

CAUSE NO. _____

THERESA CAVIN, INDIVIDUALLY	§	IN THE DISTRICT COURT OF
AND AS NEXT FRIEND OF AUSTIN	§	
ZACHARY QUINTANILLA, JEFFREY	§	
TREVINO, JOHN “JACK” HART, JR.,	§	
MARCUS GREENSPAN, NICOLA	§	
DAVIES, RICARDO PARRA, ZACHARY	§	
LEVITT, HEIDI LANDEN-GREENE,	§	
and LINDA LONGORIA VARGAS,	§	
INDIVIDUALLY AND COLLECTIVELY	§	
AS CLASS REPRESENTATIVES	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
WHITE OAK EVENTS, LLC, d/b/a	§	
WHITE OAK MUSIC HALL,	§	
	§	
WHITE OAK ENTERTAINMENT, LLC,	§	
d/b/a WHITE OAK MUSIC HALL, and	§	
	§	
WOIH PARTNERS LLC,	§	
<i>Defendants.</i>	§	_____TH JUDICIAL DISTRICT

**PLAINTIFFS’ ORIGINAL PETITION AND CLASS ACTION, APPLICATION FOR
TEMPORARY RESTRAINING ORDER, TEMPORARY INJUNCTION AND
PERMANENT INJUNCTION AGAINST DEFENDANTS**

COME NOW, Plaintiffs Theresa Cavin, individually and as next friend of Austin Zachary Quintanilla, Jeffrey Trevino, John “Jack” Hart, Jr., Marcus Greenspan, Nicola Davies, Ricardo Parra, Zachary Levitt, Heidi Landen-Greene, and Linda Longoria Vargas, each individually and collectively as putative class representatives, file this Original Petition and Class Action, Application for Temporary Restraining Order, Temporary Injunction, and Permanent Injunction against Defendants White Oak Events, LLC, d/b/a White Oak Music Hall, White Oak Entertainment, LLC, d/b/a White Oak Music Hall, and WOIH Partners LLC, and would show the Court as follows:

I. DISCOVERY LEVEL

1. Plaintiffs intend to conduct discovery in this matter under Level 3, pursuant to Texas Rule of Civil Procedure 190.

II. JURISDICTION & VENUE

2. The Court has jurisdiction over this matter as the amount in controversy exceeds this Court's minimum jurisdictional requirements. Venue is proper in Harris County pursuant to Tex. Civ. Prac. & Rem. Code § 15.002(a)(1) because all or a substantial part of the events giving rise to the claim occurred in Harris County. Pursuant to Tex. R. Civ. P. 47, Plaintiffs seek monetary relief in excess of \$1,000,000 for past damages as well as non-monetary relief.

III. PARTIES

3. Plaintiff, Theresa Cavin, individually and as next friend of Austin Zachary Quintanilla, is a resident of Harris County, Texas, and resides in the 2500 block of Ideal Street, Houston, Texas 77009.

4. Plaintiff, Theresa Cavin is the biological mother of Austin Zachary Quintanilla. As of the filing of this petition, Austin Zachary Quintanilla is 9 years of age.

5. Plaintiff, Jeffrey Trevino, is a resident of Harris County, Texas, and resides in the 300 block of Embry St., Houston, Texas 77009.

6. Plaintiff John "Jack" Hart, Jr. is a resident of Harris County, Texas, and resides in the 3000 block of Hyacinth St., Houston, Texas 77009.

7. Plaintiff, Marcus Greenspan, is a resident of Harris County, Texas, and resides in the 100 block of Payne St., Houston, Texas 77009.

8. Plaintiff, Nicola Davies, is a resident of Harris County, Texas, and resides in the 300 block of Cosmos St., Houston, Texas 77009.

9. Plaintiff, Ricardo Parra, is a resident of Harris County, Texas, and resides in the 2500 block of Ideal St., Houston, Texas 77009.

10. Plaintiff Zachary Levitt, is a resident of Harris County, and resides in the 200 block of Cosmos St., Houston, Texas 77009.

11. Plaintiff Heidi Landen-Greene, is a resident of Harris County, Texas, and resides in the 300 block of Parkview St., Houston, Texas 77009.

12. Plaintiff Linda Longoria Vargas is a resident of Harris County, Texas, and resides in the 100 block of Cosmos Street, Houston Texas 77009.

13. Defendant, White Oak Events, LLC, d/b/a White Oak Music Hall is a domestic limited liability corporation doing business in Texas, and may be served by and through its registered agent, White Oak Hospitality, LLC at 4545 Post Oak Place, Suite 205, Houston, Texas 77027, or through the Manager of White Oak Hospitality, LLC, William Garwood, at the same address or wherever it/he may be found.

14. Defendant, White Oak Entertainment, LLC, d/b/a White Oak Music Hall is a domestic limited liability corporation doing business in Texas, and may be served by and through its registered agent, John So at 9000 Wald Rd., Houston, Texas 77034, or wherever he may be found.

15. Defendant WOIH Partners, LLC, is a domestic limited liability corporation doing business in Texas, and may be served by and through its registered agent, William Garwood at 4545 Post Oak Place Dr., Suite 205, Houston, Texas 77027, or wherever he may

be found.

IV. FACTS

16. White Oak Music Hall (hereinafter referred to as “WOMH”, which includes performance areas outside commonly referred to as The Patio and The Pavilion at The Raven Tower, as well as The Lawn) is located at 2915 N Main St., Houston, Texas 77009, 2915½ N Main St., Houston, Texas 77009, and 310 North Street, Houston, Texas 77009. WOMH is two miles north of downtown Houston, within the confines of the once sleepy part of the Near Northside, nestled between Glen Park, Woodland Heights, and the Historic Near Northside. *See Map of Neighborhoods, attached as Exhibit A.* Defendant WOIH Partners LLC (“WOIH”) owns this property and operates WOMH. WOMH is a five-acre indoor/outdoor venue that hosts numerous concerts, music festivals, and other live performance events, drawing thousands of people into the surrounding neighborhood, with high volume amplified sound and thunderous bass. Beginning on or about January 2016, WOMH began holding outdoor events, such as concerts, music festivals, corporate events, movie screenings, on the Lawn, Pavilion, and Patio with amplified sound, for audiences reaching in excess of 3,000 attendees. Unfortunately, the persistent, inordinately loud noise and bass (including structural vibrations rattling homes hours at a time) generated from these ongoing outdoor events has annoyed, disturbed, injured, and endangered the comfort, repose, health, peace, and safety of the residents in the neighboring communities causing great discomfort, stress, and disruption to their personal lives.

17. During the months following its opening, WOMH has held and continues to hold frequent events, where loud music and yelling can be heard (even across nine lanes of

Interstate 45 traffic), before, during and following the events, and inside Plaintiffs' homes. When confronted by this nuisance, Plaintiffs and other residents in the neighboring communities frequently call the authorities to complain about the level of noise and bass generated by WOMH. Based and upon information and belief, the City of Houston is unable to enforce the City's noise ordinances (found at Chapter 30 of the City of Houston Code of Ordinances). Despite this, WOMH has been cited approximately five times for noise violations. Despite these citations, and the repeated warnings, WOMH has yet to receive a single conviction, often as a result of maneuverings at the municipal court stemming from repeated delays.

18. Plaintiff Theresa Cavin resides at the home located on the following real property in Harris County, owned by her mother Valerie Gonzales:

TR 3C
ABST 1 J AUSTIN.

Plaintiff Cavin's property is located at the 2500 block of Ideal Street, Houston, Texas 77009 (herein after referred to as "Cavin Property"). The Cavin Property is located at the corner of Embry St. and Ideal St. in the Historic Near Northside neighborhood, directly south of the WOMH outdoor stage. Ms. Cavin has resided in the 2500 block of Ideal Street her entire life – since 1982. Theresa's mother, husband, 9 year old son, and 8 year old daughter, also live at this residence. Currently, Ms. Cavin is pregnant with her third child, due in early April.

19. The loud and frequent noise has caused Ms. Cavin's family, and particularly her 9 year old son who suffers from Autism, has experienced mental anguish, discomfort and hardship as a direct result of Defendants conduct. *See attached Affidavit of Theresa Cavin.*

It is imperative that Ms. Cavin's son, Austin Quintanilla, keep a structured routine to maximize his learning and social development. *See Affidavit of Meghan Guion, attached as Exhibit B.* As part of that structure, Austin must consistently go to bed each night at 8:30 p.m. The amplified noise from the WOMH outdoor events, however, causes the windows of his bedroom to rattle and the entire house to shake. Each night WOMH holds an event which generates noise and bass that can be felt and heard from within the Cavin family home, Austin is unable to go to bed on time, and what little sleep he is able to get, is restless and fitful. Because of his medical condition, Austin is more irritable and aggressive when he is tired, and has trouble following directions during the days following outdoor events at WOMH. The severity of the noise and bass are so bad that Austin frequently has panic attacks during WOMH events, and he and his mother usually spend the duration of these events attempting to protect his ears from the noise, sometimes laying under the coffee table or in a closet with a towel wrapped around Austin's head in an attempt to block out as much noise as possible. Ms. Cavin has contacted the police on numerous occasions, and the police have come to her house in response to Ms. Cavin's complaints, however, even in instances where the sound level surpassed 75 decibels, WOMH was not cited. Ms. Cavin has been left in a position where she has no way to protect her child, her home and her family from this nuisance.

20. Plaintiff Jeffrey Trevino, is the owner of the following real property in Harris County:

TRS 2A 10 & 10A
ABST 1 J AUSTIN.

Plaintiff Trevino's property is located at the 300 block of Embury, Houston, Texas 77009 (herein after referred to as "Trevino Property"). The WOMH outdoor stage and patio are situated just north of the bayou, while the Trevino Property is located approximately 200 feet south of the bayou, in the Historic Near Northside neighborhood. Mr. Trevino purchased the property in 2014 and he and his son moved into his home in May 2015. Since WOMH began holding large outdoor events, Mr. Trevino has been unable to enjoy music or television in his own house or garage, as he had in the past or intended in the future. Mr. Trevino cannot even sit in his own yard and with his own family without feeling the sound reverberations and hearing amplified singing or yelling, often laced with profanities. Mr. Trevino has contacted the police on many occasions to complain about the noise level. Despite frequent calls to the police, WOMH was cited for noise violations on only two occasions. In fact, the police have repeatedly expressed frustration with the noise, and their inability to do anything to remedy an issue caused by poor planning and/or a poor understanding and enforcement of the Houston sound ordinance. *See Affidavit of Jeffrey Trevino, attached as Exhibit C.*

21. Plaintiff John "Jack" Hart, Jr. is the owner of the following real property in Harris County:

TRS 1A 2A & 3A BLK 14
GLEN PARK.

Plaintiff Hart's property is located at the 3000 block of Hyacinth St., Houston, Texas 77009 (herein after referred to as "Hart Property"). The Hart Property is located a few blocks north of the WOMH, separated by North Main Street. Plaintiff Hart specially selected this

property because of its natural beauty, including the terrain and proximity to the Little White Oak Bayou. He and his artist wife custom-designed and built their home, where they have resided since 2012. Mr. Hart used to work for Evans Music City. Prior to that, Mr. Hart served in the U.S. Army and was a member of the U.S. Army Band. Though the music and other amplified noise is loud, it is the low frequency bass that has caused Mr. Hart and his wife the most disturbance. Mr. Hart is unable to sleep at night when WOMH outdoor events are taking place, and his wife is unable to do any work while the events are occurring. This has resulted in considerable disruption to Mr. Hart's enjoyment of his home and substantial interference with his daily life. Mr. Hart discussed many of these issues with Defendants' sound engineer, and was told by the engineer that any complaints about the sound level outside of WOMH property were not the engineer's concern. *See Affidavit of Jack Hart, Jr., attached as Exhibit D.*

22. Plaintiff Marcus Greenspan is the owner of the following real property in Harris County:

TR 5 BLK 1
HIGHLAND.

Plaintiff Greenspan's property is located at the 100 block of Payne St., Houston, Texas 77009 (herein after referred to as "Greenspan Property"). The Greenspan Property is located in the Historic Germantown section of the Woodland Heights neighborhood. WOMH is northeast of the Greene Property, directly across Interstate 45. Mr. Greenspan purchased the property in October 2006, and lives there with his wife, seven year old son, and three year old twins. Mr. Greenspan is a veteran of the U.S. Navy. Mr. Greenspan suffers from Tinnitus, TMJ and

Rheumatoid Arthritis, all of which are exacerbated by stress. The excessive and inordinate noise created by WOMH on an ongoing basis has caused further stress that is harmful to his health. Mr. Greenspan's seven year old son cannot sleep when an outdoor event is occurring, and he frequently crawls into bed with Mr. Greenspan and his wife because he is afraid of the loud noise. *See Affidavit of Marcus Greenspan, attached as Exhibit E.*

23. Plaintiff Ricardo Parra, is the owner of the following real property in Harris County:

LT 8 & TR 19E ABST 1 J AUSTIN
SCHULTZ.

Plaintiff Parra's property is located at the 2500 block of Ideal St., Houston, Texas 77009 (herein after referred to as "Parra Property"). The Parra Property is the northernmost home on Ideal St., in the Historic Near Northside neighborhood. The outdoor Lawn of WOMH is located northeast of the Parra Property, just across the bayou. Mr. Parra is the brother of Plaintiff Cavin, who lives across the street from the Parra Property with her young son, Austin. Mr. Parra grew up at Plaintiff Cavin's home, and purchased his home at the 2500 block of Ideal Street in 2007. Mr. Parra has a ten year old son who has had considerable trouble sleeping because of the loud noise from the outdoor WOMH events. Mr. Parra and his family have been especially disrupted by WOMH outdoor events that have lasted past 10 p.m. on weekday nights. In addition to the ongoing assault of his senses, Mr. Parra has also suffered property damage. WOMH unilaterally determined that Mr. Parra's fence, which had been in place for more than ten years at that time, was actually on its property line and then tore down that fence. Only after Mr. Parra hired and paid for a surveyor to prove that he

owned his own fence on his own property, was WOMH willing to rebuild the fence. Never has WOMH apologized, or offered to compensate the Parra family for the inconvenience or property destruction. Mr. Parra has contacted the police numerous times to complain about the loud noise and bass caused by WOMH. Despite his repeated efforts to protect his family and his home, Mr. Parra has been unable to do so. The City and Houston Police have been unable or unwilling to help.

24. Plaintiff Zachary Levitt, is the owner of the following real property in Harris County:

TRS 3 & 4A BLK 4
GLEN PARK.

Plaintiff Levitt's property is located at the 200 block of Cosmos St., Houston, Texas 77009 (herein after referred to as "Levitt Property"). The Levitt property is located in the Glen Park neighborhood. WOMH is located across North Main Street, southwest of Mr. Levitt's property. Plaintiff Levitt is a General Contractor and frequently works from home. Since WOMH began having events, Mr. Levitt has had considerable difficulty doing relaxing activities inside his home, such as sleeping, reading, watching television, or playing with his dog. In fact, Mr. Levitt's dog cowers in her bed each time an outdoor event takes place at WOMH. Plaintiff Levitt has contacted the police numerous times, however the noise has yet to subside. Like his neighbors, Levitt has been unable to protect himself or his property from this ongoing nuisance.

25. Plaintiff Heidi Landen Greene, is the owner of the following real property in Harris County:

Plaintiff Greene's property is located at the 300 block of Parkview St., Houston, Texas 77009 (herein after referred to as "Greene Property"). The Greene Property is situated on the far eastern edge of Parkview Street in the Historic Germantown neighborhood, located in the Woodland Heights, abutting Interstate 45. WOMH is northeast of the Greene Property, directly across Interstate 45. Plaintiff Greene and her husband, Stuart Greene have lived in their home since 2000. Plaintiff Greene is employed as a Naval Architect and a Marine Engineer, and has two young children who also reside in the home. Because the noise can be heard both inside and outside Plaintiff Greene's home normal routines essential to raising a family have been significantly disrupted

26. For more than sixteen years Plaintiff Greene has lived directly adjacent to Interstate 45, and was never bothered by any noise or disturbance. After years of quiet enjoyment of her home, Greene and her family's enjoyment of their home came to a sudden stop, as they immediately noticed the booming noise generated by the WOMH when it began operations. Plaintiff Greene's home is 116 years old, and is built on piers and beams, which has resulted in violent shaking each time WOMH uses amplified sound at its outdoor facilities. Plaintiff Greene and her husband have called the police numerous time to complain about the noise, yet have never received any follow up information from the police, nor have the noise levels from WOMH decreased since their complaints. Like their neighbors, Plaintiff Greene has thus far been unable to protect her family or her home from this nuisance.

27. Plaintiff Nicola Davies lives at the following location in Harris County:

Lot 8, Block 9
Glenn Park.

Plaintiff Davies' property is located on Cosmos Street., Houston, TX 77009 (herein after referred to as "Davies Property"). The Davies property is located 4 blocks from the WOMH at the 300 block of Cosmos in Glen Park. Plaintiff Davies has resided at her home for almost 2 years with her partner. Plaintiff Davies has a two year old daughter and moved to the area to enjoy the benefits of a quiet, sleepy and safe neighborhood close to downtown Houston which is now adversely and significantly impacted by blaring noise from outdoor concerts (including sound checks). Ms. Davies has contacted HPD to complain about noise that can be heard in her daughter's bedroom during outdoor concerts, but has not received a satisfactory response or any feedback. Ms. Davies is an environmental impact assessment professional of more than 15 years, who routinely assesses impact of developments (including noise impacts) and is fearful of the escalation in disruption and impact that may arise from a permanent outdoor installation.

28. Plaintiff Linda Longoria Vargas is the owner of the following real property in Harris County:

Lot 6, Block 11
Glen Park.

Plaintiff Vargas' property is located at the 100 block of Cosmos Street, Houston, Texas 77009 (herein after referred to as "Vargas Property"). Plaintiff Vargas has resided in this area for over forty years and is raising her children at this address. Plaintiff Vargas and her children live on the same block that her great-grandparents lived beginning in 1916.

Plaintiff Vargas lives at the above location with her husband, eighteen year old son, seven year old daughter, and five year old daughter. Defendant's conduct has been highly invasive and disruptive, especially as to Plaintiff's daughters. Plaintiff Vargas' youngest child has been diagnosed with Sensory Processing Disorder, and is highly sensitive to loud noise. WOIH's conduct has caused harm to the family unit and specifically to Plaintiff Vargas' children. Plaintiff Vargas consistently must hold her two young girls while they cry as they can't sleep due to Defendants' ongoing conduct.

29. On or about October 26, 2016, the City of Houston approved WOIH's plans for a permanent stage, and also approved a permit for a new temporary stage. *Exhibit F*. Before issuing the permit, however, the City of Houston placed numerous conditions on WOIH, such as the construction of outdoor bathroom facilities, noise monitoring, and the timing and scheduling of outdoor events. *Id.* The City of Houston also required that construction on the permanent stage begin no later than February 6, 2017 and completed prior to April 2017. *Id.* The City of Houston and Will Garwood of WOIH, however, agreed that the temporary stage permit could be revoked at any time, if WOIH did not adhere to the conditions set forth. *Id.*

30. At the time of filing this petition, workers are disassembling the temporary stage, presumably to begin building the permanent stage and bathroom facilities. Once completed, Defendants (which have an affiliation with the Free Press Summer Fest) will then have a forum from which they will host an unrestricted number of concerts, private parties, music festivals, movies, and athletic and sport promotions, with amplified sound and bass, thus necessitating the filing of this lawsuit.

V. PLAINTIFFS' CLASS ALLEGATIONS

31. Plaintiffs would collectively show that this petition is appropriately brought on behalf of a class composed of additional homeowners and residents of the neighborhoods in close proximity to White Oak Music Hall, and should be certified as such, in that: 1) the class is so numerous that joinder of all members is impractical; 2) there are questions of law, or fact, common to the class; 3) her claims are typical of the claims of the class; and 4) she can fairly and adequately represent the interests of the class. In addition, Plaintiffs would show that the questions of law or facts common to members of the class predominate over any questions effecting individual members, and a class action is superior to other available methods in the fair and efficient adjudication of the controversy. The putative class seeks damages for past nuisances up to and until the enjoining of outdoor events moving forward from the time of this filing.

VI. ORIGINAL PETITION SEEKING INJUNCTIVE RELIEF AGAINST DEFENDANTS

Count 1 – Private Nuisance

32. Plaintiffs incorporate the foregoing paragraphs herein by reference.

33. Defendants are intentionally and unreasonably interfering and invading Plaintiffs' respective properties, and in doing so unreasonably interfering with Plaintiffs' use and enjoyment of their properties.

34. Not only will Plaintiffs' property values be negatively affected if Defendants are permitted to continue hosting loud and disruptive events with large crowds, but Plaintiffs will not be able to have uninterrupted sleep, partake in indoor activities without

the invasion of inordinately loud and disruptive noise, or enjoy their private use and enjoyment of their home environment without windows and walls shaking.

35. Defendants' interference with and invasion of Plaintiffs' interests in their respective properties has caused, and continues to cause, ongoing irreparable injury to Plaintiffs. Plaintiffs have incurred injury as Defendants' actions have resulted in the loss of use and enjoyment of their respective properties, as well as the loss of privacy in their homes, and also including decreased property values, as described herein. Plaintiffs will likely continue to suffer imminent harm and irreparable injury and Plaintiffs have no adequate remedy at law and are left to suffer in their home environments due to Defendants' behavior.

36. Plaintiffs and Plaintiff Class further seek damages for all past conduct which constitutes a nuisance.

Count 2 – Public and Common Nuisance

37. Plaintiffs incorporate the foregoing paragraphs herein by reference.

38. Defendants' maintain a property to which persons habitually go for purposes both unlawful and lawful which constitute a private nuisance, and Defendants' knowingly tolerate the activity and fail to make reasonable attempts to abate.

39. As such, Defendants maintain a public and common nuisance in their operation of White Oak Music Hall.

Count 3 – Intentional Interference with Property Rights

40. Plaintiffs incorporate the foregoing paragraphs herein by reference.

41. Defendants have tortiously and intentionally interfered with Plaintiffs'

peaceful use and enjoyment of their respective properties, by causing loud, disruptive noise, and failing to make any meaningful attempts to minimize the noise or otherwise address Plaintiffs' concerns despite numerous complaints and noise violations. "A cause of action for tortious interference with the peaceful use and enjoyment of property is a claim for intentional interference with property rights." *Pinter v. Asafi Law Firm*, 2012 Tex. App. LEXIS 9263, No. 01-12-00048-CV, at *10 (Tex. App.—Houston [1st Dist.], 2012, no pet.) (mem. op.), citing *Ski River Dev., Inc. v. McCalla*, 167 S.W.3d 121, 140 (Tex. App.—Waco 2005, pet. denied).

42. Plaintiffs seek injunctive relief to further protect against Defendants' continued intentional interference with their valid property rights, as well as damages for all past injury to Plaintiffs, as well as exemplary damages for Defendants' intentional and/or reckless conduct.

VII. APPLICATION FOR TEMPORARY RESTRAINING ORDER AND TEMPORARY INJUNCTION

43. Plaintiffs seek to have Defendants enjoined from the building or construction of any outdoor stage, the continued hosting of outdoor events using amplified noise, sound or bass at the WOMH premises (including without limitation, the Pavilion and Patio at the Raven Tower and the Lawn at the White Oak Music Hall), and from taking further steps to obtain permits or approval for such construction or events. Plaintiffs request the Court grant injunctive relief to secure Plaintiffs' property rights.

44. Plaintiff's application for temporary restraining order and temporary injunction is authorized by TEX. CIV. PRAC. & REM. CODE § 65.011(1) and § 65.011(2), because

Plaintiffs are entitled to relief which requires the immediate restraint of Defendants' actions pending a full trial on the merits, and because irreparable injury, loss, and damage will occur to Plaintiffs and Plaintiffs' properties if Defendants are allowed to continue to detrimentally interfere with Plaintiffs' use and enjoyment of their respective properties. Plaintiffs ask the Court to restrain and enjoin Defendants, their officers, agents, servants, employees, successors, assigns, contractors, subcontractors, and any person acting in concert with them, from the following:

- a. Beginning or resuming the building or construction of any outdoor stage or outdoor bathroom facilities located at the White Oak Music Hall (including the Lawn at the White Oak Music Hall);
- b. Holding any event at the White Oak Music Hall outdoors (specifically the Pavilion and Patio at the Raven Tower and the Lawn at the White Oak Music Hall) that employs amplified noise, sound or bass;
- c. Filing any restrictive covenants, permitting applications, or other permitting paperwork with the City of Houston or Harris County property records, to aid in the building or construction of any outdoor stage or outdoor bathroom facilities located at the White Oak Music Hall (including the Lawn at the White Oak Music Hall).

45. Unless Plaintiffs' temporary restraining order is issued, Plaintiffs will suffer imminent and irreparable harm in the form of permanent loss of the quiet and peaceful enjoyment of their respective properties, and substantial impairment to the use and enjoyment of Plaintiffs' respective properties. Plaintiffs have no adequate remedy at law and seek immediate injunctive relief.

46. To show a probable right of recovery, an applicant need not prove conclusively that he will prevail on the merits; he need only show that a bona fide issue exists as to its right to ultimate relief. See *Group Joint Venture v. SPF Joint Venture*, 765 S.W.2d 901, 904

(Tex. App.—Austin 1989, writ dism'd w.o.j.). Under this standard, it is sufficient for Plaintiffs to merely adduce evidence that tends to support their right to relief on the merits. *Id.* at 904. The facts support Plaintiffs' right to relief on the merits for their claims against Defendants for private nuisance, public nuisance, and intentional interference with property rights.

VIII. REQUEST FOR PERMANENT INJUNCTION

47. Plaintiffs ask the court to set their request for a permanent injunction for a full trial on the merits and, after the trial, issue a permanent injunction against Defendants.

IX. PRAYER

Plaintiffs respectfully pray for the relief requested, including but not limited to the following:

- a. A Temporary Injunction enjoining and restraining Defendants, their officers, agents, servants, employees, successors, assigns, and any person acting in concert with them, from beginning or resuming the building or construction of any outdoor stage or outdoor bathroom facilities located at the White Oak Music Hall (including the Lawn at the White Oak Music Hall); Holding any event at the White Oak Music Hall (specifically the Pavilion and Patio at the Raven Tower and the Lawn at the White Oak Music Hall) outdoors that employs amplified noise, sound or bass; and filing any restrictive covenants, permitting applications, or other permitting paperwork with the City of Houston or Harris County property records, to aid in the building or construction of any outdoor stage or outdoor bathroom facilities located at the White Oak Music Hall (including the Lawn at the White Oak Music Hall);
- b. A Permanent Injunction order enjoining Defendants, their officers, agents, servants, employees, successors, assigns, and any person acting in concert with them, from beginning or resuming the building or construction of any outdoor stage or outdoor bathroom facilities located at the White Oak Music Hall (including the Lawn at the White Oak Music Hall); Holding any event at the White Oak Music Hall (specifically the Pavilion and Patio at the Raven Tower and the Lawn at the White Oak Music Hall) outdoors that employs amplified noise or

sound or bass; and filing any restrictive covenants, permitting applications, or other permitting paperwork with the City of Houston or Harris County property records, to aid in the building or construction of any outdoor stage or outdoor bathroom facilities located at the White Oak Music Hall (including the Lawn at the White Oak Music Hall;

- c. Consequential and incidental past damages due to Defendants' past and/or ongoing conduct; and
- d. All other relief to which Plaintiffs are entitled.

Respectfully submitted,

FELDMAN & FELDMAN, P.C.



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Attorneys for Plaintiffs

AFFIDAVIT OF THERESA CAVIN

STATE OF TEXAS

§

HARRIS COUNTY

§

Before me, the undersigned notary, on this day personally appeared Theresa Cavin. After I administered an oath, affiant testified as follows:

1. "My name is Theresa Cavin. I am over eighteen years of age. I have never been charged with a felony or crime of moral turpitude. I am of sound mind and capable of making the statements contained herein.
2. I reside at the property located at the 2500 block of Ideal Street., Houston, Texas 77009. My mother, Valerie Gonzales owns the home. Other than a three year time period beginning in 2003 and ending in 2006, I have resided at this home my entire life, since 1982.
3. I have first-hand knowledge of the events and occurrences which make up the basis for this suit. My personal knowledge is based upon the fact that my home is located directly south of the White Oak Music Hall ("WOMH") outdoor Lawn and patio, where sporadic events are held.
4. I have reviewed the foregoing petition, and based upon my first-hand knowledge of the events and occurrences contained within, I certify that all facts stated therein are a true and correct representation of events.
5. I live in the home with my mother Valerie, my husband Karl, my eight year old daughter Hannah, and my nine year old son, Austin Quintanilla. My son, Austin was diagnosed with Autism when he was four years old. Maintaining an established routine is critical to Austin's learning and development. I therefore enforce a strict bedtime of 8:30 p.m. every night. Before January 2016, when WOMH began holding loud concerts and events, I did not have any difficulty in enforcing Austin's bedtime, nor did Austin have any trouble falling asleep or having uninterrupted sleep.
6. The noise from the outdoor WOMH events is so loud, that every member of the house can hear and feel it from any room. In fact, my mother, Valerie, is completely deaf in one ear, and has approximately 75% hearing loss in the other. Even with her substantial hearing loss, she can hear and feel the loud noises coming from the outdoor WOMH events. There is no place to escape the noise.
7. Currently, I am due to have my third child in early April, 2017. I am very concerned about the noise level and how it will affect my baby's sleep and general health.
8. The noise and rattling that results from the bass is particularly unsettling for Austin, because he is extremely sensitive to noise. Austin is terrified to go outside during

outdoor WOMH events. I have observed Austin hiding under the coffee table and rocking back and forth with a towel over his head, attempting to block out the noise. Even when Austin wears his industrial ear plugs, the rattling from the bass causes Austin continued anxiety and stress. Austin is unable to fall asleep at 8:30 p.m. on nights when WOMH holds outdoor events, and has restless sleep when I am finally able to calm him down.

Further, Affiant says not.


Theresa Cavin

Subscribed and sworn to before me, the undersigned authority, on this 13th day of December, 2016 by Theresa Cavin.




Notary Public in and for the State of Texas

EXHIBIT A




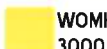







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|---|---|--|--|
|  RESIDENTIAL NEIGHBORHOODS
SHADED ORANGE |  WOMH LAWN
3000 occupants |  RAVEN TOWER (BAR, PATIO, WAREHOUSE STAGE, and TOWER)
1500 occupants |  1/4 MILE TEMP. STAGE |
|  WOMH
1500 occupants |  WOMH TEMPORARY STAGE |  WOMH, WOMH TEMP LAWN STAGE, AND RAVEN TOWER PARKING
(Hatched pkg. area for Construction laydown and modular bldgs.) |  1/4 MILE RAVEN WAREHOUSE STAGE |
| | | |  LITTLE WHITE OAK BAYOU |

EXHIBIT B

AFFIDAVIT OF MEGHAN GUION

STATE OF TEXAS

§

HARRIS COUNTY

§

Before me, the undersigned notary, on this day personally appeared Meghan Guion. After I administered an oath, affiant testified as follows:

1. "My name is Meghan Guion. I am over eighteen years of age. I have never been charged with a felony or crime of moral turpitude. I am of sound mind and capable of making the statements contained herein.
2. I currently live in Houston, Texas. I have worked in Special Education for the past 10 years, specializing in Autism instruction and intervention. I studied Therapeutic Recreation and Early Childhood Education and Development at Springfield College in Springfield, Massachusetts, from 1997 to 2001 and graduated with a degree in General Studies. After college I continued to work with special needs children in a variety of settings, including psychiatric hospitals and schools.
3. Currently, I work for Spring Branch ISD on the Systems of Care Team. Prior to my current employment, I was a self-contained autism teacher for HISD and worked in a structured classroom setting at Helms Elementary School.
4. Austin Quintanilla was my student beginning in March 2015, and continuing through the 2015-2016 school year, until June 2016. Austin was 7 years old when I met him. I taught and worked with Austin all day, every day, and am very familiar with his specific needs, limitations, and behavior patterns.
5. Though all children with Autism have varying needs and respond differently to certain stimuli, in general, it is critical that Autistic children have a consistent and structured schedule that incorporates the child's specific sensory needs. Autistic children need predictability, a decreased amount of surprises, and schedules to help them thrive in the learning process.
6. Austin Quintanilla is particularly sensitive to loud noises. I have observed him cover his ears when a noise is too loud. Austin could even hear the buzzing in the lights in the classroom, and this would disturb him. If a noise was too loud for Austin, such as a peer talking loudly, Austin would have difficulty ignoring the sound. For Austin, loud noise was an antecedent to maladaptive behavior, such as aggression, crying, screaming, and refusals to follow directions. This would impede his participation in class.
7. Additionally, Austin tends to exhibit aggression when he is tired. During the Spring of 2016, I recall two instances where Austin came to school, irritable and tired because

he did not sleep well the night prior because of the inordinately loud noise coming from the White Oak Music Hall. The learning process suffered because of his state. One time, the loud noise occurred the night before the STAAR test, and Austin came to school, exhausted. Austin told me he had to keep his head under the pillow because the noise was so loud.

8. In order for Austin to succeed, he must have uninterrupted sleep patterns and a predictable schedule. Sporadic, loud noises are harmful to Austin's social and educational development.

Further, Affiant says not.


Meghan Guion

Subscribed and sworn to before me, the undersigned authority, on this 13th day of December, 2016 by Meghan Guion.





Notary Public in and for the State of Texas

EXHIBIT C

AFFIDAVIT OF JEFFERY TREVINO

STATE OF TEXAS

§

HARRIS COUNTY

§

Before me, the undersigned notary, on this day personally appeared Jeffrey Trevino. After I administered an oath, affiant testified as follows:

1. "My name is Jeffrey Trevino. I am over eighteen years of age. I have never been charged with a felony or crime of moral turpitude. I am of sound mind and capable of making the statements contained herein.
2. I reside at the property located at the 300 block of Embry Street, Houston, Texas 77009. I purchased this property in 2014 and my son and I moved into the home located there in May 2015.
3. I have first-hand knowledge of the events and occurrences which make up the basis for this suit. My personal knowledge is based upon the fact that my home is located south of the White Oak Music Hall ("WOMH") outdoor Lawn and patio, where sporadic events are held.
4. The WOMH outdoor stage and patio are situated just north White Oak bayou, while my property is located approximately 200 feet south of the bayou, in the Historic Near Northside neighborhood.
5. When WOMH holds events at the Patio, the Pavilion, or the Lawn, I am unable to enjoy music or television in my own home. During any WOMH outdoor events, I am unable to sit in my yard with my family and/or friends, as I would normally enjoy doing, without feeling sound reverberations and hearing amplified singing or yelling, often laced with profanities. My son even opts to stay somewhere else when visiting from college based on WOMH's music schedule.
6. I have contacted the Houston Police Department ("HPD") on several occasions regarding the noise level. One such occasion was Friday, December 9, 2016. On this occasion, WOMH had a band on the patio. The band began to warm up around 5:30 p.m. and became increasingly louder. I called HPD at approximately 5:50 p.m.. One of my neighbors, Stuart Green, then called HPD at approximately 8:40 p.m.. I again called HPD at 9:22 p.m., as no officer had yet arrived. At 10:08 p.m., approximately four-and-one-half hours after the noise began, a HPD officer arrived and took video of the show. The officer also took noise meter readings. Though the reading did register noise exceeding acceptable levels at one point, the officer explained there was nothing she could do at that time. The officer further lamented that the venue should never have been built at that location and that HPD is able to do little to deal with the situation."

Further, Affiant says not.



Jeffrey Trevino

Subscribed and sworn to before me, the undersigned authority, on this 13th day of December, 2016 by Jeffrey Trevino.





Notary Public in and for the State of Texas

EXHIBIT D

AFFIDAVIT OF JOHN "JACK" HART, JR.

STATE OF TEXAS

§

HARRIS COUNTY


§

Before me, the undersigned notary, on this day personally appeared John "Jack" Hart, Jr.. After I administered an oath, affiant testified as follows:

1. "My name is Jack Hart, Jr. I am over eighteen years of age. I have never been charged with a felony or crime of moral turpitude. I am of sound mind and capable of making the statements contained herein.
2. I reside at a home located at the 3000 block of Hyacinth Street., Houston, Texas 77009. In January 2012, I purchased this property specifically because of its natural beauty, terrain, four block proximity to his two grandchildren, and proximity to the Little White Oak Bayou. Shortly after we purchased the property, my wife and I custom-designed and custom-built our home and have lived there ever since.
3. I am currently retired, however I used to work for Evans Music City. Prior to that, I served in the U.S. Army from 1968 to 1974, and was a member of the U.S. Army Band. I enjoy playing the bass guitar and keyboard in my spare time.
4. Though the music is loud and disturbing, it is the low frequency bass emanating from White Oak Music Hall ("WOMH") that causes the most disruption to my home and personal life. For example, when lying in bed, I can feel the pressure and vibrations compressing in my ears. In the past, I noticed that the loud and constant booming from the bass caused my home shake so violently that my pictures on the walls vibrated.
5. I am unable to sleep at night when WOMH is holding outdoor events. Because I am an early riser who likes to wake up between 4 and 6 a.m., I try to go to bed by 10 p.m. every night. On the nights where WOMH holds events, I simply cannot go to bed before 11:30.
6. My wife, Ellen, is a professional artist and author. Approximately one-third of our home is devoted to her studio. When WOMH is holding outdoor events, it is nearly impossible for her to do any work associated with either of her occupations.
7. I have called the police several times to complain about the level of noise coming from the WOMH. On two occasions, WOMH was cited for excessive noise. Other times, the police arrived after the noise had stopped. I have also discussed these issues with the WOMH sound engineer. I was told by one of the engineers, Brian Smith, that he was responsible for a certain volume level inside the WOMH property lines, and that any noise level outside WOMH property was not his concern.

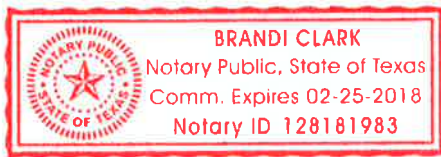
8. I have met Will Garwood, the managing partner of the company that owns the WOMH property. One night, Mr. Garwood drove by my house just after I had called the police to complain about the noise. Mr. Garwood told me that he thought that I was the person who called to complain. I invited him to sit on my porch so he could hear, first-hand, the level of noise. However, curiously, the noise level was significantly less after he arrived at my home. Mr. Garwood has admitted to me that he knows of the problem with the loud noise. Despite his knowledge of the problem, the bass disruption continues.


Further, Affiant says not.



John "Jack" Hart, Jr.

Subscribed and sworn to before me, the undersigned authority, on this 13th day of December, 2016 by John "Jack" Hart, Jr..





Notary Public in and for the State of Texas

EXHIBIT E

AFFIDAVIT OF MARCUS GREENSPAN

STATE OF TEXAS

§

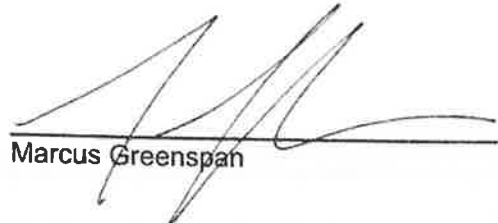
HARRIS COUNTY

§

Before me, the undersigned notary, on this day personally appeared Marcus Greenspan. After I administered an oath, affiant testified as follows:

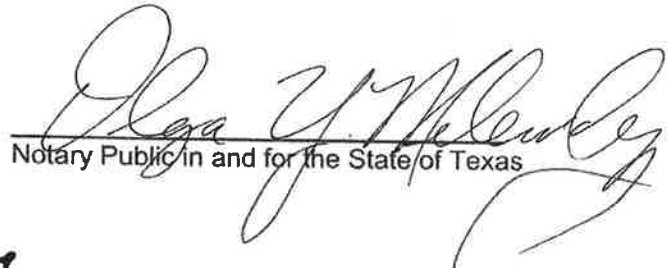
1. "My name is Marcus Greenspan. I am over eighteen years of age. I have never been charged with a felony or crime of moral turpitude. I am of sound mind and capable of making the statements contained herein.
2. I reside at the property located at the 100 block of Payne Street., Houston, Texas 77009. I purchased my home in October 2006, and have lived there ever since with my wife, seven year old son, and three year old twins. We live in a large two-story home and all of the bedrooms are located on the second floor.
3. I have first-hand knowledge of the events and occurrences which make up the basis for this suit. My personal knowledge is based upon the fact that my home is located southwest of the White Oak Music Hall ("WOMH") outdoor Lawn and patio, where sporadic events are held.
4. I am currently employed as a Management Consultant, however before purchasing my home, I was a U.S. Navy Helicopter Pilot. Because of my past, I suffer from Tinnitus, Rheumatoid Arthritis, and TMJ and these conditions are exacerbated by stress. After January 2016, when WOMH began holding loud concerts and events, I began to experience far more stress, anxiety, and exhaustion due to the inordinate amount of noise coming from WOMH. It is also far more difficult for me and my family to spend peaceful time together because when an event is occurring, it will last many hours, frequently past the time the noise is supposed to cease.
5. The noise from the outdoor WOMH events can be heard just as much on the inside of our house as the outside. Because our children's rooms are all located on the second floor, the loud noise is especially prevalent in those areas of the home. My seven year old son is frightened by the noise and cannot fall asleep when an outdoor event is occurring at WOMH. He frequently crawls into bed with me and my wife on those occasions because he is scared and tired.
6. I have called the police approximately six times to complain about the level of noise coming from the WOMH. During the times the police have come to our home, they have taken the noise measurements from the street level, where the noise is weaker. Even so, the noise, especially the amplified bass, waxes and wanes at each event and measurements are not taken during the moments when the noise is at its peaks.

Further, Affiant says not.



Marcus Greenspan

Subscribed and sworn to before me, the undersigned authority, on this 13th
day of December, 2016 by Marcus Greenspan.



Notary Public in and for the State of Texas



EXHIBIT F



CITY OF HOUSTON

Department of Public Works and Engineering

Sylvester Turner

Mayor

Dale A. Rudick, P.E.
Director
P.O. Box 1562
Houston, Texas 77251-1562

T. 832-395-2500
F. 832-395-2480
www.houstontx.gov

October 26, 2016

Will Garwood
758 W. 17th Street
Houston, TX 77008

Re: White Oak Music Hall Development

Dear Mr. Garwood,

The Houston Permitting Center is in receipt of the payments from WOIH Partners LLC (WOIH) related to the permanent stage at the White Oak Music Hall. The permanent stage plans have been approved and we are now able to take steps toward the approval of a conditional, temporary permit for a temporary stage. The following conditions shall be adhered to and agreed upon before a new temporary stage permit can be issued:

- 1) The Lawn's temporary stage shall only be used on Thursdays, Fridays and Saturdays, with the exception of an already scheduled event on Wednesday, November 2, 2016 (assuming a temporary stage permit is secured on or before that date).
- 2) The Restrictive Covenant (attached) must be properly recorded in the Real Property Records of Harris County and a file stamped copy provided to me by January 3, 2017. WOIH will comply with the Restrictive Covenant thereafter.
- 3) As provided in the Restrictive Covenant, no live music performance shall occur in the Building contemporaneously with an event occurring on the Lawn, and when there is a performance on the Lawn, the existing restroom facilities inside the Building shall be available for use by patrons attending events on the Lawn.
- 4) Construction of a total of 38 outdoor bathroom facilities and 9 lavatories shall begin by November 21, 2016, and be completed by early January 2017.
- 5) Construction of the permanent facilities and stage shall begin by February 6, 2017, and be completed before the end of April 2017.
- 6) WOIH shall provide a detailed listing of all events, whether public or private, to be held at White Oak Music Hall through February 15, 2017. The list shall be current as of the date the City issues the temporary stage permit to WOIH.
- 7) WOIH shall employ a sound monitor for all events scheduled on the temporary permit stage.

As soon as you resolve and commit to the conditions listed above, the Houston Permitting Center will issue a new temporary stage permit set to expire on February 15, 2017, subject to revocation at any time in the event any of the aforementioned conditions are not met.

The City appreciates that WOIH has agreed to assist the City with managing neighborhood concerns by keeping the City informed about changes in your event calendar as is practicable. The City and WOIH also believe that the placement of permanent signs on WOIH property to direct traffic to the larger parking lot off of Boundary Street will benefit WOIH and the community. Accordingly, WOIH has agreed to consider the recommendations of the City with regard to placement of such signage.

You understand and agree that no temporary stage permit will be released until WOIH completes item 6 listed above. Any permit issued will incorporate the terms outlined in items 1-5, and 7 and will be expressly subject to revocation if WOIH does not comply with any one of those items, or the other permit requirements.

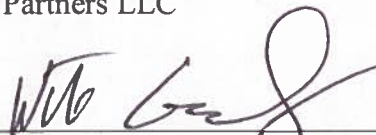
Sincerely,



Dale A. Rudick, P.E.
Director

Attachment

WOIH Partners LLC

BY: 
Name

TITLE: Managing Member

DATE: 10/27/16

DECLARATION OF RESTRICTIVE COVENANT

This Declaration of Restrictive Covenant ("Declaration") is executed as of this ____ day of _____, 2016 (the "Effective Date"), by WOIH Partners, LLC ("Owner"), for the beneficiary designated as the City of Houston ("Beneficiary").

WHEREAS, WOIH Partners, LLC is the owner of that certain parcel of land located in the City of Houston, Harris County, State of Texas, which is more fully described on Exhibit A hereto (the "Property");

WHEREAS, WOIH Partners, LLC has developed an enclosed, indoor live music performance venue (the "Building") and an outdoor live music performance venue (the "Lawn"), collectively referred to as the "Venues";

WHEREAS, in connection with the approval by Beneficiary of certain alternate methods for the calculation of minimum plumbing facilities for the Lawn as otherwise required by IBC §2902.1 (the "Alternate Methods"), Owner has agreed to establish certain restrictions with respect to the use of the Venues that are intended to run with the land as more fully set forth herein;

WHEREAS, the purpose of this Declaration is to memorialize said restrictions with respect to the use of the Venues;

NOW THEREFORE, in consideration of the foregoing premises and approval by Beneficiary of the Alternate Methods as applied to the Property, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner declares as follows:

1.0. **Use Restrictive Covenant**. From and after January 1, 2017, Owner: (1) shall not permit live music performances to commence inside the Building at such time as a live music performance is contemporaneously occurring on the Lawn, and (2) when a live music performance is occurring on the Lawn, shall make the existing restroom facilities inside the Building available for use by patrons attending events on the Lawn.

2.0 **Running with the Land**. This Declaration and the covenant set forth herein restricting the use of the Property shall be covenants running with, touching, and encumbering the Property, binding upon the Owner and all successors in interest or title, transferees, vendees, lessees, mortgagees, and assigns who are owners and/or users of the Property (collectively "Owner or Successors"), provided that this Declaration and covenant shall expire and terminate at such time as Owner or Successors shall meet the minimum plumbing facilities requirements stipulated in IBC §2902.1 without the application of any Alternate Methods as they relate to the Property.

3.0 **Suspension or Revocation.** Nothing in this Restrictive Covenant encumbers or restricts the City of Houston from enforcing all laws and/or ordinances as it pertains to the Property. Owner agrees, in the event of a violation of this restrictive covenant, Beneficiary has the right and is authorized to suspend or revoke any permit issued to Owner for the Property and the Building and Lawn on that Property, as the violation of this restrictive covenant would be a violation of a City of Houston ordinance or regulation and/or any provision of the Building Code.

4.0 **Release.** Any person or entity having or acquiring fee or leasehold title to the Property or any portion thereof shall be required to comply with this Declaration only during the period such person or entity is the fee or leasehold owner of the Property, and thereafter shall be released therefrom, except that such person or entity shall continue to be liable for, and shall not be released from liability for, obligations, liabilities or responsibilities that accrue or accrued during said period of ownership. Although persons or entities may be released under this paragraph, the restrictions of this Declaration shall continue to be restrictions upon the Property, running with the land, and shall inure to the benefit of, and be binding upon, their successors and assigns in title or interest until such time that this Declaration expires and terminates pursuant to paragraph 2.0, above.

5.0 **Amendments.** This Declaration may not be amended except by a written instrument executed by the Beneficiary and the then-current owner of the Property.

6.0 **Miscellaneous.**

6.1. ***Headings.*** The headings in this Declaration are for convenience only and do not limit or affect the terms and provisions hereof.

6.2 ***Unenforceability.*** If any provision of this Declaration is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the remainder of such provision or any other provisions hereof.

6.3 ***Governing Law.*** This Declaration shall be construed and enforced in accordance with the laws of the State of Texas.

6.4 ***Entire Agreement.*** This Declaration constitutes the entire Agreement of Owner with respect to the subject matter hereof and supersedes all prior negotiations or discussions, whether oral or written, with respect thereto.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be signed by its duly authorized representatives, as of the day and year first written above.

OWNER

WOIH PARTNERS, LLC

By:

Printed Name:

Title:

STATE OF TEXAS §

§

COUNTY OF HARRIS §

THIS DECLARATION was acknowledged before me, this ____ day of 2016,
by , as Managing Member of WOIH PARTNERS, LLC, a Texas Limited Liability Company,
on its behalf.

Notary Public, State of Texas

EXHIBIT A – LEGAL DESCRIPTION

[To be added]

EXHIBIT B – RESOLUTION OF WOIH PARTNERS, LLC

**WOIH PARTNERS, LLC
RESOLUTION OF THE MANAGER AND MEMBERS**

WHEREAS, the undersigned, being a Managing Member of the LLC, with the consent, approval and authorization of the Members, desire that the LLC shall take the actions expressed in the following resolutions (“Resolutions”) set forth below;

NOW, THEREFORE, I, Will Garwood III, the undersigned, as Managing Member of WOIH Partners, LLC, do hereby declare that the following Resolutions have been approved, adopted and ratified by the Manager and Members of the LLC and shall be carried out as the act and deed of the LLC:

RESOLVED, that the Declaration of Restrictive Covenant dated [INSERT] in which WOIH Partners, LLC as Grantor has agreed to certain operational restrictions relating to the use of the indoor music venue at such times that the outdoor music venue is contemporaneously being used as they relate to minimum plumbing fixtures, is **APPROVED, CONFIRMED AND RATIFIED** as the act and deed of the LLC; and it was

FURTHER RESOLVED, that I, Will Garwood III, as Managing Member, am authorized, empowered and directed to execute and deliver, and to receive and accept, any and all documents and to take any and all action necessary or appropriate on behalf of the LLC to implement the terms of the Declaration of Restrictive Covenant.

SIGNED AND APPROVED effective [DATE], 2016.

Will Garwood III
Managing Member, WOIH Partners, LLC

Rudick, Dale - PWE

From: Johnny So <johnny@whiteoakmusichall.com>
Sent: Wednesday, October 26, 2016 7:14 PM
To: Rudick, Dale - PWE
Cc: Will Garwood; Greer, Earl - HPC-PWE; McAvoy, Mark - HPC-PWE; Loethen, Mark - PWE; Oakes, Bob - HPC-PWE; Harry Hayes (2)
Subject: White Oak Lawn Future Dates

Dear Director Rudick,


As per condition (6) of your letter dated October 26, 2016, please see the following listing of future events on the Lawn:

- (1) Wednesday, November 2, 2016 - Artist: Pet Shop Boys. Event Type: Concert
- (2) Saturday, November 19, 2016 - Artist: Morrissey. Event Type: Concert
- (3) Thursday, February 2, 2016 - Superbowl Private Event. Event Type: Media broadcast
- (4) Friday, February 3, 2016 - Superbowl Private Event. Event Type: Concert
- (5) Saturday, February 4, 2016 - Superbowl Private Event. Event Type: Concert

Thank you very much for your assistance. Please let myself or Will Garwood if you have any other questions. Thank you!

- Johnny So

WOIH Partners LLC

BY: 
Name

TITLE: Managing Member

DATE: 10/27/2016

CAUSE NO. _____

THERESA CAVIN, INDIVIDUALLY	§	IN THE DISTRICT COURT OF
AND AS NEXT FRIEND OF AUSTIN	§	
ZACHARY QUINTANILLA, JEFFREY	§	
TREVINO, JOHN “JACK” HART, JR.,	§	
MARCUS GREENSPAN, NICOLA	§	
DAVIES, RICARDO PARRA, ZACHARY	§	
LEVITT, HEIDI LANDEN-GREENE,	§	
and LINDA LONGORIA VARGAS,	§	
INDIVIDUALLY AND COLLECTIVELY	§	
AS CLASS REPRESENTATIVES	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
WHITE OAK EVENTS, LLC, d/b/a	§	
WHITE OAK MUSIC HALL,	§	
	§	
WHITE OAK ENTERTAINMENT, LLC,	§	
d/b/a WHITE OAK MUSIC HALL, and	§	
	§	
WOIH PARTNERS LLC,	§	
<i>Defendants.</i>	§	____TH JUDICIAL DISTRICT

**TEMPORARY RESTRAINING ORDER & ORDER SETTING HEARING FOR
TEMPORARY INJUNCTION**

CAME ON TO BE CONSIDERED THIS DAY, Plaintiffs’ Application for Temporary Restraining Order.

Plaintiffs have filed their Application for Temporary Restraining Order and Request for Temporary and Permanent Injunction against Defendants White Oak Events, LLC, d/b/a White Oak Music Hall, White Oak Entertainment, LLC, d/b/a White Oak Music Hall, and WOIH Partners LLC (collectively herein referred to as the “White Oak Defendants”).

The Court finds that harm is imminent to Plaintiffs, and if the Court does not issue the Temporary Restraining Order, Plaintiffs will be irreparably injured because Defendants

will continue to cause Plaintiffs unreasonable discomfort and sporadic disturbances in the form of loud and disruptive noise emanating from the White Oak Music Hall's outdoor lawn and patio events, thereby unreasonably interfering with the quiet, peaceful use and enjoyment of Plaintiffs' respective properties. The Court also finds that Plaintiffs have made a sufficient showing of a likelihood to prevail on the merits of their claims. **IT IS**

THEREFORE ORDERED THAT:

The White Oak Defendants, their officers, agents, representatives, successors, assigns, employees, trustees, contractors, and any person acting in concert with them directly or indirectly, are to cease, desist, and refrain from the following:

- a. Beginning or resuming the building or construction of any outdoor stage or outdoor bathroom facilities located at the White Oak Music Hall (including the Lawn at the White Oak Music Hall);
- b. Holding any event at the White Oak Music Hall outdoors (specifically the Pavilion and Patio at the Raven Tower and the Lawn at the White Oak Music Hall) that employs amplified noise, sound or bass;
- c. Filing any restrictive covenants, permitting application, or any other permitting paperwork with the City of Houston or Harris County property records, to aid in the building or construction of any outdoor stage or bathroom facilities located at the White Oak Music Hall (including the Lawn at the White Oak Music Hall).

The clerk is to issue notice to Defendants that the hearing on Plaintiff's Application for Temporary Injunction is set for _____, 20__ at ____ a.m./p.m. The purpose

of the hearing shall be to determine whether this Temporary Restraining Order should be made a Temporary Injunction pending a full trial on the merits.

Bond, or cash deposit in lieu of bond, is set in the amount of \$_____.

This Order expires at 12 Midnight, ____ day of December, 2016, unless extended by order of the Court or by agreement of the parties.

SIGNED this _____ day of December 2016.

Judge Presiding