

SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY

RUPI ARORA, SARAH BREZAVAR,  
and GIA BRISCOE,

*Petitioners,*

-against-

NEW YORK CITY MAYOR’S OFFICE OF  
SPECIAL ENFORCEMENT, CHRISTIAN J.  
KLOSSNER, in his official capacity as Executive  
Director of the Mayor’s Office of Special  
Enforcement; and THE CITY OF NEW YORK

*Respondents.*

Index No.

**VERIFIED PETITION**

**ORAL ARGUMENT  
REQUESTED**

Petitioners Rupi Arora, Sarah Brezavar, and Gia Briscoe, by and through their attorneys,  
Emery Celli Brinckerhoff Abady Ward & Maazel LLP, for their Verified Petition, allege as  
follows:

**PRELIMINARY STATEMENT**

1. Like millions of other New Yorkers, Petitioners Rupi Arora, Sarah Brezavar, and  
Gia Briscoe (“Petitioners” or “Hosts”) are trying to make ends meet in one of the most expensive  
cities in the country. To afford to pay their bills and live in New York City, Petitioners each rent  
portions of the homes they own and live in for short period of time through Airbnb, an online  
platform for short-term rentals (“STRs”).

2. Petitioners have opened their personal residences to STR guests for years.  
Petitioners are not real estate investors or corporate STR hosts. They list only their own homes  
on Airbnb, where they also live.

3. Petitioners’ guests prefer to stay in a New Yorker’s home rather than staying in a  
hotel, whether their guests are tourists visiting the City who want personalized tips from  
someone who has lived here for decades, grandparents seeking accommodations walking

distance from their grandchildren in neighborhoods ill served by hotels, visitors in town to care for their elderly parents for whom location is paramount, families who need more space than hotels generally provide, and many others, each with their own unique story about why they have chosen to stay with one of the Petitioners.

4. Now, in a blatant effort to ban STRs under the guise of regulation, the City of New York (the “City”), through the New York City Mayor’s Office of Special Enforcement (“OSE”), has promulgated drastic rules restricting STRs in the City.

5. The Final Rules enact an intrusive and unfair registration requirement that few homeowners can meet. If allowed to stand, the Final Rules will destroy Petitioners’ ability to host STRs in their homes; faced with the loss of essential income, Petitioners will have to take drastic action to make ends meet, including moving out of their home and/or returning to work from retirement.

6. And, if not blocked, the Final Rules will require that visitors have their STRs bookings cancelled and their planned visits to New York upended.

7. Petitioner Rupi Arora is retired and uses her STR income to pay for her ever-increasing property taxes and utility bills. She enjoys hosting STR guests at her home in Forest Hills because they keep her connected to the outside world. In turn, guests like staying at her home while visiting family in Forest Hills or attending a concert at Forest Hills Stadium—there are no hotels nearby.

8. Petitioner Sarah Brezavar and her husband are retired and rely on their STR income to afford to live in the Upper West Side house and community they have called home for over 50 years. Ms. Brezavar loves spending time with her STR guests, who visit from all over the world, and invites them to breakfast in the mornings, gives them walking tours of Central

Park, and provides personalized tips for local restaurants and shops. Guests prefer staying with Ms. Brezavar instead of at a hotel because her home is spacious and gives guests a chance to experience a quieter side of Manhattan.

9. Petitioner Gia Briscoe and her husband live in a Brooklyn brownstone that has been in Ms. Briscoe's family for over a century. She and her husband are musicians and rely on STR income earned through Airbnb to live in their Brooklyn neighborhood, which has become unaffordable to many of their peers. Ms. Briscoe always gets to know her Airbnb guests and has gone out of her way to make them feel at home.

10. The Final Rules require hosts to provide OSE private information regarding their most intimate relationships. Hosts must notify OSE if the number of unrelated residents in their home changes, which means they must tell the government if a romantic partner moves in or if the relationship ends and their partner moves out—information OSE does not need. The Fourth Amendment does not permit the government to demand such personal information simply to host a STR.

11. The Final Rules also require hosts to certify that they understand and comply with a voluminous list of highly-technical building codes and other requirements. But no layperson could truthfully swear that their home complies in every respect; only an engineer or other specialist could even possibly so certify, and only after an extensive inspection.

12. The Final Rules are also affected by legal errors. They violate the Fourth Amendment's prohibition on unreasonable administrative searches, are void for vagueness under the Fourteenth Amendment, and are predicated on an erroneous interpretation of the Multiple Dwelling Law, the Building Code, and the Housing Maintenance Code.

13. Accordingly, Petitioners now bring this challenge pursuant to CPLR Article 78, seeking a declaration that the Final Rules are unlawful and an order preliminarily and permanent enjoining the Final Rules' enforcement to prevent immediate and lasting damage to Petitioners, who depend on the income they earn as Airbnb hosts.

### **PARTIES**

14. Petitioner Rupri Arora is a resident of Queens County, New York.

15. Petitioner Sarah Brezavar is a resident of New York County, New York.

16. Petitioner Gia Briscoe is a resident of Kings County, New York.

17. Respondent the New York City Mayor's Office of Special Enforcement is an agency of the City of New York, created in 2006 by Executive Order 96. OSE is charged with overseeing quality of life issues, including operation of illegal hotels, and coordinating various other City agencies' responses to such issues.

18. Respondent Christian J. Klossner is the Executive Director of OSE and is sued in his official capacity. Upon information and belief, in his official capacity as Executive Director of OSE, Mr. Klossner is responsible for the OSE determinations and actions that are the subject of this proceeding.

19. Respondent the City of New York (the "City") is a municipal corporation organized and existing under the laws of the State of New York.

### **VENUE AND JURISDICTION**

20. This Court, as a court of general jurisdiction, has subject-matter jurisdiction over and is competent to adjudicate the causes of action set forth in this Verified Petition and Complaint.

21. This Court has jurisdiction over Petitioners' claims brought under CPLR Article 78 pursuant to CPLR § 7804(b). This Court has jurisdiction pursuant to CPLR § 3001 to grant declaratory relief and § 6001 to grant injunctive relief.

22. Venue properly lies in this Court pursuant to CPLR § 503, as Respondents are residents of New York County and a substantial part of the events giving rise to the claim arose in New York County.

### **NO PRIOR APPLICATION**

23. No prior application for relief sought herein has been made by Petitioners in this or any other court.

### **FACTS**

#### ***Petitioner Rupi Arora's Short-Term Rental in Forest Hills, Queens***

24. Petitioner Rupi Arora is 74 years old and lives in Forest Hills, Queens.

25. Ms. Arora lives in a house she purchased in 1995. She raised her children her home and continues to live there alone today.

26. Ms. Arora has been retired for approximately 12 years.

27. Five years ago, Ms. Arora started hosting STRs through Airbnb.

28. She started hosting STRs because she was retired, living alone, and wanted to earn extra money to help pay her bills. She also liked the idea of sharing her home with guests.

29. Ms. Arora's house is her personal residence where she lives year-round.

30. Ms. Arora's house is situated on a quiet, tree-lined residential street.

31. The surrounding neighborhood has a small-town feel but is also well-connected to the rest of the city via the Long Island Rail Road and the New York City Subway.

32. Ms. Arora's house is also near Forest Hills Stadium, a former tennis stadium that is now used to host outdoor concerts.

33. Ms. Arora's house has three above-ground floors plus a garden level.

34. The top floor of Ms. Arora's house has one bedroom with one bed, a small kitchen, and a bathroom.

35. Ms. Arora typically meets Airbnb guests in-person when they arrive and gives them a tour of her home.

36. When Ms. Arora first started hosting guests through Airbnb, she had them stay in one of the bedrooms on the second floor.

37. Eventually, Ms. Arora decided to switch to hosting guests primarily on that top floor of her house.

38. Ms. Arora also occasionally rents out the first floor and second floors together through Airbnb, which is where her kitchen, living room, and master bedroom are. She rents out those two floor only four or five times per year, for a total of less than seven weeks.

39. Sometimes, when she rents out the ground floor and second floor, Ms. Arora stays on the garden level. Other times, she will rent out the ground floor and second floor while she is on vacation or visiting her adult children.

40. When guests rent out the ground floor and second floor, they have access to the entire household, except for the closet in the master bedroom, which Ms. Arora keeps locked to safeguard valuables.

41. When guests rent out the ground floor and second floor, Ms. Arora tells them to make themselves at home and use whatever they want, including food in the pantry, refrigerator, and freezer. She also invites her guests to use all other closets, dressers, and wardrobes during their stay.

42. There are no hotels within a mile of Ms. Arora's home in Forest Hills. The closest hotels serve LaGuardia Airport and JFK Airport.

43. Because most of Ms. Arora's Airbnb guests are either visiting friends or family in Forest Hills or the surrounding neighborhoods, or attending a concert at nearby Forest Hills Stadium, they often tell Ms. Arora they prefer to stay with her instead of a faraway hotel.

44. Ms. Arora has hosted many grandparents as Airbnb guests, who stay at Ms. Arora's house while visiting their children and grandchildren in the neighborhood.

45. Ms. Arora's neighbors have never complained to her about her hosting guests through Airbnb.

46. Ms. Arora has owned her home for nearly three decades and has never had to determine how it is classified by the City.

47. Her home is classified as a Group R-3 private dwelling.

***Petitioner Sarah Brezavar's Short-Term Rental on the Upper West Side of Manhattan***

48. Petitioner Sarah Brezavar lives on Manhattan's Upper West Side.

49. Ms. Brezavar and her husband live in a house they purchased in 1972. It is their personal residence and they live there full-time.

50. Ms. Brezavar is 81 years old. Her husband is 86 years old. They are both trained as architects and retired from their shared architecture practice.

51. Ms. Brezavar started hosting STRs at her house through Airbnb five years ago.

52. She decided to start hosting through Airbnb because, as a retiree, she needed the extra income to pay for her living expenses, mortgage, and the upkeep of her house.

53. Ms. Brezavar also started hosting through Airbnb because she liked the idea of opening her home to guests from around the world, which she finds exciting and rewarding.

54. Ms. Brezavar's house is a three-story building. She hosts Airbnb guests on the second floor, which is part of her home.

55. There are no locks between the area for Airbnb guests and Ms. Brezavar's bedroom and other living spaces. There is also no kitchen or living room on the second floor—guests instead share those spaces with Ms. Brezavar downstairs.

56. When Ms. Brezavar is not hosting Airbnb guests on the second floor, she and her husband often use that floor to host visiting family and friends.

57. The third floor of Ms. Brezavar's house contains two small one-bedroom apartment. These apartments each have a long-term tenant who pays Ms. Brezavar rent.

58. Because Ms. Brezavar has three units in her house, she understands that her house qualifies as a multiple dwelling under the Multiple Dwelling Law.

59. Ms. Brezavar treats her Airbnb guests like her own personal guests. They have access to her entire home, including her backyard, where many of her guests like to sit and enjoy their morning coffee.

60. Ms. Brezavar meets her guests in-person when they arrive for the first time and gives them a tour of her house.

61. Ms. Brezavar likes to get to know her guests and find out what they are interested in so she can provide them with personal recommendations for local restaurants and shopping.

62. Ms. Brezavar sometimes takes her Airbnb guests on walks in nearby Central Park.

63. She once took her Airbnb guests to the Metropolitan Museum of Art, where she showed them some of her favorite exhibitions.

64. Ms. Brezavar invites all guests to join her and her husband for breakfast in the morning.



65. Ms. Brezavar's guests come from all over the world. She has hosted guests from Sweden, Saudi Arabia, Italy, and beyond.

66. Many of Ms. Brezavar's guests stay at her house because the location is convenient for visiting family members who live Uptown, including students who attend Columbia University, which is nearby.

67. For example, Ms. Brezavar has a repeat guest who likes to stay at her home while she is visiting her elderly mother, who also lives on the Upper West Side.

68. In addition, many of Ms. Brezavar's guests like to stay at her house because it is a quiet and peaceful place to stay after spending the day touring the City.

69. Many guests have told Ms. Brezavar that they prefer to stay with her instead of at a hotel because the bedrooms in her home are much larger than the average Manhattan hotel room.

***Petitioner Gia Briscoe's Short-Term Rental in Cobble Hill, Brooklyn***

70. Petitioner Gia Briscoe lives in Cobble Hill, Brooklyn.

71. Ms. Briscoe's Brooklyn brownstone home has been in her family for over a century.

72. She has owned her home since her mother died in 2015.

73. Ms. Briscoe's house is her personal residence. She lives there full-time with her husband.

74. Ms. Briscoe and her husband both work as professional musicians. They have been in a band together for 24 years and perform at casinos, music clubs, weddings, and private events.

75. Ms. Briscoe started hosting STRs at her home through Airbnb four years ago.

76. She decided to start hosting through Airbnb because she wanted to pay it forward and open her home to guests other than her friends and family.

77. Ms. Briscoe has always made sure to list her home on Airbnb at a reasonable price, so it is accessible to all sorts of visitors.

78. In addition, as musicians, Ms. Briscoe and her husband's income is limited and variable. Ms. Briscoe was interested in renting through Airbnb so she could use the extra income to help with the daily, increasing cost of living in New York.

79. Ms. Briscoe's house has four floors, including the garden level, the parlor floor, and two upper levels. The garden level is on the same level as the backyard, which can be accessed by an internal stairway, which leads up to the upper floors of the house.

80. Ms. Briscoe and her husband often use the garden level. For example, they use the bathroom and kitchen on that floor when they are barbecuing or hosting friends in the backyard. They also like to use the large TV on that floor for movie nights.

81. Ms. Briscoe and her husband also use the garden level to host friends and family when they are visiting from out of town, especially around the holidays. On average, they have friends or family stay on the garden level ten times per year.

82. When she is not hosting friends or family on the garden level, Ms. Briscoe hosts Airbnb guests there.

83. Ms. Briscoe's Airbnb guests can access the backyard through the garden level hallway.

84. Her guests can lock the door between the garden level and the hallway if they want to. Ms. Briscoe locks one cabinet on the garden level, for security, where she keeps cleaning supplies and other necessities.

85. Ms. Briscoe and her husband enjoy getting acquainted with their Airbnb guests. Either Ms. Briscoe or her husband always meet their guests upon their arrival, so they can show their guests their home and answer any questions they might have.

86. Many of Ms. Briscoe's Airbnb guests stay at her home while they are visiting family. Many others stay with her while visiting New York City as tourists.

87. After OSE's Proposed Rules were announced, Ms. Briscoe tried to limit her listing to 30 days or more to see if she could get any bookings. She received very few bookings since then.

88. When the Proposed Rules were first announced, Ms. Briscoe and her husband attended two lengthy public comment sessions and even spoke at the first session.

89. At the public comment session, Ms. Briscoe and her husband expressed that they thought the Proposed Rules were an overreach by the City, which would unfairly limit how they can use their own private home.

90. Ms. Briscoe was frustrated that no one from the City seemed to acknowledge her comment and the many similar comments from other hosts expressing concerns about the rules.

***Existing Laws and Regulations Concerning Short-Term Rentals in New York City***

91. STRs in New York City are regulated by New York State and New York City.

92. Under New York State law, STRs of class A multiple dwellings for under 30 days are prohibited, with two exceptions. *See* N.Y. Multiple Dwelling Law ("MDL") § 4-7. MDL §4-8(a)(1)(A) allows STRs for under 30 days in class A dwellings for "other natural persons living within the household of the permanent occupant such as . . . lawful boarders, roomers or lodgers." Similarly, MDL § 4-8(a)(1)(B) allows STRs for under 30 days in class A dwellings for

“incidental and occasional occupancy . . . by other natural persons when the permanent occupants are temporarily absent for personal reasons.”

93. The MDL applies to “a dwelling which is either rented, leased, let or hired out, to be occupied, or is occupied as the residence or home of three or more families living independently of each other.” *Id.*

94. Multiple dwellings covered by the MDL are split into two categories: class A dwellings, which are “occupied for permanent residence purposes,” MDL § 4-8(a), and class B dwellings, such as hotels, which are “occupied, as a rule transiently, as the more or less temporary abode of individuals or families who are lodged with or without meals,” MDL § 4-9.

95. The MDL does not apply to private dwellings, including single-family and two-family homes.

96. The City’s Housing Maintenance Code (“HMC”) applies to all dwellings in New York City, including private dwellings. N.Y.C. Admin. Cod. §§ 27-2003, 27-2004(6).

97. The Building Code also governs all “buildings and structures, and spaces therein.” Building Code § 301.1.

98. Buildings constructed in New York City after 1961 are issued certificates of occupancy, which identify the building’s occupancy group classification under the Building Code.

99. Residential buildings are classified as one of three occupancy groups: Group R-1, Group R-2, or Group R-3.

100. A Group R-1 occupancy covers “[r]esidential buildings or spaces occupied, *as a rule*, transiently, for a period less than one month, as the more or less temporary abode of

individuals or families who are lodged with or without meals.” N.Y.C. Building Code (“B.C.”) § 310.1.1(1) (emphasis added).

101. A Group R-2 occupancy covers “buildings or portions” of buildings that “contain[] sleeping units or more than two dwelling units that are occupied for permanent resident purposes.” B.C. § 310.1.2.

102. A Group R-3 occupancy “buildings or portions” of buildings that “contain[] no more than 2 dwelling units, occupied, *as a rule*, for shelter and sleeping accommodation on a long-term basis for a month or more at a time.” B.C. § 310.1.3 (emphasis added).

### ***Local Law 18 and OSE’s Final Rules Concerning STRs in New York City***

#### Local Law 18

103. In January 2022, the New York City Council adopted Local Law 18, also known as the Short-Term Rental Registration Law, which, among other things, requires STR hosts to register with OSE in order to operate STRs at their homes for fewer than 30 consecutive days.

104. Most of the provisions of Local Law became effective on January 9, 2023. The penalty provisions of the Law were set to go into effect on May 9, 2023.

105. OSE has said on its website that it “will not begin enforcement of [Local Law 18’s] requirements until July 2023.”<sup>1</sup>

#### The OSE Rulemaking

106. On November 4, 2022, OSE promulgated proposed rules purportedly implementing Local Law 18 (the “Proposed Rules”).

---

<sup>1</sup> See *Registration Law: Short-Term Rental Registration and Verification by Booking Services*, NYC Office of Special Enforcement, <https://www.nyc.gov/site/specialenforcement/registration-law/registration.page> (last accessed May 31, 2023).

107. OSE invited the public to comment on the Proposed Rules by submitting a written comment or speaking at a public hearing.

108. Petitioner Brezavar submitted a written comment on the Proposed Rules on December 5, 2022. *See* June 1, 2023 Affirmation of Debra L. Greenberger (“Greenberger Aff.”) Ex. A.

109. On December 5, 2022, OSE held a public hearing regarding the Proposed Rules, where many STR hosts spoke, including Petitioner Briscoe and her husband.

110. OSE then extended the public comment period and held a second hearing on January 11, 2023, where members of the public testified. Petitioner Briscoe and her husband also attended that hearing.

111. On February 3, 2023, OSE adopted the final version of the Final Rules purportedly implementing Local Law 18. *See* Greenberger Aff. Ex. C (complete copy of the Final Rules).

112. The Final Rules became effective on March 5, 2023, and include, among other things, the following provisions.

The Final Rules’ Arcane Certification Requirements

113. Section 21-03(8) of the Final Rules states:

As part of the application process, an applicant shall be required to certify that they understand and agree to comply with applicable provisions of the zoning resolution, multiple dwelling law, housing maintenance code, New York city construction codes and other laws and rules relating to the short-term rental of dwelling units in private dwellings and class A multiple dwellings, or in class A dwelling units within mixed use buildings including but not limited to:

- a. New York City Administrative Code, Title 28, Articles 118, 210, 301, 701 (section BC 310);
- b. New York City Administrative Code, Title 27, Chapter 1, Subchapter 3, Article 18;

- c. New York City Building Code § 310;
- d. New York City Housing Maintenance Code §§ 27-2004, 2057-2088; and
- e. Multiple Dwelling Law §§ 4(8), 121, 248.

114. OSE's online application for STR hosts similarly requires host applicants to certify as "true and accurate" that they:

[H]ave reviewed The Short-Term Rental Registration Law (Local Law 18 of 2022) and the implementing regulations (Chapter 21 of Title 43 of the Rules of the City of New York), including (Chapter 21 of Title 43 of the Rules of the City of New York), including section 21-10, entitled "Registered host requirements," and agree to abide by all requirements.

115. The online application further requires applicants to certify that they:

[U]nderstand and agree to comply with applicable provisions of the zoning resolution, multiple dwelling law, housing maintenance code, New York city construction codes and other laws and rules relating to the short-term rental of dwelling units in private dwellings and class A multiple dwellings, or in class A dwelling units within mixed use buildings including, but not limited to, the following sections of law . . . .

116. The online application then provides a bulleted list of the same provisions of the Administrative Code, Building Code, HMC, and MDL that are listed in Section 21-03(8) of the Final Rules.

117. As a result, the Final Rules require hosts to certify that they understand and agree to comply with a voluminous and detailed series of codes as well as an unbounded, undefined body of codes, laws, and rules (using the "included but not limited to" language) related to STRs.

118. Nor can a host know at the time they would certify in the application that they "agree to abide by all requirements" whether, under their facts, OSE would agree that they have rebutted the presumption that no common household exists.

### The Final Rules' Onerous Personal Information Disclosure Requirements

119. Under Section 21-03(3) of the Final Rules, all host applicants are required to provide OSE “[t]he number of individuals not related by blood, adoption, legal guardianship, marriage or domestic partnership that reside with the registrant in the unit” (hereafter collectively referred to as “Unrelated Residents”).

120. If that information about Unrelated Residents changes while a host applicant’s application is being reviewed by OSE, the Final Rules require the applicant to “notify [OSE] and provide updated information.” Final Rules § 21-03(17).

121. If, after a host’s application is approved, if number of Unrelated Residents changes—i.e., if someone passes away or moves in or out—then, “within 15 business days of the change,” Final Rules § 21-06(2), the host must “submit a request to [OSE] to amend [their] registration.” Final Rules § 21-06(1).

### The Final Rules' Prohibition on Unhosted Short-Term Rentals

122. The Final Rules also prohibit “unhosted” STRs.

123. Section 21-08(8) of the Final Rules states:

[OSE] shall not approve a registration or renewal application that includes any listing or listing identifier that advertises illegal occupancy, including listings that offer or appear to offer the unhosted rental of an entire unit . . . .

124. The term “unhosted” is not defined in the Rules.

### The Final Rules' Expanded Rebuttable Common Household Presumption

125. Finally, Section 21-10(14) of the Final Rules provides:

A registered host must maintain a common household with a rentee. Pursuant to Housing Maintenance Code § 27-2004, a common household is deemed to exist if every member of the household including the rentee has access to all parts of the dwelling unit, and lack of access to all parts of the dwelling unit establishes a rebuttable presumption that no common household exists.



126. Section 21-10(14) of the Final Rules purports to be promulgated pursuant to HMC § 27-2004. However, Section 21-10(14) misquotes HMC § 27-2004 and thereby changes the statute's meaning and effect.

127. HMC § 27-2004 states:

A common household is deemed to exist if every member of the family has access to all parts of the dwelling unit. Lack of access to all parts of the dwelling unit establishes a rebuttable presumption that no common household exists.

128. Accordingly, in promulgating Section 21-10(14) of the Final Rules, OSE changed HMC § 27-2004's requirement that "every *member of the family*" have access to entire dwelling to a more broad requirement that "every *member of the household including the rentee*" have access to the entire dwelling.

***Petitioners Cannot Reasonably Be Expected to Certify They "Understand" and "Agree to Comply With" Arcane Provisions of the Building Code and Other Laws***

129. Ms. Arora has reviewed the Final Rules but does not understand which City rules, laws, and codes she is supposed to comply with as an STR host.

130. Ms. Arora has read some of the requirements in the Building Code but she finds the rules complicated and unclear. Her best efforts notwithstanding, she does not understand how the many rules in the Building Code apply to her home.

131. For example, Ms. Arora's home has 51 windows and she does not understand how they fit into the many City rules governing light and ventilation.

132. Ms. Arora is not comfortable certifying that she understands and will comply with a long list of rules she does not understand.

133. To better understand the Final Rules, Ms. Arora communicated with other Airbnb hosts in New York City, but they seemed to be as confused about the new rules and requirements as she is.

134. Ms. Brezavar is familiar with the Final Rules regarding STRs and the STR host application on OSE's website.

135. Ms. Brezavar spent her entire career working as an architect in New York City. She is therefore familiar with the Building Code and other laws and regulations governing housing design and construction in New York City.

136. Even as a trained architect, Ms. Brezavar does not understand how she can accurately certify that her house will comply with all of the complex local laws cited in the Final Rules, in addition to every other theoretically applicable unspecified law and rule.

137. Ms. Brezavar is not comfortable certifying that she understands and will comply with the long list of rules cited in the Final Rules, as well as other unspecified rules.

138. Ms. Briscoe has also reviewed and is familiar with the Final Rules.

139. She understands some of the rules, but others are too complicated for her to follow.

140. Because Ms. Briscoe's house is over 120 years old and she is not trained as an architect or engineer, she does not understand many of the more technical requirements in the Building Code and other laws that she is potentially supposed to understand and comply with as an Airbnb host.

141. Ms. Briscoe is not comfortable certifying that she can comply with a long list of rules she does not understand.

***If Not Enjoined, the Final Rules Will Cause Petitioners to Suffer Immediate and Lasting Irreparable Harm***

142. Each Petitioner relies on their Airbnb STR income to make ends meet in New York City and will suffer immediate and lasting irreparable harm if the Final Rules are enforced.

143. Ms. Arora relies on the modest income she earns as an Airbnb host now that she is no longer working. Her Airbnb income makes it possible for her to spend time with her children, maintain her home, and enjoy her retirement.

144. Ms. Arora's Airbnb income also helps her pay her property taxes and utility bills, which have been increasing.

145. If Ms. Arora did not have her Airbnb income, she would likely have to seek some form of public assistance or governmental program to help pay her utility bills.

146. If she is no longer able to earn money as an Airbnb host, Ms. Arora will likely have to find a part-time job. At 74 years old, leaving retirement and reentering the workforce would upend Ms. Arora's life.

147. Similarly, if Ms. Brezavar can no longer host STRs in her home, she and her husband will no longer be able to afford to live in their house and will be forced to leave the place they have called home for over 50 years, as they are not comfortable taking on long-term renters in a common household.

148. If Ms. Brezavar has to sell her home, it will likely cause housing to become even more scarce in her neighborhood.

149. Typically, when a three-family home like Ms. Brezavar's is sold in her neighborhood, it is purchased by developers who convert the house into a single-family mansion, and then sell or rent the house to a wealthy buyer or tenant.

150. In recent years, several homes like Ms. Brezavar's have been "flipped" like this in her neighborhood. If the same happens to Ms. Brezavar's house, her two long-term tenants will lose their homes and the Upper West Side will lose two affordable one-bedroom apartments.

151. If the Final Rules are enforced, Ms. Briscoe would immediately be required to cancel future Airbnb bookings, which would cause her and her husband to lose the supplemental income that makes it possible for them to live in New York.

152. Because Ms. Briscoe would not feel comfortable having a long-term renter living on the garden level of her home, no new housing would be created if the Final Rules are enforced and Ms. Briscoe is forced to stop hosting STRs.

### **CLAIMS FOR RELIEF**

#### **FIRST CAUSE OF ACTION**

Arbitrary and Capricious Agency Determination  
(For Judgment Pursuant to CPLR §§ 7803(3) and 7806)

153. Petitioners repeat and reallege the allegations set forth in the preceding paragraphs as if set forth herein.

154. The personal information disclosure requirements contained in Sections 21-03(3), 21-03(17), and 21-06(1) of the Final Rules are arbitrary and capricious because OSE has no rational basis to compel hosts and host applicants to provide OSE private information concerning the number of Unrelated Residents living in hosts' homes.

155. The Final Rules must therefore be preliminarily and permanently enjoined as arbitrary and capricious under CPLR § 7803(3).

156. Petitioners are entitled to a judgment under CPLR § 7806 vacating and annulling Sections 21-03(3), 21-03(17), and 21-06(1) of the Final Rules.

#### **SECOND CAUSE OF ACTION**

Agency Determination Affected by an Error of Law  
N.Y. Multiple Dwelling Law § 4-7, Building Code § 310  
(For Judgment Pursuant to CPLR §§ 7803(3) and 7806)

157. Petitioners repeat and reallege the allegations set forth in the preceding paragraphs as if set forth herein.

158. The prohibitions on unhosted STRs contained in Section 21-08(8) of the Final Rules are affected by an error of law because they are contrary to MDL § 4-7 and Building Code § 310 which, when properly interpreted consistent with New York law, permit unhosted STRs by hosts who use their homes primarily as their permanent residence.

159. The Final Rules must therefore be preliminarily and permanently enjoined as affected by an error of law under CPLR § 7803(3).

160. Petitioners are entitled to a judgment under CPLR § 7806 vacating and annulling the Final Rules.

### **THIRD CAUSE OF ACTION**

Agency Determination Affected by an Error of Law  
N.Y. Housing Maintenance Code § 27-2004  
(For Judgment Pursuant to CPLR §§ 7803(3) and 7806)

161. Petitioners repeat and reallege the allegations set forth in the preceding paragraphs as if set forth herein.

162. Section 21-10(14) of the Final Rules, which is promulgated pursuant to HMC § 27-2004, misquotes and expands HMC § 27-2004 to mandate that “every member of the *household including the rentee*” have access to all parts of the dwelling unit in order to demonstrate that a host applicant’s home is a common household.

163. Section 21-10(14) is contrary to and expands its statutory source of rulemaking authority, HMC § 27-2004, which states that a common household exists “if every member of the *family* has access to all parts of the dwelling unit.”

164. The Final Rules must therefore be preliminarily and permanently enjoined as affected by an error of law under CPLR § 7803(3).

165. Petitioners are entitled to a judgment under CPLR § 7806 vacating and annulling the Final Rules.

**FOURTH CAUSE OF ACTION**Agency Determination Affected by an Error of Law  
Fourth Amendment – Unreasonable Administrative Search  
(For Judgment Pursuant to CPLR §§ 7803(3) and 7806)

166. Petitioners repeat and reallege the allegations set forth in the preceding paragraphs as if set forth herein.

167. The Fourth Amendment provides, in relevant part: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV.

168. The Fourth Amendment protects individuals from unreasonable governmental inspections of their private homes, including governmental demands for information and records.

169. Pursuant to this reasonableness requirement, searches conducted outside the judicial process, without prior approval by a court, are per se unreasonable subject to specific exceptions.

170. Where a municipal rule requires an applicant to consent to an administrative search in order to register or obtain a permit, that rule constitutes an unreasonable search because the applicant is forced to consent to the search under threat of fines or denial of registration.

171. Here, the Final Rules unreasonably require host applicants to consent to a warrantless administrative search of their private personal information: Section 21-03(3) requires host applicants to provide OSE the number of Unrelated Residents in their home; Section 21-03(17) requires host applicants to update their registration if that number changes while their application is pending; and Section 21-03(17) requires host applicants to update that information yet again if the number changes after their application is approved.

172. The net effect of these requirements is a regime where STR hosts have to keep OSE apprised of the status of their most intimate relationships.

173. The Final Rules must therefore be preliminarily and permanently enjoined as affected by an error of law under CPLR § 7803(3).

174. Petitioners are entitled to a judgment under CPLR § 7806 vacating and annulling the Final Rules.

**FIFTH CAUSE OF ACTION**

Agency Determination Affected by an Error of Law  
Fourteenth Amendment – Void for Vagueness  
(For Judgment Pursuant to CPLR §§ 7803(3) and 7806)

175. Petitioners repeat and reallege the allegations set forth in the preceding paragraphs as if set forth herein.

176. Under the Fourteenth Amendment’s Due Process Clause, no State shall “deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV.

177. A statute or rule is void for vagueness pursuant to the Due Process Clause of the Fourteenth Amendment if it either: (1) fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits; or (2) fails to present an ordinary person with sufficient notice of what conduct is prohibited or proscribed.

178. The certification requirements in Section 21-03(8) of the Final Rules are facially unconstitutionally vague for the following reasons: (1) they contain catch-all provisions which render them open-ended, thereby making it impossible for a host applicant to comprehend the precise conduct that is prohibited; (2) they mandate that host applicants digest thousands of pages of arcane legal requirements, which they must “understand and comply” with; and (3) the contents of the laws, codes, and rules listed in the Final Rules are indecipherable to the average host applicant because each contains specialized jargon, imposes complex requirements within

rules with multiple subparts, and incorporates by reference definitions and rules contained in other laws, codes, and rules.

179. Section 21-10(14) of the Final Rules, which provides a rebuttable presumption that no common household exists if every member of the family does not have access to all parts of the dwelling unit, is also unconstitutionally vague. It is facially void for vagueness because it provides: (1) no standards for host applicants to certify that they rebut the presumption that dwellings with lockable interior doors are not a common household, and (2) no way for hosts to determine—at the time of certification—whether they can rebut the presumption on their specific facts.

180. The Final Rules must therefore be preliminarily and permanently enjoined as affected by an error of law under CPLR § 7803(3).

181. Petitioners are entitled to a judgment under CPLR § 7806 vacating and annulling S the Final Rules.

**SIXTH CAUSE OF ACTION**

Agency Determination Affected by an Error of Law  
Local Law 18 and the Final Rules Exceed the City’s Police Power  
(For Judgment and Injunction Pursuant to CPLR §§ 7803(3), 6001)

182. Petitioners repeat and reallege the allegations set forth in the preceding paragraphs as if set forth herein.

183. Local Law 18 constitutes a legislative action that relates to the affairs or government of the City of New York because it amends the New York City Administrative Code.

184. The Final Rules were promulgated pursuant to the authority vested in the City of New York and delegated by the City to OSE.



185. Local Law 18 and the Final Rules exceed the City’s police powers by imposing a de facto ban on hosts’ participation in STRs, an otherwise legitimate business that is permitted under New York law, by imposing onerous requirements—including vague and arcane certification requirements—disguised as a legitimate registration application.

186. Because Local Law 18 and the Final Rules that implement it do not have any reasonable relationship to the promotion of health, comfort, safety, and welfare of society, both unlawfully exceed the police power vested in the City of New York pursuant to the Home Rule Clause of the New York Constitution and the New York Municipal Home Rule Law.

187. Pursuant to CPLR § 7803(3) and § 6001 Petitioners are entitled to a declaration that Local Law 18 and the Final Rules exceed the City’s police powers under New York law, and an order preliminarily and permanently enjoining the enforcement of the Local Law 18 and Final Rules.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioners respectfully request that the Court:

- a) Declare that the provisions of the Final Rules addressed herein are arbitrary and capricious and affected by an error of law;
- b) Declare that Local Law 18 and the Final Rules were enacted and promulgated in excess of the City’s police powers;
- c) Preliminary and permanently enjoin Respondents from taking any actions to implements and/or enforce any provision of the Final Rules against Petitioners;
- d) Award Petitioners costs, fees, and disbursements incurred in connection with these proceedings; and
- e) Grant such other and further relief as this Court deems just and proper.

Dated: June 1, 2023  
New York, New York

EMERY CELLI BRINCKERHOFF  
ABADY WARD & MAAZEL LLP

/s/

---

Debra L. Greenberger  
Nick Bourland

600 Fifth Avenue, 10<sup>th</sup> Floor  
New York, New York 10020

(212) 763-5000

*Attorneys for Petitioners*

SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY

RUPI ARORA, SARAH BREZAVAR,  
and GIA BRISCOE,

*Petitioners,*

-against-

NEW YORK CITY MAYOR'S OFFICE OF  
SPECIAL ENFORCEMENT, CHRISTIAN J.  
KLOSSNER, in his official capacity as Executive  
Director of the Mayor's Office of Special  
Enforcement; and THE CITY OF NEW YORK

*Respondents.*

Index No.

**VERIFICATION**

State of New York            )  
  ) ss:  
County of Queens            )

RUPI ARORA, duly sworn, deposes and says:

I am one of the Petitioners in this action/proceeding. I have read the attached Verified  
Petition, and hereby affirm that the facts set forth in the Verified Petition pertaining to me are  
true to the best of my knowledge.

*Rupi Arora*  
\_\_\_\_\_  
RUPI ARORA

Sworn to before me this May 31, 2023



*Teresa Mauro*  
\_\_\_\_\_  
NOTARY PUBLIC

**Teresa Mauro**  
**Notary Public State of New York**  
**No 01MA4523891**  
**Qualified in Queens County**  
**Commission Expires 03 / 30 / 2026**  
2026

SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY

RUPI ARORA, SARAH BREZAVAR,  
and GIA BRISCOE,

*Petitioners,*

-against-

NEW YORK CITY MAYOR'S OFFICE OF  
SPECIAL ENFORCEMENT, CHRISTIAN J.  
KLOSSNER, in his official capacity as Executive  
Director of the Mayor's Office of Special  
Enforcement; and THE CITY OF NEW YORK

*Respondents.*

Index No.

**VERIFICATION**

State of New York            )  
  ) ss:  
County of New York         )

SARAH BREZAVAR, duly sworn, deposes and says:

I am one of the Petitioners in this action/proceeding. I have read the attached Verified  
Petition, and hereby affirm that the facts set forth in the Verified Petition pertaining to me are  
true to the best of my knowledge.

*Sarah Jane Brezavar*  
SARAH BREZAVAR

Sworn to before me this May 31, 2023

*[Signature]*  
NOTARY PUBLIC

JOSHUA E DAVILA  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01DA6397671  
Qualified in Bronx County  
My Commission Expires 09-09-2023

SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY

RUPI ARORA, SARAH BREZAVAR,  
and GIA BRISCOE,  
*Petitioners,*

Index No.

-against-

**VERIFICATION**

NEW YORK CITY MAYOR'S OFFICE OF SPECIAL  
ENFORCEMENT, CHRISTIAN J. KLOSSNER, in his  
official capacity as Executive Director of the Mayor's  
Office of Special Enforcement; and THE CITY OF  
NEW YORK

*Respondents.*

State of New York )

) ss:

County of ~~New York~~ )

*Kings*

GIA BRISCOE, duly sworn, deposes and says:

I am one of the Petitioners in this action/proceeding. I have read the attached Verified  
Petition, and hereby affirm that the facts set forth in the Verified Petition pertaining to me are  
true to the best of my knowledge.

*Gia Briscoe*  
GIA  
BRISCOE

Sworn to before me this May 31<sup>st</sup>, 2023

*Nathanael Pantia*  
NOTARY PUBLIC

NATHANAEL PANTIA  
Notary Public, State of New York  
No. 01PA6276645  
Qualified in Nassau County  
Commission Expires February 19, 2025