the City has 222 parking spaces, which is one parking space for approximately every 601 residents of the City of Meridian.

36. There is zero chance any applicant for a long-term spot (i.e., one allowing stays of 27 days or more) at the one RV Park in the City can get such a spot for a mobile tiny house.

37. The one RV Park in the City is virtually full at all times and demand for space that becomes available is high.

38. Even when someone applies for a long-term spot at the one RV Park in the City for an RV, there is no guarantee they would be able to get a long-term spot at the one RV Park in the City, even if they could wait for more than a year.

Facts About Housing Affordability in the City of Meridian

39. In May 2019, the median home price in Meridian was \$329,000. Average monthly rent for a one-bedroom apartment was \$1,062.

40. In January 2021, the median home price in Ada County was \$454,000.

41. In May 2022, the median home price in Ada County was \$602,250. Average monthly rent for a one-bedroom apartment was \$1,766.

42. As of December 2023, the median home price in Ada County was \$530,000. As of January 2024, average monthly rent for a one-bedroom apartment was over \$1,400.

43. Official City of Meridian reports acknowledged the high demand for affordable housing. For example, the City of Meridian's 2017-2021 Consolidated Plan acknowledged in August 2017, "The City of Meridian has a very low vacancy rate and increasing housing prices. Continued housing market strength in Meridian, which is very likely, is creating a need for new

unit production for very low income renters in particular. As the housing market analysis conducted for this study reveals, the rental market does not align with the needs of renters. The City of Meridian has a shortage of rental units for households earning less than \$25,000 per year. There are 2,168 renters earning less than \$25,000 per year and just 820 affordable rental units. This leaves a gap of 1,348 units. This gap affects extremely and very low income renters.”

44. Official City of Meridian reports stated the City would work to increase affordable housing options. For example, the City’s 2018 Annual Action Plan, dated April 2019, stated that “Meridian is dedicated to increasing its affordable housing inventory to ensure residents of all income levels can find housing in Meridian.”

45. City of Meridian officials were aware of housing affordability issues and considered amending the City of Meridian’s zoning code. For example, a November 2021 draft “Memo to City Council” on “Attainable Housing” acknowledged “housing supply is low/limited.” The Mayor reviewed and commented on a draft of the “Memo to City Council” on “Attainable Housing” and made recommendations about its presentation to the City Council, including that secondary dwelling units are often prohibited in Meridian by private conditions, covenants, and restrictions. Later in 2022, the memo concerning potential code amendments to improve attainable housing was presented to and discussed with the Meridian City Council.

46. The City of Meridian’s 2022 Existing Conditions Report, dated October 25, 2022, stated the “wages paid” in sectors comprising over one-third of all jobs in Meridian “make it difficult for employees to work and live in Meridian.”

47. On multiple occasions over the years, City of Meridian City Councilmembers, employees, and other officials acknowledged in public meetings that Meridian residents had too

few affordable housing options and that more affordable housing options were necessary. For example, at a June 11, 2019, City Council Meeting, Planning Supervisor Bill Parsons stated, “[W]e all realize that we need to have [a] more affordable component to our community.” Also, on February 1, 2022, a City of Meridian Current Associate Planner stated to the Meridian City Council, “Staff finds the specific use of affordable housing, no matter the type, is a greatly needed use within the city and is, essentially, its own residential use.” As another example, in a September 1, 2022, City of Meridian Planning and Zoning Commission Meeting, one Commissioner stated, “People want to move here and, unfortunately, it’s, causing prices to go up and we – my – my kids can’t afford to live here anymore. So, they are moving away and, unfortunately, that’s what’s happening is we are having to build something that’s more affordable for others to live[.]” At a City Council Work Session on September 6, 2022, one City Councilmember acknowledged, “[I]f you were to do a housing study . . . I’m sure it would show we have a huge need for more affordable housing[.]” At a November 22, 2022, City Council Meeting, one Councilmember stated Meridian could “not have just a monoculture of R-2, R-4, because not everyone can afford that[.]”

48. On multiple occasions over the years, City of Meridian officials were told of problems relating to affordable housing in the City of Meridian. For example, in April 2022, a representative of the West Ada School District informed the Meridian City Council that 458 students were identifying as experiencing homelessness and that affordable housing was a “big” issue for them, “especially in the last year or two.” Similarly, in June 2022, the City of Meridian’s consultant stated at a City Council Work Session that “I don’t think this will come as a surprise to any of you, but one of the biggest challenges in Meridian is housing affordability and especially for those at the low end of the wage scale.” The consultant added that minimum-

wage workers would “have to work 85 hours a week to afford a modest one bedroom home” in Meridian.

49. By November 2022, the City of Meridian had received a third-party code audit commissioned by AARP and performed by a third-party auditor called WGI.

50. The third-party audit of Meridian’s housing code concluded, “The City’s existing housing stock of over 80% detached single-family homes is alarming for the future of housing affordability, walkability, and vibrancy.”

Facts About Chasidy and Her Mobile Tiny House

51. With the help of her mother, who was using an inheritance from Chasidy’s late grandfather, Chasidy purchased her home from Tiny Idahomes, LLC, in May 2019.

52. Chasidy’s mobile tiny home cost approximately \$76,000.

53. Chasidy’s tiny home on wheels is 252-square feet and constructed with 2” x 4”s, blown-in fiberglass batt insulation, board and batten siding, and standing seam metal roofing.

54. Chasidy’s tiny home on wheels has Kinro double-paned, tempered glass windows.

55. Chasidy’s tiny home on wheels has many features of a traditional home, including a bedroom with a queen-size bed, shelving, and a closet; a “pop out” or “slide-out” extendable living room/dining area and a jackknife couch with center pull down; a bathroom with a 60” whirlpool tub and Residential Round toilet; a kitchen area with cabinet space as well as a .9 cu. ft. mirrored microwave, 24” white apron sink and backsplash, 21” drop-in range, and 9.2 cu. ft. stainless steel refrigerator; two storage lofts; and a 20’ awning to cover the front-porch area.

56. Chasidy’s mobile tiny house is equipped for power, water, and sewer utilities.

57. Chasidy's tiny home on wheels has a 21" x 26 7/8" ventilation skylight, emergency exit windows, a smoke alarm, and a fire extinguisher.

58. Chasidy's tiny home on wheels is permanently constructed on a 28' x 8' flatbed tandem axle trailer and cannot be removed from the trailer without damage to both the home and the trailer. The trailer has permanently installed stabilizer jacks and is compatible with alternative foundation arrangements, such as tie-downs with augur footings, as well as skirting.

59. Chasidy's tiny home on wheels is certified by the third-party Recreational Vehicle Industry Association (RVIA).

60. Chasidy lived in her home in a mobile home/RV park in Sparks, NV, from May 2019 through November 2021.

61. Chasidy lived in her home in a mobile home/RV park in Jerome, ID, from November 2021 until on or around May 16, 2022.

62. Chasidy experienced no health and safety or other issues with regard to her mobile tiny house when she lived in it at the mobile home/RV parks in Sparks, NV, or Jerome, ID.

Facts About Robert and His Property at 1926 N. Leisure Lane

63. Robert's primary address is 3949 Stein Court, South San Francisco, CA 94080-3948.

64. Robert purchased the property at 1926 N. Leisure Lane, Meridian, ID 83646, on or around May 15, 2022.

65. The property at 1926 N. Leisure Lane is zoned R-4.

66. Robert's adult son occupied the primary residence at 1926 N. Leisure Lane on or around May 17, 2022, has permanently resided there since then, and will continue to reside there year-round.

67. Robert's adult son co-owns the property at 1926 N. Leisure Lane.

68. A previous owner installed RV hook ups for electrical, water, and sewer utilities on the side of the primary residence at 1926 N. Leisure Lane in or around 2001.

69. North Leisure Lane is a private drive.

70. There are no relevant covenants, conditions, or restrictions that apply to 1926 N. Leisure Lane.

Facts About Chasidy and Robert's Lease Arrangement

71. Chasidy and Robert entered into their lease on May 16, 2022.

72. Under the lease, Chasidy agreed to pay Robert \$600 per month and approximately \$100 per month for using the electric, water, and sewer utilities.

73. Under the lease, in return for Chasidy's monthly payments, Robert allowed Chasidy to park and live in her mobile tiny house in the space alongside the primary residence at 1926 N. Leisure Lane and he also allowed her to use the RV hook ups for electrical, water, and sewer utilities, which had been installed by the previous owner.

74. The RV hook ups for electrical, water, and sewer utilities on the side of the primary residence at 1926 N. Leisure Lane are materially the same as those available in mobile home/RV parks, including those in the one RV park in the City and in the mobile home/RV parks in Sparks, NV, and Jerome, ID, where Chasidy lived in her home.

75. Chasidy paid to have her mobile tiny house towed from Jerome, ID, to Robert's property at 1926 N. Leisure Lane on or around May 18, 2022.

76. On or around May 18, 2022, Chasidy parked the home alongside the primary residence at 1926 N. Leisure Lane, connected to the RV hook ups, and began living there.

77. Chasidy lived in her home there from on or around May 18, 2022, through August 1, 2022.

78. Chasidy experienced no health and safety or other issues with regard to her mobile tiny house when she lived in it for those 2.5 months at 1926 N. Leisure Lane.

79. Chasidy's home is consistent with the character of the neighborhood.

80. Chasidy's home does not reduce property values or aesthetics.

81. Robert secured a permit and paid to have a six-foot privacy fence erected at 1926 N. Leisure Lane, Meridian, ID 83646.

82. Today, Chasidy's home remains parked in the same spot at 1926 N. Leisure Lane where she parked it on or around May 18, 2022.

Facts About the City's Investigation of and Enforcement Against Chasidy and Robert Before the *Idaho Statesman* Article is Published

83. On or around May 19, 2022, Robert's neighbor contacted code enforcement about Chasidy's home.

84. On May 19, 2022, Meridian Code Enforcement Officer Anthony Negrete visited 1926 N. Leisure Lane.

85. Officer Negrete's investigative report states that he discussed the mobile tiny home with Mr. Calacal on approximately three occasions between May 19, 2022 and May 31, 2022.

86. Officer Negrete's investigative report states that, on May 31, 2022, he informed Mr. Calacal about parking violations at 1926 N. Leisure Lane involving a black Jeep Renegade.

87. On June 1, 2022, a friend of Chasidy's emailed Deputy City Attorney Emily Kane, the Mayor, and the Meridian City Council on her behalf, copying Chasidy and using the subject line "Tiny Home Eviction."

88. Also on June 1, 2022, Meridian City Councilmember Liz Strader forwarded the email to Meridian Community Development Director Bruce Freckleton and asked, "[C]an you guys please look into this?"

89. Also on June 1, 2022, Mr. Freckleton responded to Councilmember Strader, copying the remaining members of the City Council and Mayor Simison, in part, "Emily [Kane] will be reaching out to Code Enforcement with MPD to see what they may know. According to Bill [Parsons], Emily has taken the lead on this issue at this point."

90. Also on June 1, 2022, Deputy City Attorney Emily Kane responded to the original email from Chasidy's friend, in part, "[E]ach 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."

91. On June 2, 2022, a reporter from the *Idaho Statesman* emailed the City of Meridian's spokesperson, using the subject line "Meridian tiny home eviction" and writing that she is "working on a story about a Meridian resident" on "Leisure Lane."

92. Officer Negrete's investigative report states that, on June 2, 2022, he informed Code Enforcement Officer Ami Nunes that he would follow up at 1926 N. Leisure Lane on June 10, 2022, by issuing notices of violation if the property was not in compliance with the city code.

93. On June 3, 2022, the City of Meridian's spokesperson forwarded the email to City Code Enforcement and the Police Department's spokesperson.

94. On June 3, 2022, the City of Meridian's Police Chief recommended to the Police Department's spokesperson that the City decline to respond to the *Idaho Statesman's* inquiry because it involved a pending investigation.

95. Between June 3, 2022, and June 6, 2022, the City of Meridian's spokesperson responded to the *Idaho Statesman* reporter, clarifying an earlier misstatement about whether secondary dwelling units are allowed on residential property in Meridian and linking to Mayor Simison's 2022 State of the City Address in response to a request for comment on whether the housing crisis was a circumstance in the unfolding situation.

96. On June 6, 2022, the Deputy City Attorney emailed Chasidy's friend again to explain an error in the Deputy City Attorney's June 1, 2022, email described in Paragraph 90 above. Specifically, the Deputy City Attorney clarified, "Secondary dwelling units are generally allowed on residential properties, as an accessory use, but manufactured homes, mobile homes, and recreational vehicles may not be used as secondary dwelling units. A secondary residence, built on a foundation, with all required building permits, and connected to City water and sewer, is allowed within the City of Meridian."

97. On June 7, 2022, City Code Enforcement Officer Anthony Negrete sent text messages to Code Enforcement Officer Ami Nunes regarding the investigation and Chasidy's friend (Jason Jones) who had been helping her, in which Officer Negrete also wrote, "Okay, want to be on the same page since he involved the newspaper."

Facts About the *Idaho Statesman* Article

98. On June 8, 2022, at 4:17 p.m., the *Idaho Statesman* published a digital piece by Darrin Oswald, entitled, “Tiny house owner told to vacate by Meridian ID code enforcer.” The piece featured a 2 minute 49 second video and the following words: “Chasidy Decker moved her tiny home next to a single family home to lease a space and hook up to existing RV connections. She was warned by Meridian code enforcement that she couldn’t live in the mobile house and should be out in 10 days.”

99. On June 9, 2022, the *Idaho Statesman* published as its top story on Page A1 a piece by Rachel Spacek entitled, “Tiny home owner runs afoul of Meridian regulations.” The piece includes a photo of Chasidy holding her dog and a photo of Chasidy standing in the foreground in front of her home and black Jeep. The story continues on Page A3 under the subtitle “Tiny Home” and includes a photo of Chasidy’s tiny home placed in Robert’s side yard.

Facts About the City’s Investigation After the *Idaho Statesman* Article is Published

100. On June 14, 2022, the City of Meridian sent Plaintiff Chasidy Decker a Notice of Criminal Violation of Unified Development Code and Order to Abate an alleged violation of Meridian Code Section 11-3A-20 by August 1, 2022—which required that she “cease use of the recreational vehicle at the above-named real property as a residence or living quarters”—or face criminal prosecution and daily fines up to \$1,000 for each day the alleged violation continued.

101. This Notice to Chasidy specified that “[s]ince at least May 19, 2022, and as of June 14, 2022,” her home had been “parked on the north side of the primary residence” and “has been used as a residence or living quarters, which is a violation of UDC section 11-3A-20.”

102. On June 14, 2022, the City of Meridian sent Plaintiff Chasidy Decker a Notice of Criminal Violation of Unified Development Code and Order to Abate an alleged violation of Meridian Code Section 11-3C-4(A)(2)(c)(2) by June 27, 2022—which required that she “remove the unregistered vehicles parked in the side yard . . . or screen any vehicles parked in the side yard [by] a solid fence, six (6) feet in height”—or face criminal prosecution and daily fines up to \$1,000 for each day the alleged violation continued.

103. This Notice to Chasidy specified that, “[a]s of June 14, 2022, two vehicles with expired registration . . . a black Jeep Renegade,” which Chasidy owned, “and a white Chevrolet Caprice,” which was owned by a friend of Chasidy’s, were “parked in the side yard . . . , which is a violation of UDC section 11-3C-4(A)(2)(c)(2).”

104. On June 14, 2022, the City of Meridian sent Plaintiff Robert Calacal a Notice of Criminal Violation of Unified Development Code and Order to Abate alleged violations of Meridian Code Sections 11-3A-20 by August 1, 2022, and alleged violations of Meridian Code Sections 11-3C-4(A)(2)(c)(2) and 11-3C-4(B) by June 27, 2022.

105. With respect to Meridian Code Sections 11-3A-20 and 11-3C-4(A)(2)(c)(2), the Notice to Robert recited the same relevant dates of alleged violations, demanded the same compliance, and threatened the same prosecution and daily penalties for non-compliance as in the Notices to Chasidy.

106. With respect to Meridian Code Section 11-3C-4(B), the Notice specified that “[a]s of June 9, 2022,” a “black Toyota Tacoma pickup truck” belonging to a friend of Robert’s son had been parked “in the street yard . . . on an unimproved surface,” and demanded compliance as follows: “You must remove the vehicle parked in the street yard . . . 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).” The Notice to Robert threatened the same prosecution and daily penalties for non-compliance as Chasidy’s Notice.

107. The Notices did not mention Meridian Code Section 11-4-3-12.

108. The Notices did not mention any other options or administrative remedies, such as variances, alternative compliance, or conditional use permits.

Facts About the City’s Inspections and Permitting for SDUs and RV Parks

109. To create and occupy a secondary dwelling unit in the City of Meridian, a person must undergo certain inspections and plan reviews and receive certain permits from the City of Meridian.

110. The City of Meridian performs these inspections and issues these permits for secondary dwelling units, or it oversees the work of third-party consultants who perform the necessary inspections and plan-review services before the City of Meridian issues the permits.

111. These inspections, plan reviews, and permits are exclusively the responsibility of the City of Meridian’s Building Services Division and Planning Division, both of which are divisions of the City of Meridian’s Community Development Department. The Director of the Community Development Department reports directly to the Mayor of the City of Meridian.

112. The City of Meridian has never performed and does not perform (or allow its consultants to perform) the inspections and plan reviews necessary to issue a secondary dwelling unit permit for any mobile tiny house. Put another way, an application to use a mobile tiny house as a secondary dwelling unit would progress only to the point where the mobile nature of the proposed secondary dwelling unit is identified by the initial plan reviewer and would not progress past the initial plan-review phase to the point where a full plan review and inspections are conducted.

113. The City of Meridian could perform (or allow its consultant to perform) all the inspections and plan reviews necessary to issue secondary dwelling unit permits for mobile tiny houses.

114. The City of Meridian has never performed and does not perform (or allow its consultants to perform) these necessary inspections and plan reviews because the City of Meridian prohibits mobile tiny houses from being used as secondary dwelling units under any circumstances.

115. That the City of Meridian has never performed and does not perform (or allow its consultants to perform) these necessary inspections and plan reviews is required by Meridian Code Section 11-4-3-12(H) and is not the decision of the Building Services Division, Planning Division, Police Department, Fire Department, Public Works Department, Land Development Division, Sanitary Services, or Parks Department.

116. The City of Meridian does not allow property owners to seek or receive—for a mobile tiny house—alternative compliance with any requirements that mobile tiny houses cannot precisely or technically comply with because mobile tiny houses are constructed on a trailer rather than on a permanent foundation.

117. The City of Meridian could allow mobile tiny houses to seek and receive alternative compliance with requirements mobile tiny houses cannot precisely or technically comply with because they are constructed on a trailer rather than a permanent foundation.

118. The City of Meridian will not and does not allow mobile tiny houses to seek or receive alternative compliance because the City of Meridian prohibits mobile tiny houses from being used as secondary dwelling units under any circumstances.

119. The City of Meridian could perform (or allow its consultants to perform) all the necessary inspections of Robert’s property at 1926 N. Leisure Lane, including of the RV hook ups. Any such inspections of the RV hook ups would be materially the same as the inspections the City of Meridian may perform (or allow its consultants to perform) when an RV park opens in the City of Meridian and seeks to provide water, sewer, and electrical utilities to its residents.

120. None of the inspections or plan reviews necessary to create a secondary dwelling unit on a residential property are performed (or overseen) by the City of Meridian’s Police Department, Fire Department, Public Works Department, Land Development Division, Sanitary Services, or Parks Department.

121. No permit for secondary dwelling units is issued by, or the responsibility of, the City of Meridian’s Police Department, Fire Department, Public Works Department, Land Development Division, Sanitary Services, or Parks Department.

122. Chasidy and Robert would seek the necessary secondary dwelling unit inspections and permits but for the City’s ongoing enforcement of Meridian Code Sections 11-3A-20 and 11-4-3-12(H) against them.

**Facts About the City of Meridian’s Official Position in this Lawsuit
Regarding Non-Conforming Property and “Grandfathering”**

123. The City of Meridian recognizes non-conforming and conforming properties.

124. The City of Meridian’s official position in this lawsuit is that a non-conforming property can continue to be used, under certain conditions, in ways that deviate from code requirements because the use predated the code’s application to the property. The property in this situation is sometimes said to have “grandfathering” or “grandfathered” rights.

125. The City of Meridian’s official position in this lawsuit is that a conforming property must comply in all respects with the code.

126. The City of Meridian’s official position in this lawsuit is that non-conforming properties become conforming properties any time there is a change of ownership of the property.

127. The City of Meridian’s official position in this lawsuit is that using a mobile tiny house (or any other traveling living quarters) as a residence cannot give rise to a non-conforming property.

DATED: March 13, 2024

MOORE ELIA & KRAFT LLC

/s/ Peter Thomas

Peter Thomas

Counsel for Defendants

INSTITUTE FOR JUSTICE

/s/ Robert Belden

Robert Belden

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this March 13, 2024, a true and correct copy of the foregoing *Joint Stipulation of Facts* was filed using the iCourt e-File system which will send notification of such to:

Via iCourt:
Michael Elia, mje@melawfirm.net
Peter Thomas, peter@melawfirm.net
MOORE ELIA & KRAFT, LLP
P.O. Box 6756
Boise, ID 83707
*Counsel for Defendants City of Meridian and
Mayor Robert Simison*

Dated: March 13, 2024

/s/Robert Belden
Robert Belden
Counsel for Plaintiffs