

SINGLE FAMILY FOR RENT DEVELOPMENTS

William S. Dahlstrom, FAICP, JD, Jackson Walker, LLP
Luke Franz, JD, Jackson Walker, LLP
Colton Katzen, AVP of Investments, Urban Moment



27TH ANNUAL **LAND USE CONFERENCE**

April 20, 2023

1

INTRODUCTION & OVERVIEW:

- Types
- Purpose
- Build-for-Rent Communities
- Regulatory/Policy Considerations
- Developer's Perspective
- Case Studies

2

REGULATORY CONSIDERATIONS

Ownership v. Occupancy

- Zoning regulations which limit the use of land based on race, economic status, age, blood relationship, or identity of the user likely held invalid either under due process or equal protection grounds
- Enabling statutes delegate ability to regulate land use, not the user/owner/occupant of the land

Texas Zoning Enabling Act:

Sec. 211.003. ZONING REGULATIONS GENERALLY.

(a) The governing body of a municipality may regulate:

- (1) the height, number of stories, and size of buildings and other structures;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards, courts, and other open spaces;
- (4) population density;
- (5) the location and **use of buildings**, other structures, and land for business, industrial, residential, or other purposes; and
- (6) the pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by Section [13.002](#), Water Code, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health.

(b) In the case of designated places and areas of historical, cultural, or architectural importance and significance, the governing body of a municipality may regulate the construction, reconstruction, alteration, or razing of buildings and other structures.

(c) The governing body of a home-rule municipality may also regulate the bulk of buildings.

3

REGULATORY CONSIDERATIONS

Ownership v. Occupancy

Treatment of Multifamily/Condominiums:

A number of state courts have expressly ruled that "condominium" is not a type of land use but rather a form of realty ownership and, therefore, is beyond the scope of delegated zoning authority.

Tex. Prop. Code Ann. § 82.006 (West):

A zoning, subdivision, building code, or other real property use law, ordinance, or regulation may not prohibit the condominium form of ownership or impose any requirement on a condominium that it would not impose on a physically identical development under a different form of ownership.

Treatment of Short Term Rentals (and differentiation between SFR and STR):

- [Zaatari v. City of Austin, 2019 WL 6336186 \(Tex. App. Nov. 27, 2019\)](#)
 - The right to rent one's property on a short-term basis was a fundamental privilege of private property ownership
 - *Non-owner occupied STR regulation "significantly affects property owners' substantial interests in well-recognized property rights while, on the record before us, serving a minimal, if any, public interest."*
 - In Austin, short-term rentals had been an "established practice" and an historically allowable use.

4

TYPES OF SINGLE FAMILY FOR RENT DEVELOPMENTS

- **Horizontal Multifamily:**
 - Tight cluster (generally numbering in the hundreds)
 - Freestanding, single-family residences
 - Professionally managed
- **Single-Family Attached**
 - Duplexes
 - Townhomes
 - Row Homes
- **Single-Family Detached**
 - Small Lot Homes
 - Detached, individual homes
 - Built close together.
 - 600 SF lot size
 - Traditional single-family lot is approximately 5,000 SF
- **Combination**
 - Attached & Detached

5

PURPOSE

Built specifically for the purpose of long-term rental.

- Single-family rental communities are designed to meet your preferences
 - Popular features that may include:
 - Fenced yards
 - Granite or quartz countertops
 - Stainless steel appliances
 - Luxury vinyl plank flooring
 - Attached two- and three-car garages.
- Amenity Examples:
 - Lawn service
 - Playgrounds
 - Trails
 - Pools and fitness centers
- Located in vibrant areas with access to ample commerce and schooling
- Support a better quality of life



6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Single Family For Rent Developments

Also available as part of the eCourse

[Single Family For Rent Developments](#)

First appeared as part of the conference materials for the

27th Annual Land Use Conference session

"Single Family For Rent Developments"