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OPINION COMMITTEE



CHARLES PERRY
TEXAS STATE SENATOR
DISTRICT 28

FILE # ML-48342-18
ID # 48342

RQ-0222-KP

April 17, 2018

The Honorable Ken Paxton
Office of the Attorney General
Attention: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

RE: Whether Recreational Vehicle Park Guests are Licensees or Tenants.

Dear General Paxton:

Pursuant to TEX. GOV'T CODE § 402.041, *et seq.*, I respectfully request your written opinion on a question affecting the public interest. Specifically, I ask whether recreational vehicle park guests—transient or temporary guests—are licensees or tenants.¹

A property owner can remove a licensee without invoking formal, legal process. *See* TEX. PENAL CODE § 30.05; TEX. PENAL CODE § 31.04. Formal eviction procedures, however, are required to remove a tenant. Recreational vehicle park guests are treated as licensees in some jurisdictions, yet treated as tenants, in others. Consequently, this Opinion is sought to provide uniformity and consistency in the application of Texas laws.

Texas law is clear that “[a] guest in a hotel is a mere licensee, not a tenant.” *Olley v. HVM, L.L.C.*, 449 S.W.3d 572, 575 (Tex. App.—Houston [14th Dist.] 2014, pet. denied) (also stating that “no landlord-tenant relationship exists between a hotel and its guest”); *Bertuca v. Martinez*, No. 04-04-00926-CV, 2006 WL 397904, at *2 (Tex. App.—San Antonio Feb. 22, 2006, no pet.) (“There is no landlord-tenant relationship between a hotel and its guest.”).

Hotel guests are licensees, not tenants, because the “Texas Property Code draws a distinction between a permanent residence and transient housing, which includes rooms at hotels, motels, inns

¹ This opinion request is not sought to address the nature of the relationship for parks that house permanent guests (i.e., parks that include mobile homes, which meet the standards promulgated by the U.S. Department of Housing and Urban Development). This opinion request relates to parks that accommodate only transient, non-permanent guests.

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and the like.” *Ridgepoint Rentals, LLC v. McGrath*, No. 09-16-00393-CV, 2017 WL 6062290, at *4 (Tex. App.—Beaumont Dec. 7, 2017, pet. filed). That is, the Texas Property Code specifically exempts owners of transient housing from formal eviction procedures. *See* TEX. PROP. CODE § 92.152 (a)(1) (“This subchapter does not apply to . . . a room in a hotel, motel, or inn or to similar transient housing hotel, motel, or inn or to other similar transient housing.”).

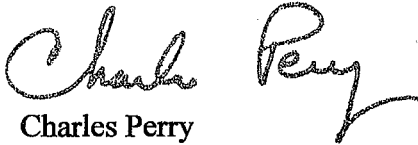
The Texas Water Code defines a “recreational vehicle park” as “a commercial property: (A) that is designed primarily for recreational vehicle transient guest use....” TEX. WATER CODE § 13.087 (emphasis added).

The Texas Transportation Code incorporates the federal regulatory definition of “recreational vehicle,” which provides that, “A recreational vehicle is a vehicle which is: . . . Designed primarily *not for use as a permanent dwelling* but as temporary living quarters for recreational, camping, travel, or seasonal use.” TEX. TRANSP. CODE § 501.002(30)(A); 24 C.F.R. § 3282.8(g). Temporary and transient are synonymous. MERRIAM-WEBSTER DICTIONARY ONLINE, *available at* <https://www.merriam-webster.com/dictionary/transient> (defining “transient” as “passing through or by a place with only a brief stay or sojourn”).

In light of the foregoing, do recreational vehicle parks provide temporary or transient housing, like hotels, such that their guests are licensees, or do recreational parks provide permanent dwellings, such that their guests are tenants?

Thank you for your time and attention to this question. I look forward to your guidance and response.

Respectfully,



Charles Perry
Texas State Senator
Senate District 28