

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OTTAWA

PARK TOWNSHIP NEIGHBORS, a  
Michigan nonprofit corporation,

Plaintiff,

Case No.: 2023- 7474 - CZ  
Hon. JON H. HULSING

v.

PARK TOWNSHIP, a Michigan municipal  
corporation,

Defendant.

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Kyle P. Konwinski (P76257)  
Chloe N. Cunningham (P83904)  
VARNUM LLP  
*Attorneys for Plaintiff*  
P.O. Box 352  
Grand Rapids, MI 49501  
(616) 336-6000  
[kpkonwinski@varnumlaw.com](mailto:kpkonwinski@varnumlaw.com)  
[cncunningham@varnumlaw.com](mailto:cncunningham@varnumlaw.com)

Daniel J. Hatch (P79258)  
BUTZEL LONG  
*Attorneys for Plaintiff*  
300 Ottawa Ave, NW, Suite 620  
Grand Rapids, MI 49503  
(616) 988-5600  
[hatchd@butzel.com](mailto:hatchd@butzel.com)

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**VERIFIED COMPLAINT AND PETITION FOR WRIT OF MANDAMUS**

*There is no other pending or resolved civil action arising out  
of the transaction or occurrence as alleged in the Complaint.*

NOW COMES the Plaintiff, Park Township Neighbors, by and through its counsel,  
Varnum LLP and Butzel Long, and for its Verified Complaint states as follows:

## INTRODUCTION

1. This lawsuit seeks to stop Park Township's illegal attempt to ban the rental of single-family homes on a short-term basis. *For nearly 50 years*, Park Township repeatedly and expressly permitted the use of single-family dwellings for short-term rentals.

2. On November 10, 2022, the Park Township's Board of Trustees—without amending its Zoning Ordinance—voted to "ban" the use of single-family dwellings as short-term rentals in residential zoning districts. The Township's Board also distinguished between "short term" and "long term" rentals (the dividing line is apparently 28 days), even though the text of the Zoning Ordinance contains no such distinction. The Township now seeks to enforce its purported ban on short-term rentals under the guise that it is merely "enforcing" its Zoning Ordinance that has existed since 1974.

3. Contradicting its false narrative, the Township's Board later voted, without holding a proper hearing or providing prior notice to the public, to adopt an amendment to the Zoning Ordinance defining, regulating, and prohibiting short-term rentals. This amendment, Zoning Ordinance No. 2022-02 ("Zoning Ordinance 2022-02"), was signed by the Supervisor of the Township Board and codified in the Zoning Ordinance.

4. In the summer of 2023, the Township realized it had a problem: if the Township amended its zoning ordinance, *all* of the existing short-term rentals would be grandfathered as nonconforming uses. This was unacceptable to the Township, so it took even more illegal actions to cover up the problem it created. In June of 2023, the Township's Board adopted another ordinance, Ordinance No. 2023-02 ("Regulatory Ordinance 2023-02")—again, without providing prior notice or a public hearing as required by Michigan law.

5. Regulatory Ordinance 2023-02 has essentially the same terms as Zoning Ordinance 2022-02, with one key difference—the ordinance purports to amend the general code of ordinances, not the Zoning Ordinance. Despite the Township's re-labeling, Regulatory Ordinance 2023-02 is a de facto zoning ordinance.

6. The Township tried to conceal this switch-up by erasing all record of Zoning Ordinance 2022-02, even though the Township never repealed or replaced it.

7. In short, the Township's actions have no support in the text of the Zoning Ordinance, as the Township for decades acknowledged that its Zoning Ordinance *permitted* the use of single-family dwellings as short-term rentals in residential districts. Yet, the Township now claims that it is going to issue civil infractions to property owners who attempt to use single-family dwellings as rentals for less than 28 days.

8. The Township must be halted from doing so because its attempt to suddenly prohibit short-term rentals is illegal for two primary reasons: (1) the Township was required to properly amend its Zoning Ordinance under the Michigan Zoning Enabling Act ("MZEA") to impose new use regulations on short-term rentals in residential areas, which the Township did not do, and (2) even if the Township does not amend its Zoning Ordinance, the use of single-family dwellings as short-term rentals is permitted under the Township's current Zoning Ordinance.

9. Plaintiff brings this action to advocate for the interests of its members, many who own single-family homes in Park Township that they rent on a short-term basis (collectively, the "Park Township Neighbors").

10. The Park Township Neighbors seek equitable and declaratory relief to prevent the Township from enforcing its new ban on short-term rentals in the residential zoning districts.

**PARTIES, JURISDICTION, AND VENUE**

11. Plaintiff Park Township Neighbors is a Michigan nonprofit corporation, with a registered address of 333 Bridge Street NW, Suite 1700, Grand Rapids, Michigan.

12. Plaintiff brings this action to advocate for the interests of its members, many who own real property in Park Township, Michigan that they use as a rental property.

13. Defendant, Park Township, is a Michigan municipal corporation located in Ottawa County, Michigan.

14. Jurisdiction of Plaintiff's claims for declaratory and injunctive relief is appropriate in this Court pursuant to Mich. Const. 1963, art. VI § 13; MCL 600.601, 600.605 600.6419(6), and MCR 2.605.

15. Venue is proper in this Court pursuant to MCL 600.1615.

**FACTUAL BACKGROUND**

**A. THE PARK TOWNSHIP NEIGHBORS AND THEIR RESIDENTIAL PROPERTIES.**

16. An independent firm recently conducted a professional poll to gather community members' input on the issue of short-term rentals in the Township.

17. This poll showed that nearly 60% of voters in the Township do not support the Township's new ban on short-term rentals and nearly a supermajority of voters favor a reasonable policy allowing a limited number of owners to rent their homes for short-term periods.

18. Plaintiff is a 501(c)(4) non-profit organization established by families, individuals, business owners, and community leaders working together to advocate for reasonable rules and regulations in Park Township that lawfully allow property owners to continue renting their single-family homes on a short-term basis.

19. Plaintiff consists of approximately 111 members, 107 of whom own property in Park Township.

20. Plaintiff's members use their properties for single-family dwellings that are rented on a short-term basis in each residential zoning district within the Township and will be prevented from continuing such use if the Township's ban is enforced.

21. The Township's residential zoning districts consist of the R-1 Rural Estate District ("R-1"), R-2 Lakeshore Residence District ("R-2"), R-3 Low Density Single-Family Residence District ("R-3"), R-4 Medium Density Single- and Two-Family Residence District ("R-4"), and R-5 Low Density Multifamily Residence District ("R-5").

22. For example, Richard Burkholder owns a single-family dwelling located at 3229 Elderwood Avenue in the R-1 zoning district, which is rented on a short-term basis.

23. Douglas Behrendt owns a single-family dwelling located at 2500 Lakefront Drive in the R-2 zoning district, which is rented on a short-term basis.

24. Sue Willoughby owns a single-family dwelling located at 1761 South Shore in the R-3 zoning district, which is rented on a short-term basis.

25. Robert Bouman owns a single-family dwelling located at 481 South 168th Avenue in the R-4 zoning district, which is rented on a short-term basis.

26. Claire Alsup owns a single-family dwelling located at 764 Jenison Avenue in the R-5 zoning district, which is rented on a short-term basis.

27. The use of these individuals' single-family dwellings as short-term rentals will be prevented if the Township's ban is enforced.

**B. PARK TOWNSHIP'S ZONING ORDINANCE.**

28. In 1972, two years before enacting its current Zoning Ordinance, the Township prepared a plan to examine current land use and future zoning goals of the Township.

29. The Township recognized its status as a popular vacation destination, with many residential properties being used on a temporary and seasonal basis.

30. The Township's plans recognized the existence of "rental cottages" and "seasonal homes" as "dwelling units" and recommended residential areas that had been developed with seasonal homes be maintained as such.

31. The Township adopted its Zoning Ordinance in 1974, consistent with such early plans.

32. The Zoning Ordinance establishes twelve (12) zoning districts within the Township, each with its own description, purpose, and use regulations.

33. There are five (5) primary residential zoning districts within the Township, which include R-1, R-2, R-3, R-4, and R-5.

34. Each of these residential zoning districts have distinguishing factors, but they all permit the use of "single-family dwellings."

35. The Zoning Ordinance defines a single-family dwelling as a "building designed for use and occupancy by one family" and explicitly permits the "temporary" occupancy of a building as a home or residence.

36. The Zoning Ordinance does not require that a single-family dwelling be owned by the family or individual occupying the structure to qualify as a single-family dwelling.

37. The Zoning Ordinance does not contain any language that would prohibit renting a single-family dwelling for 27 days or less.

38. Furthermore, the Zoning Ordinance does not distinguish between a single-family dwelling being used for more or less than 27 days by a family occupying it.

**C. PARK TOWNSHIP'S HISTORICAL INTERPRETATION OF ITS ZONING ORDINANCE.**

39. For nearly fifty years, the Township and its agents charged with interpreting its Zoning Ordinance have consistently maintained that the Zoning Ordinance permits the use of single-family dwellings for rentals on a short-term basis.

40. The Township's Planning Commission has repeatedly sanctioned the use of single-family dwellings for short-term rentals as lawful land use during public meetings.

41. The Planning Commission is responsible for making and adopting a plan for the Township's land use and development.

42. The Planning Commission further has the authority to review and deny or approve applications for special use permits, site plans, and other issues pertaining to land use.

43. At a public meeting in 2000, the Township's Planning Commission discussed a special use request to move a house onto an empty lot in a residential subdivision.

44. Some individuals raised concerns that the house would be used as a beach rental, however, the Planning Commission approved the request in a 9-0 vote and affirmed that, "**[y]ou can have a single rental in any district.**"

45. The Planning Commission's Chairman further explained that a single-family dwelling could be rented on a short-term basis, so long as it was limited to a single family at a time.

46. In the same meeting, the Chairman stated: "If a person from Chicago builds a \$300,000 house, we don't care whether they live in it 3 or 6 months or year around as long as it is properly maintained."

47. Another member of the Planning Commission followed up with: "It has to be a single-family residence. All township rules would apply here too. They could rent them if they wanted to."

48. The Township's Planning Commission affirmed the same position during a meeting in 2002. There, the Planning Commission considered another individual's special use request to move a house to an empty lot and use it "for a cottage or rental."

49. Six neighbors wrote letters in opposition, expressing concerns "about any renting of the house."

50. The Zoning Administrator, who is charged with administering and enforcing the Zoning Ordinance, advised that the Zoning Ordinance did not allow the Township to put any restriction on the individuals renting out the house. And again, the Planning Commission voted 8-0, approving the request.

51. In 2003, the Planning Commission held a hearing to discuss the approval of a site plan for a planned development unit ("PUD"). The proposed PUD was for a group of connected townhomes.

52. Several individuals expressed concerns about the townhomes being rented on a weekly basis and questioned whether the connected units would constitute a motel.

53. The Planning Commission, however, affirmed that any property owner in the Township could rent out a single-family home for any duration, even on a weekly basis.

54. Moreover, when approving PUD site plans, the Planning Commission has the authority to impose conditions and restrictions in addition to those in the Zoning Ordinance.

55. There, the Planning Commission asked the developer if he would be willing to agree to a 30-day minimum on rentals, but the developer declined. Nonetheless, the Planning



Commission ultimately approved the developer's site plan, even with the knowledge that units within the development would be rented out on a short-term basis.

56. The Township's Zoning Board of Appeals has also consistently affirmed the fact that the Zoning Ordinance does not prohibit the use of single-family dwellings for short-term rentals.

57. In 1987, a property owner appealed the denial of a building permit for a new home in a residential zoning district.

58. During the hearing, a neighbor asked whether the property owner's home would be a rental, flagging to the Zoning Board of Appeals that the owner's existing property was rented on a seasonal basis.

59. The Zoning Board of Appeals ultimately approved the property owner's request and, in doing so, explained that the "Board didn't have any jurisdiction on whether or not this would be a residential home or a rental home."

60. In other words, the Zoning Board of Appeals did not have jurisdiction to impose requirements on the rental of a single-family home in a residential area because the Zoning Ordinance does not provide for such restrictions.

61. The Zoning Board of Appeals affirmed the same position again in 1999. There, a property owner sought a variance for a building permit to expand a home in a residential district.

62. During the hearing, neighbors complained the property owner rented out the cottage all but one week out of the summer to various groups of people, sometimes to as many as twelve people at a time.

63. But again, even knowing that the property would be used as a short-term rental, the Zoning Board of Appeals approved the property owner's request.

64. The examples above reflect just some of the instances in which the Township and its Planning Commission, Board of Trustees, Zoning Administrator, and Zoning Board of Appeals, have expressly acknowledged that single-family homes and other types of residential properties may be lawfully rented on a short-term basis under the Zoning Ordinance.

65. In addition to the above, many members of Park Township Neighbors were explicitly told by Park Township employees and officials that their short-term rentals were allowed, including but not limited to the following:

- a. Jeremy and Rachael Allen – In 2017, before spending significant sums to finish the lower level of their home, they shared with the Township on a number of occasions that this home and remodel was to better accommodate their family and vacation rental guests, and at no time did the permitting, licensing, or inspection representatives say short term rentals were illegal. In fact, they purchased the home in 2015 from a local family who had been renting the home and, upon purchasing, the Allen family had to honor already existing short term rental reservations.
- b. Sue and Robert Kust – They purchased two properties, in 2013 and 2014. Before purchasing their first property in 2013, they were told that the Township had no regulations governing short-term rentals. In 2014, their contractor asked for a permit for remodeling for the purpose of renting and the permit was issued without question.
- c. Jackie Beck – In early 2022, she inquired if there were any restrictions or requirements on renting her home, and she was informed there was not.

- d. Daniel Lilley – He had multiple conversations with the Park Township Zoning Administrator, Ed DeVries, who confirmed that short-term rentals are not regulated.
- e. Brad and Lisa Ruggles – They did their due diligence and never would have invested without doing such due diligence, during which they were told by Park Township that there were no restrictions or permit(s)/license(s) required for short-term rentals.
- f. Jason Reiersen – He called the Township in 2019 and was told there were no restrictions, despite the person acknowledging that many short-term rentals existed.
- g. Mary TenBrink – She contacted the Township office asking if she needed a permit and asking if other regulations existed, but she was told there were no regulations on short-term rentals.
- h. Laurie and Vic Van't Hof – They bought a home in 2016. Mr. Van't Hof went to the Township office in person to ask if there were any restrictions or regulations required to rent short-term, and to inquire about a permit for renovations. He was told there were no restrictions and no rental permit required, and that there were many short-term rentals already in Park Township and it was fine.
- i. Crystal and Stefan Walter – Before they purchased property in the Township, Mr. Walker called and asked if there were any regulations or restrictions on short-term rentals. Mr. Walter was unequivocally told that there were no such regulations or restrictions.
- j. Sue Willoughby – Prior to making a very significant investment in a large waterfront home, she called the Township office two times and spoke to two

different people. She made it very clear that their plan was to rent the house weekly. Each time, she was assured it was permitted to rent the house to vacationing families.

66. Plaintiff's members relied on the Township's affirmative statements and actions warranting that the use of single-family dwellings for short-term rentals was lawful when they purchased and/or made significant investments to their properties for such purpose.

**D. PARK TOWNSHIP'S NEW BAN ON SHORT-TERM RENTALS IN RESIDENTIAL AREAS.**

67. On June 5, 2020, the Michigan Supreme Court held in *Reaume v Twp of Spring Lake* that Spring Lake Township's Zoning Ordinance did not permit short-term rentals under the specific language of Spring Lake Township's Zoning Ordinance. In Spring Lake Township, a short-term rental fell within Spring Lake's ordinance's definition of a motel.

68. Even though Park Township's Zoning Ordinance has materially different definitions than the Spring Lake Zoning Ordinance, just one month after *Reaume*, the Township's Planning Commission began evaluating its stance on short-term rentals at a public meeting held on July 8, 2020.

69. At this meeting, the Township's Attorney raised the Court's recent decision in *Reaume* and advised the Planning Commission that "because [the Township] never allowed motels in residential districts, there is no nonconforming status."

70. The Township's Attorney's proffered interpretation was directly contrary to Park Township's repeated interpretations over the prior decades.

71. In addition, the Township's Attorney's proffered interpretation was later contradicted by the Township's attempt to enact Zoning Ordinance 2022-2 and Regulatory

Ordinance 2023-02, which both concede that homes rented on a short-term basis are not considered motels.

72. During this time, the Township's Board and Manager were admonished by Township officials from ever again saying that short-term rentals are permitted in the Township. When the Township Manager was informed of the Township's new position, the Township Manager responded that he had told many residents that short-term rentals were permitted.

73. The Planning Commission decided that it would conduct an analysis of short-term rentals in the Township and set special meetings to discuss what the Township's stance on the matter would be.

74. Essentially, the Township saw *Reaume* as an opportunity to change its rules on short-term rentals while circumventing the legality of nonconforming uses by claiming short-term rentals fall within the Zoning Ordinance's definition of motels.

75. For the next two years, the Township continued to evaluate its position on short-term rentals.

76. On November 10, 2022, the Township's Board of Trustees voted at a regular meeting "to ban short-term rental use in residential zones."

77. The Board of Trustees also voted to enforce the ban on short-term rentals starting on October 1, 2023.

78. In adopting this ban, the Township did not amend the Zoning Ordinance. Instead, the Township argued that it was enforcing the existing Zoning Ordinance.

79. The Township intentionally crafted its "enforcement" narrative to thwart any claims of nonconforming uses.

80. A nonconforming use is the use of land in conflict with the zoning ordinance. When a zoning ordinance is adopted or amended, there might be existing, formerly lawful uses that conflict with the new zoning ordinance. These are nonconforming uses that give rise to a vested property right.

81. Accordingly, both the MZEA and the Zoning Ordinance require the Township to grandfather nonconforming uses that existed prior to a change in the zoning law. See ZO at § 38-631; MCL 125.3208.

82. The Township did not want to formally amend its Zoning Ordinance to ban short-term rentals because, if it did, it would be required to allow the approximately 240 existing homes that are rented on a short-term basis to continue as nonconforming uses.

83. So instead, the Township formulated a scheme to *reinterpret* the Zoning Ordinance rather than *amending* the Zoning Ordinance to prohibit a property use that was previously permitted.

84. The problem with the Township's scheme, however, is that the Township cannot impose new regulations on land use without amending the Zoning Ordinance.

85. At first, the Township tried to avoid amending the Zoning Ordinance by simply posting the new short-term rental regulations on its website.

86. On its website, the Township defined short-term rentals as "[a]nything under 28 days" and said that "[m]onthly leases and longer are permitted in all residential districts."

87. The Township further stated preexisting short-term rentals would not be recognized as nonconforming uses.

88. Yet, the Township claimed that it is lawful under the Zoning Ordinance to rent out single-family homes for 28 days or more, despite the fact that the rental of homes for 28 days or more is not listed under the residential zoning districts' use regulations.

89. None of the Township's new land use regulations relating to short-term rentals have any basis in the Zoning Ordinance.

90. In effect, the Township is imposing new zoning regulations on the use of single-family homes for temporary periods without taking the steps required to amend the Zoning Ordinance.

**E. PARK TOWNSHIP'S ILLICIT ATTEMPTS TO AMEND THE ZONING ORDINANCE AFTER DECLARING THE BAN ON SHORT-TERM RENTALS.**

91. A month after the Township adopted its ban on short-term rentals and posted the new rules on its website, the Township's Board voted to amend the Zoning Ordinance to incorporate some of the new self-declared rules on short-term rentals. But once the Township realized the consequences of its actions (i.e., amending the Zoning Ordinance would permit all short-term rentals that existed at that time to continue as nonconforming uses), the Township tried to cover up the evidence of its amendment.

92. On December 8, 2022, without proper notice or a public hearing as required by the MZEA, the Township's Board of Trustees adopted an amendment to the Zoning Ordinance, Zoning Ordinance No. 2022-02.

93. Zoning Ordinance 2022-02 defined short-term rentals as "[t]he rental of a dwelling unit for compensation for a term of 27 nights or fewer," excluding "hotels, motels, [and] resorts."

94. Zoning Ordinance 2022-02 also contained new rules requiring property owners to register their properties that are rented for 27 days or less with the Township and prohibited short-term rentals in all of the Township's zoning districts.

95. Afterward, the Township published notice of the Zoning Ordinance 2022-02 in the Holland Sentinel.

96. The Township proceeded to collect and track short-term rental registrations over the following months pursuant to Zoning Ordinance 2022-02.

97. In June of 2023, the Township apparently realized the consequence of amending the Zoning Ordinance i.e., that all existing short-term rentals would be nonconforming uses (and thus permitted).

98. The Township then tried to conceal its actions to revert back to its false narrative that short-term rentals were never allowed under the Zoning Ordinance.

99. On June 8, 2023, again without providing prior notice or a public hearing, the Township's Board of Trustees voted to adopt a regulatory ordinance on short-term rentals, Regulatory Ordinance 2023-02.

100. Regulatory Ordinance 2023-02 contains generally the same definition and prohibition of short-term rentals as Zoning Ordinance 2022-02. However, unlike Ordinance Zoning Ordinance 2022-02, which amended the Zoning Ordinance, Regulatory Ordinance 2023-02 amended the general code of ordinances.

101. At the same time, Zoning Ordinance No. 2022-02 was purportedly deleted from the Township's Zoning Ordinance.

102. The distinction between regulatory and zoning ordinances is important for the purposes of this dispute.

103. Regulatory ordinances are enacted by municipalities under their police power and are not zoning ordinances. Const 1963, art 8, §22, Charters, resolutions, ordinances; enumeration of powers.



104. By contrast, a zoning ordinance regulates the use of land and buildings.

105. Because local governments in Michigan have no inherent power to enact zoning regulations, they must enact them in accordance with the procedures and landowner protections (such as preserving nonconforming uses) of the MZEA. Zoning ordinances (including de facto zoning ordinances) which are not adopted in conformity with the MZEA's procedural safeguards are invalid.

106. By attempting to enact a regulatory ordinance instead of a zoning ordinance amendment to ban short-term rentals, the Township sought to avoid recognizing all of the existing short-term rentals as nonconforming uses and sidestep the MZEA's procedural safeguards.

107. However, despite the Township's re-labelling, the substance of Regulatory Ordinance 2023-02—which is essentially the same as Zoning Ordinance 2022-02—regulates the use of land and buildings and is therefore a zoning ordinance.

108. Ultimately, neither of the Township's attempted amendments are even enforceable due to glaring procedural deficiencies pursuant to the MZEA. But even if they were, they would only further support Plaintiff's position.

109. If Zoning Ordinance 2022-02 had been properly noticed and adopted, it would further solidify the fact that short-term rentals were lawful prior to the ban. The same goes for Regulatory Ordinance 2023-02, which despite the Township's artful framing, is nonetheless a de facto zoning ordinance.

110. Regardless of this convoluted scheme, the fact remains that the Township failed to properly amend the Zoning Ordinance to reflect its new zoning regulations on short-term rentals.

111. The Township is effectively imposing an amendment to its Zoning Ordinance through its ban on short-term rentals without taking the proper steps to formally amend the Zoning Ordinance.

112. The Township's underhanded tactics violate Michigan's laws designed to protect against precisely this type of municipal misconduct.

**COUNT I**  
**VIOLATION OF THE MICHIGAN ZONING ENABLING ACT**

113. Plaintiff realleges and incorporates by reference the preceding allegations.

114. Land use regulations must be enacted through legislation pursuant to the procedures set forth under MZEA, MCL 125.3101 *et seq.*

115. A zoning ordinance is defined as an ordinance that regulates the use of land and buildings.

116. The MZEA states amendments or supplements to a zoning ordinance shall be adopted in the same manner as provided under the MZEA for the adoption of the original ordinance. MCL 125.3202(1).

117. Local governments may not avoid the substantive and procedural limitations of the MZEA by claiming a zoning ordinance is valid as an enactment pursuant to the general police power.

118. On November 10, 2022, the Township's Board voted to enforce a ban on short-term rentals in the residential zoning districts.

119. The Township's ban on short-term rentals regulates the use of land and buildings.

120. The Township's ban on short-term rentals prohibits the rental of single-family homes on a short-term basis.

121. The Township effectively amended its Zoning Ordinance by distinguishing between short-term and long-term rentals.

122. The Township ban on short-term rentals amended the Zoning Ordinance by prohibiting short-term rentals in its residential zoning districts.

123. However, the Township did not amend the Zoning Ordinance according to the requirements and procedures imposed by the MZEA when adopting its ban and self-declaring the definition of "short-term" rentals.

124. Accordingly, the ban on short-term rentals, including the Township's distinction between short-term and long-term rentals, violates the MZEA and should be declared void.

125. The Township also failed to adhere to the requirements and procedures set forth in the MZEA in its subsequent attempts to amend the Zoning Ordinance when adopting Zoning Ordinance 2022-02 and Regulatory Ordinance 2023-02.

126. Both Zoning Ordinance 2022-02 and Regulatory Ordinance 2023-02 seek to regulate the use of land and buildings.

127. Both Zoning Ordinance 2022-02 and Regulatory Ordinance 2023-02 sought to amend the Zoning Ordinance by distinguishing between short-term and long-term rentals and prohibiting short-term rentals in all of the Township's zoning districts.

128. The Township adopted these zoning regulations in violation of the MZEA, by, at a minimum, failing to provide prior notice or hold a public hearing.

129. In addition, the Township essentially tried to swap out Zoning Ordinance 2022-02 with an amendment to the general code of ordinances through Regulatory Ordinance 2023-02.

130. The MZEA does not allow municipalities to delete zoning ordinance amendments and unofficially substitute them with regulatory ordinances.

131. The Township's ban on short-term rentals, including its purported adoption of Zoning Ordinance 2022-02 and Regulatory Ordinance 2023-02, are unlawful and should be declared void.

132. The use of single-family homes, even when rented on a short-term basis, was, and still is, a lawful land use in all residential zoning districts under the Zoning Ordinance.

133. The Township, its Planning Commission, Board of Trustees, Zoning Administrator, and Zoning Board of Appeals have consistently affirmed the same in formal, public forums over the course of four decades and Plaintiff, and its members, have relied on such affirmations.

134. A lawful use of one's property is a vested property interest, and a subsequent amendment to a zoning ordinance cannot deprive the owner of that use.

135. Specifically, the MZEA allows conforming (i.e., lawful) land uses that exist at the time of the enactment or amendment of a zoning ordinance to be continued as nonconforming uses.

136. A court will not apply an amendment to a zoning ordinance where the amendment would eliminate a vested property interest acquired before its enactment.

137. The Park Township Neighbors have lawfully rented their properties to tenants to use and occupy as single-family homes on a short-term basis. The use of a single-family dwelling, including as rentals less than 28 days, is a lawful land use in all residential districts under the Zoning Ordinance.

138. The Park Township Neighbors have a vested property interest in the use of their properties as single-family homes, even if rented on a short-term basis.

139. The Township's ban on short-term rentals and refusal to recognize the Park Township Neighbors' short-term rental properties as nonconforming uses violates the MZEA and should be declared void.

**COUNT II**  
**VIOLATION OF THE DOCTRINE OF LEGISLATIVE EQUIVALENCY**

140. Plaintiff realleges and incorporates by reference the preceding allegations.

141. Park Township is a general township.

142. While the Township has the authority to enact ordinances and resolutions related to municipal concerns, the Township cannot enact ordinances or resolutions that are inconsistent with the constitution and general laws of the State. Mich. Const. 1963, art. 7, § 22.

143. Under Michigan law, an ordinance may not be amended, repealed, or suspended by an act of less dignity than the ordinance itself. *McCarthy v Vill of Marcellus*, 32 Mich App 679, 688-89 (1971) ("An ordinance or resolution cannot be amended, repealed, or suspended by another act by a council of less dignity than the ordinance or resolution itself."); *City of Saginaw v Consumers' Power Co*, 213 Mich 460, 469 (1921) ("[A]n ordinance may not be repealed or amended without action of equal dignity to that required in its enactment."); *Lorencz v Broolifield Twp*, No 319235, 2015 WL 1931967, at \*2 (Mich Ct App April 28, 2015) ("[A]n ordinance may only be repealed by an act of equal dignity, which requires the township to repeal by ordinance."); see also *Tuscola Wind III LLC v Ellington Twp*, No 17-CV-11025, 2018 WL 1291161, at \*7 (ED Mich March 13, 2018).

144. This rule of law is referred to as the doctrine of legislative equivalency.

145. In declaring a ban on short-term rentals, the Township effectively amended its Zoning Ordinance by distinguishing between short-term and long-term rentals and by disallowing short-term rentals in residential districts.

146. However, the Township did not actually amend the Zoning Ordinance to incorporate the Township's new laws.

147. Accordingly, the ban on short-term rentals was not adopted by an act of equal dignity, as required by Michigan law.

148. The Township's ban on short-term rentals is unlawful and should be declared void.

**COUNT III**  
**DECLARATORY RELIEF**

149. Plaintiff realleges and incorporates by reference the preceding allegations.

150. MCR 2.605(A)(1) provides that the Court may "declare the right and other legal relation of an interested party seeking a declaratory judgment" in cases of actual controversy.

151. There is an actual case or controversy between the parties regarding whether the Zoning Ordinance permits the use of single-family dwellings as a short-term rental in the R-1, R-2, R-3, R-4, and R-5 residential zoning districts.

152. The Township contends that short-term rentals are not, and have never been, a permitted land use under the Zoning Ordinance.

153. The Park Township Neighbors have lawfully used their single-family dwellings for short-term rentals.

154. The use of a single-family home, even on a temporary basis and as a short-term rental, is a lawful land use in all residential zoning districts under the Zoning Ordinance.

155. The Zoning Ordinance recognizes that single-family homes may be occupied on a temporary basis, regardless of duration.

156. For example, the Zoning Ordinance permits the temporary occupation of single-family homes with no distinction between a home rented under a one-year lease, month-to-month lease, six-month lease, or even two-week lease.

157. Park Township claims that it is going to enforce its "ban" on short-term rentals beginning on October 1, 2023.

158. Park Township has indicated that it is going to begin issuing enforcement notices and/or civil infractions after October 1, 2023, to all members of Park Township Neighbors who continue to advertise or use their single-family dwellings as short-term rentals.

159. It is appropriate that this Court issue a declaratory judgment affirming whether the use of single-family homes, even when rented on a short-term basis, is a lawful use of property in residential districts under the Zoning Ordinance because a binding declaration by this Court as to each party's rights and obligations would serve to guide the parties' future conduct and preserve the parties' legal rights.

160. The present adjudication of this controversy is necessary to guide the parties' future conduct and preserve the parties' legal rights.

161. The Court has the authority to interpret and declare the meaning of the Zoning Ordinance under MCR 2.605, MCL 125.3603(1) *et seq.*, and other applicable law.

**COUNT IV**  
**WRIT OF MANDAMUS**

162. Plaintiff realleges and incorporates by reference the preceding allegations.

163. Land use regulations must be enacted through legislation pursuant to the procedures set forth under MZEA, MCL 125.3101 *et seq.*

164. A zoning ordinance is defined as an ordinance that regulates the use of land and buildings.

165. The MZEA requires that amendments or supplements to a zoning ordinance be adopted in the same manner as provided under the MZEA for the adoption of the original zoning ordinance.

166. The Township has adopted new land use regulations prohibiting short-term rentals in its residential zoning districts.

167. The Township is declaring and enforcing the new land use regulations against Plaintiff and the Park Township Neighbors, without adhering to the statutory requirements and procedures required to amend the Zoning Ordinance.

168. If the Township seeks to enforce new land use regulations, it has a clear legal duty to amend its Zoning Ordinance in compliance with the MZEA.

169. The Park Township Neighbors own property subject to the Zoning Ordinance's regulations.

170. The Park Township Neighbors have a clear legal right to have the Zoning Ordinance regulations enforced against their properties adopted and amended through lawful means in conformity with the MZEA.

171. Park Township Neighbors have no adequate legal or equitable remedy to require the Zoning Ordinance regulations enforced against their properties to be adopted through lawful means.

172. There is an actual case or controversy between the parties regarding the lawfulness of the Township's ban on short-term rentals without adherence to the requirements and procedures necessary to amend the Zoning Ordinance.

173. A present adjudication of this controversy is necessary to guide the parties' future conduct and preserve the parties' legal rights.

**COUNT V**  
**PREEMPTION**

174. Under the Michigan Constitution, the Township's "power to adopt resolutions and ordinances relating to its municipal concerns" is "subject to the constitution and the law." Mich. Const. 1963, art. 7, § 22.



175. The Township is precluded from adopting regulations that are in conflict with a state statute.

176. For purposes of preemption, a conflict exists between a local regulation and a state statute when the regulation prohibits an act which the statute permits, or permits an act which the statute prohibits.

177. The Township's ban on short-term rentals, including the Township's subsequent attempts to enact Zoning Ordinance 2022-02 and Regulatory Ordinance 2023-02, was adopted to prevent the Park Township Neighbors from continuing to use their short-term rental properties as a nonconforming use (assuming those ordinances were properly adopted, which they were not).

178. The Township's ban on short-term rentals, specifically its failure to recognize the existing short-term rental properties in Park Township as nonconforming uses (assuming the ban was properly enacted, which it was not), prohibits an act that the MZEA permits.

179. Zoning Ordinance 2022-02 (assuming it was properly enacted, which it was not) prohibition of short-term rental, specifically its failure to recognize the existing short-term rental properties in Park Township as nonconforming uses, prohibits an act that the MZEA permits.

180. Regulatory Ordinance 2023-02 (assuming it was properly enacted, which it was not), specifically its failure to recognize the existing short-term rental properties in Park Township as nonconforming uses, prohibits an act that the MZEA permits.

181. The Township's ban (assuming it was properly enacted, which it was not) on short-term rentals is preempted by the MZEA, MCL 125.3208, which allows for the use of a dwelling, building, structure, or land that is lawful at the time of the enactment of a zoning ordinance or amendment to a zoning ordinance to be continued although the use does not conform to the zoning ordinance or amendment.

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiff Park Township Neighbors respectfully requests that the Court:

- A. Declare that the Township's ban on short-term rentals is unlawful and void because the ban violates the Michigan Zoning Enabling Act and permanently enjoin the Township's enforcement of it;
- B. Declare that Regulatory Ordinance 2023-02 is unlawful and void because the ordinance violates the Michigan Zoning Enabling Act and permanently enjoin the Township's enforcement of it;
- C. Declare that Zoning Ordinance 2022-02 is unlawful and void because the ordinance violates the Michigan Zoning Enabling Act and permanently enjoin the Township's enforcement of it;
- D. Declare that the Township's ban on short-term rentals is unlawful and void because the ban violates the doctrine of legislative equivalency and permanently enjoin the Township's enforcement of it;
- E. Declare that Regulatory Ordinance 2023-02 is unlawful and void because the ordinance violates the doctrine of legislative equivalency and permanently enjoin the Township's enforcement of it;
- F. Declare that the Township's ban on short-term rentals is preempted by State law and therefore void and unenforceable;
- G. Declare that Regulatory Ordinance 2023-02 is preempted by State law and therefore void and unenforceable;

- H. Declare that the use of single-family dwellings for short-term rentals is lawful in the Township's residential districts under the Zoning Ordinance;
- I. Declare that the members of Park Township Neighbors have a vested property interest in the use of their properties as short-term rentals;
- J. Issue a Writ of Mandamus compelling the Township to follow the requirements and procedures in the Michigan Zoning Enabling Act necessary to amend a zoning ordinance if the Township seeks to impose a ban and/or new land use regulations on short-term rentals in the residential zoning districts; and
- K. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

VARNUM LLP

By: /s/ Kyle P. Konwinski  
Kyle P. Konwinski (P76257)  
Chloe N. Cunningham (P83904)  
*Attorneys for Plaintiff*  
P.O. Box 352  
Grand Rapids, MI 49501-0352  
(616) 336-6000  
[kpkonwinski@varnumlaw.com](mailto:kpkonwinski@varnumlaw.com)  
[cncunningham@varnumlaw.com](mailto:cncunningham@varnumlaw.com)

BUTZEL LONG

By: /s/ Daniel J. Hatch  
Daniel J. Hatch (P79258)  
*Attorneys for Plaintiff*  
300 Ottawa Ave, NW, Suite 620  
Grand Rapids, MI 49503  
(616) 988-5600  
[hatchd@butzel.com](mailto:hatchd@butzel.com)

**VERIFICATION**

I, Jeremy Allen, as a corporate representative of Park Township Neighbors, verify the foregoing Verified Complaint. I declare under the penalties of perjury that this Verified Complaint has been examined by me and that its contents are true and accurate to the best of my information, knowledge, and belief, including based upon a reasonable investigation and reliance upon corporate agents (including counsel), even though the answers may not be based on my personal knowledge.

Executed on October 5, 2023.

/s/ Jeremy Allen

Jeremy Allen, President  
Park Township Neighbors