

**LAW OFFICES OF QUINTANILLA & ASSOCIATES**

Michael R. Cobden, Deputy City Attorney (SBN 262087)  
Steven B. Quintanilla, City Attorney (SBN 161578)  
Lisa Weaver-Nowak, Deputy City Attorney (SBN 320204)  
Gulan Tahir, Deputy City Attorney (SBN 328614)  
777 E. Tahquitz Canyon Way, Suite 200-41  
Palm Springs, California 92262  
Telephone: (760) 993-3702  
[LisaW@QALawyers.com](mailto:LisaW@QALawyers.com)  
[MichaelCobden@QALawyers.com](mailto:MichaelCobden@QALawyers.com)

*Attorneys for Respondent*  
CITY OF RANCHO MIRAGE

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF RIVERSIDE**

**PALM SPRINGS**

ALLICIA LOUISA DAVIS, an individual,

Appellant,

vs.

CITY OF RANCHO MIRAGE; AND DOE 1  
through DOE 10, inclusive

Respondents.

CASE NO. CVPS2301620

**CITY OF RANCHO MIRAGE'S  
SUPPLEMENTAL BRIEF TO APPEAL  
OF ADMINISTRATIVE CITATION**

DEPT: PS4  
JUDGE: Hon. Arthur Hester

**I. INTRODUCTION**

Respondent CITY OF RANCHO MIRAGE ("City") submits this supplemental brief in support of its position that the issue of excessive fines falls outside the scope of the instant appeal, because both Government Code section 53069.4 and the Rancho Mirage Municipal Code limit the scope of this civil matter to the question of whether or not the hearing officer's decision was supported by substantial evidence. The City of Rancho Mirage, in accordance with Government Code section 53069.4 and its own Charter, adopted Ordinance 1189 in 2021, which prohibits operation and advertising of short-term rentals of residences throughout the City. Appellant continued to operate and advertise a short-term rental in violation of the law, and the City issued her a citation for that violation.

///

1 Appellant cannot seek a declaration that Ordinance 1189, including the fines it imposes, is  
2 unlawful in this limited civil action, nor can she seek an injunction to prevent imposition of the fines  
3 at issue. Furthermore, The City of Rancho Mirage is a Charter City and is therefore not subject to  
4 general law statutory limits on administrative fines. The determination of administrative fine limits  
5 is a municipal affair, falling under the authority of charter cities as granted by the California  
6 Constitution.

## 7 **II. ARGUMENT**

### 8 **A. The Question of Excessive Fines is Outside the Scope of the Instant Appeal.**

9 Under Government Code Section 53069.4, cities and counties are authorized to impose and  
10 adjudicate penalties for local code violations. Specifically, Section 53069.4(a)(1) provides (1) that  
11 the “legislative body of a local agency,” like the Rancho Mirage City Council, “may by ordinance  
12 make any violation of any ordinance enacted by the local agency subject to an administrative fine  
13 or penalty” and (2) requires the local agency to “set forth by ordinance the administrative procedures  
14 that shall govern the imposition, enforcement, collection, and administrative review.” The citations  
15 issued here were issued and affirmed according to the procedures in the Rancho Mirage Municipal  
16 Code (“RMMC” or “City’s Code”), Chapters 14.80 and 14.90. There is no contention that these  
17 procedures were improper, or violated by the Hearing Officer in this case when the citation was  
18 affirmed.

19 RMMC Section 14.90.030 (Limitations on authority of administrative hearing officer) limits  
20 the authority of a hearing office to “hear and consider appeals...to matters within his or her subject  
21 matter jurisdiction”:

22 The hearing officer’s authority to hear and consider appeals shall be limited to  
23 passing on only those appeals pertaining to matters within his or her subject matter  
24 jurisdiction. The hearing officer shall consider at the hearing on the appeal only those  
25 matters or issues which are specifically raised by the appellant in his or her appeal  
26 and which are relevant to the issues of the hearing. The hearing officer shall not have  
27 the authority to waive any requirements of the Municipal Code and/or any applicable  
28 statutes, rules, codes or regulations, except as otherwise provided in this chapter.

1        This appeal of the hearing Officer’s decision is authorized by Government Code section  
2 53069.4, subsection (b)(1), which expressly states that it is a “limited civil case.” By classifying this  
3 appeal as a “limited civil case” the Legislature has intentionally streamlined the litigation, by  
4 expressly restricting the types of injunctive and declaratory relief available. (*Dedication &*  
5 *Everlasting Love to Animals, Inc. v. City of El Monte*, 85 Cal.App.5th 113, 120-121; see Code Civ.  
6 Proc., §§ 86, 91–94.) Thus, Appellant cannot ask this Court to declare the City’s fines “excessive”  
7 as a matter of law, nor can she ask for the Court to enjoin the imposition of such fines. The Court is  
8 limited to deciding whether the Hearing Officer’s decision and the issuance of the citation was  
9 supported by substantial evidence and complied with the City’s Municipal Code.

10        Even in a proceeding on a writ of Administrative Mandamus (Code. Civ. Proc. § 1094.5),  
11 “Judicial review of an agency’s assessment of a penalty is limited, and the agency’s determination  
12 will not be disturbed in mandamus proceedings unless there is an arbitrary, capricious or patently  
13 abusive exercise of discretion by the agency. ([Citations].) ‘Neither a trial court nor an appellate  
14 court is free to substitute its discretion for that of an administrative agency concerning the degree of  
15 punishment imposed.’ ([Citations].)” (*County of Sonoma v. Gustely*, (2019) 36 Cal.App.5th 704,  
16 712, citing *Flippin v. Los Angeles City Bd. of Civil Service Commissioners* (2007) 148 Cal.App.4th  
17 272, 279, internal citations and quotation marks omitted.) Furthermore, “[a]n administrative  
18 hearing officer's proposed decision is entitled to great weight because of his [or her] opportunity to  
19 observe the witnesses and weigh their testimony in light of their demeanor.” (*Gustely, supra*, 36  
20 Cal.App.5th at p. 712 citing *Absmeier v. Simi Valley Unified School Dist.* (2011) 196 Cal.App.4th  
21 311, 318.)

22        The issue of whether an administrative fine is excessive or not is not relevant to the legal  
23 issues at hand and falls outside of the instant appeal. Instead, the scope of this proceeding is limited  
24 solely to determining whether the facts presented support the citation, or whether the Hearing  
25 Officer followed the City’s procedures properly. This proceeding is not authorized to consider the  
26 validity of the City’s Code which establishes the fine amount itself. If the Court were to grant the  
27 relief Appellant seeks, it would be tantamount to a declaration that the City’s Code is invalid under  
28 state law. Such a ruling would be outside the scope of the limited action Appellant has filed here.

1 Thus, this action is limited to determining whether the hearing officer's decision was  
2 supported by substantial evidence and whether the hearing officer committed any errors of law. As  
3 to the immediate question of whether a violation existed at the time of the issuance of the citation,  
4 Appellant has admitted to the existence of the violation and acknowledged that the Advertisement  
5 violated the City's short-term rental ordinance.

6 **B. The City of Rancho Mirage is a Charter City and is Not Subject to the**  
7 **Limitation Imposed by Government Code Section 36901.**

8 Even if the Court were to exceed the scope of a limited appeal under Government Code  
9 section 53069.4, the City would not be subject to the general law restrictions on administrative fines  
10 because Rancho Mirage is a Charter City. The California Constitution, Article XI, Section 5(a)  
11 empowers Charter Cities, such as Rancho Mirage, the "exclusive power to legislate over 'municipal  
12 affairs.'" (Cal. Const., art. XI, § 5(a); *Fisher v. City of Berkeley* (1984) 37 Cal.3d 644, 704.) A  
13 charter city "ha[s] exclusive power to legislate over "municipal affairs." (*Cawdrey v. City of*  
14 *Redondo Beach* (1993) 15 Cal.App.4th 1212, 1218, internal quotation marks and citations omitted.)  
15 The home rule represents "an 'affirmative constitutional grant to charter cities of "all powers  
16 appropriate for a municipality to possess ..." and [includes] the important corollary that "so far as  
17 'municipal affairs' area concerned," charter cities are "supreme and beyond the reach of legislative  
18 enactment."'" (*State Building & Construction Trades Council of California v. City of Vista* (2012)  
19 54 Cal.4th 547, 556.) The only exception to this is the home rule's provision that recognizes state  
20 legislative supremacy over matters that are *not* municipal affairs and are "statewide concerns."  
21 (*California Fed. Sav. & Loan Ass'n v City of Los Angeles* (1991) 54 CalApp.3d 1, 13).

22 The City of Rancho Mirage's Charter became effective on December 25, 1997. The City's  
23 ability to determine and implement administrative fine limits is set out by the Charter of the City of  
24 Rancho Mirage, Section 100:

25 The City shall have full power and authority to adopt, make, exercise and enforce all  
26 legislation, laws, and regulations and to take all actions relating to municipal affairs,  
27 without limitation, which may be lawfully adopted, made, exercised, taken or  
28 enforced under the Constitution of the State of California. Without limiting in any  
manner the foregoing power and authority, each of the powers, rights, and  
responsibilities described in this Charter is hereby declared to be a municipal affair,

1 the performance of which is unique to the benefit and welfare of the citizens of the...  
2 ...City of Rancho Mirage.

3 Whether a matter is of statewide concern or a municipal affair, is an issue for the courts that  
4 depends on the facts of each particular case (*Southern Pacific Pipe Lines, Inc. v. City of Long Beach*  
5 (1988) 204 Cal.App.3d 660, 666; See also *California Fed. Sav. & Loan Ass'n*, 54 Cal.3d at 17.). In  
6 examining a city's charter, courts have found that "a restriction on the exercise of municipal power  
7 may not be implied." (*Grass Valley v. Walkinshaw* (1949) 34 Cal.2d 595, 599.) "Charter provisions  
8 are construed in favor of the exercise of the power over municipal affairs and 'against the existence  
9 of any limitation or restriction thereon which is not expressly stated in the charter.'" (*Domar*  
10 *Electric, Inc. v. City of Los Angeles* (1994) 9 Cal.4th 161, 171.) Thus, any party who seeks to  
11 challenge a charter city's constitutional powers based on the argument that the local law is a matter  
12 of statewide concern, carries a heavy burden to make this showing. Appellant has failed to do so  
13 here. Instead, Appellant's Trial Brief merely cites California Government Code Section 36900 with  
14 no reference to the City of Rancho Mirage's Charter.

15 The limitations contained in the California Government Code Section 36901 are not  
16 expressly declared to be matters of "statewide concern," and therefore apply to general law cities  
17 only. The Legislature did not expressly extend that limitation to charter cities and therefore the City  
18 is empowered to set its own fine amounts as needed to successfully implement and enforce its own  
19 laws. Courts have ruled that charter cities may enact ordinances with different penalties from those  
20 in the Government Code, as long as the penalties do not exceed maximum limits set by its charter.  
21 (*County of Los Angeles v. City of Los Angeles* (1963) 219 Cal.App.2d 838, 844.) Applying Section  
22 36901 to charter cities would fundamentally contradict the inherent authority granted to them by the  
23 California Constitution and established case law. Such a contradiction would erode the autonomy  
24 and discretion bestowed upon charter cities to manage their municipal affairs free from unnecessary  
25 inhibitions.

### 26 **C. Analysis of Non-Excessive Fines**

27 A fine imposed by statute or ordinance is "unconstitutionally excessive" under the Eighth  
28 Amendment if its amount "is grossly disproportional to the gravity of the defendant's offense." (US

1 Const amends VIII and XIV; *U.S. v. Bajakajian* (1998) 524 U.S. 321, 336, 118 S Ct 2028, 2037;  
2 *Pimentel v. City of Los Angeles* (9th Cir. 2020) 974 F.3d 917, 921; Cal Const Art I, §17; *Hale v.*  
3 *Morgan* (1978) 22 C.3d 388, 404.) To determine whether a fine is grossly disproportional to the  
4 underlying offense, the following four factors are considered: (1) the nature and extent of the  
5 underlying offense; (2) whether the underlying offense related to other illegal activities; (3) whether  
6 other penalties may be imposed for the offense; and (4) the extent of the harm caused by the offense.  
7 (*Pimentel*, 974 F.3d at 921; *People ex rel Lockyer v. R.J. Reynolds Tobacco Co.* (2005) 37 Cal. 4th  
8 707, 728.)

9       Administrative fines are primarily intended to deter violations and ensure compliance with  
10 applicable regulations. As such, they must be set at a level sufficient to deter future violations,  
11 thereby safeguarding the public interest. The penalties imposed pursuant to RMMC section  
12 17.30.270 are not only authorized by statute and the City’s Charter and generally reasonable to  
13 secure adherence to an important public policy objective, but are reasonable as applied to Appellant  
14 based on the revenue and profit received from operating a STR. For a single five-night stay, rent  
15 alone on this very property would earn Appellant \$4,570. Assuming the limited \$1,500 fine  
16 prescribed by Government Code 36900, an operator would make at least \$3,070 in profit, and could  
17 write off the fine as a “cost of doing business.” This, of course, assumes that the City is able to catch  
18 Appellant every time, and impose the fines. We can expect that Appellant may have been able to  
19 make several such bookings before the City was able to issue a single citation, all of which may  
20 escape the City’s notice. Thus, without a sufficiently high fine, deterrence is impossible. The City  
21 is justified in setting a fine sufficiently high to deter such conduct, and to render it unprofitable to  
22 flaunt the law.

23       Additionally, the fines under Ordinance 1189 were established as an alternative to  
24 misdemeanor criminal proceedings, thereby diverting persons charged with such offenses away  
25 from criminal proceedings, while still holding them accountable for their crimes. As a result, the  
26 \$5,000 citation amount is justified as it is in lieu of criminal prosecution. The City has carefully  
27 assessed and established these fines to strike a balance between deterrence and fairness.  
28 Furthermore, the fines imposed are proportionate to the harm caused by violations, and the cost of

1 enforcing the regulations.

2 **III. CONCLUSION**

3 As stated above, the issue of excessive fines is neither pertinent nor proper before this court.  
4 Nevertheless, the City's charter status, coupled with the provisions of the California Constitution,  
5 solidify its authority to establish fines for municipal affairs.

6  
7 DATED: September 6, 2023

LAW OFFICES OF QUINTANILLA & ASSOCIATES  
Steven B. Quintanilla, Attorney for Respondent

8  
9  
10 By:



LISA WEAVER-NOWAK

Attorney for Respondent CITY OF RANCHO  
MIRAGE