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11 ATTORNEYS FOR DEFENDANT CITY OF HOLBROOK

12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

13 **IN AND FOR THE COUNTY OF NAVAJO**

14 ANIL PATEL, an individual; and
15 HOLBROOK MOTEL INVESTMENTS,
16 INC., an Arizona corporation,

17 Plaintiffs,

18 vs.

19 CITY OF HOLBROOK, an Arizona
20 municipal corporation,

21 Defendant.

NO. S0900CV202400037

**DEFENDANT CITY OF HOLBROOK'S
ANSWER TO PLAINTIFFS'
COMPLAINT**

(Assigned to the Honorable Melinda K.
Hardy)

22 COMES NOW, Defendant City of Holbrook ("Defendant" hereinafter), by and
23 through undersigned counsel, for its Answer to Plaintiffs' Complaint, and hereby admits,
24 denies and alleges as follows:

25 **INTRODUCTION**

26 1. Defendant denies the allegations set forth in paragraph 1 of Plaintiffs'
Complaint.

2. Defendant denies the allegations set forth in paragraph 2 of Plaintiffs'
Complaint.

1 3. Defendant is without sufficient knowledge or information to either admit or
2 deny the allegations set forth in paragraph 3 of Plaintiffs' Complaint and therefore denies
3 same.

4 **PARTIES, JURISDICTION, AND VENUE**

5 4. Defendant is without sufficient knowledge or information to either admit or
6 deny the allegations set forth in paragraph 4 of Plaintiffs' Complaint and therefore denies
7 same.

8 5. Defendant is without sufficient knowledge or information to either admit or
9 deny the allegations set forth in paragraph 5 of Plaintiffs' Complaint and therefore denies
10 same.

11 6. Defendant admits the allegations set forth in paragraph 6 of Plaintiffs'
12 Complaint.

13 7. Defendant admits the allegations set forth in paragraph 7 of Plaintiffs'
14 Complaint.

15 8. Defendant is without sufficient knowledge or information to either admit or
16 deny the allegations set forth in paragraph 8 of Plaintiffs' Complaint and therefore denies
17 same.

18 9. Defendant is without sufficient knowledge or information to either admit or
19 deny the allegations set forth in paragraph 9 of Plaintiffs' Complaint and therefore denies
20 same.

21 10. Defendant is without sufficient knowledge or information to either admit or
22 deny the allegations set forth in paragraph 10 of Plaintiffs' Complaint and therefore denies
23 same.

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FACTUAL BACKGROUND

11. Defendant admits the allegations set forth in paragraph 11 of Plaintiffs' Complaint.

12. Defendant admits the allegations set forth in paragraph 12 of Plaintiffs' Complaint.

13. Defendant admits the allegations set forth in paragraph 13 of Plaintiffs' Complaint, however, Defendant asserts that under any circumstances a Conditional Use Permit (CUP) was required.

14. Defendant is without sufficient knowledge or information to either admit or deny the allegations set forth in paragraph 14 of Plaintiffs' Complaint and therefore denies same.

15. Defendant denies the allegations set forth in paragraph 15 of Plaintiffs' Complaint.

16. Defendant is without sufficient knowledge or information to either admit or deny the allegations set forth in paragraph 16 of Plaintiffs' Complaint and therefore denies same.

17. Defendant admits the allegations set forth in paragraph 17 of Plaintiffs' Complaint.

18. Defendant is without sufficient knowledge or information to either admit or deny the allegations set forth in paragraph 18 of Plaintiffs' Complaint and therefore denies same.

19. Defendant admits the allegations set forth in paragraph 19 of Plaintiffs' Complaint.

20. Defendant denies the allegations set forth in paragraph 20 of Plaintiffs' Complaint.

1 21. Defendant denies the allegations set forth in paragraph 21 of Plaintiffs'
2 Complaint.

3 22. Defendant admits the allegations set forth in paragraph 22 of Plaintiffs'
4 Complaint.

5 23. Defendant admits the allegations set forth in paragraph 23 of Plaintiffs'
6 Complaint.

7 24. Defendant denies the allegations set forth in paragraph 24 of Plaintiffs'
8 Complaint.

9 25. Defendant admits the allegations set forth in paragraph 25 of Plaintiffs'
10 Complaint.

11 26. Defendant is without sufficient knowledge or information to either admit or
12 deny the allegations set forth in paragraph 26 of Plaintiffs' Complaint and therefore denies
13 same.

14 27. Defendant denies the allegations set forth in paragraph 27 of Plaintiffs'
15 Complaint.

16 28. Defendant denies the allegations set forth in paragraph 28 of Plaintiffs'
17 Complaint.

18 29. Defendant is without sufficient knowledge or information to either admit or
19 deny the allegations set forth in paragraph 29 of Plaintiffs' Complaint and therefore denies
20 same.

21 30. Defendant denies the allegations set forth in paragraph 30 of Plaintiffs'
22 Complaint.

23 31. Defendant denies the allegations set forth in paragraph 31 of Plaintiffs'
24 Complaint.

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Count 1:

Taking Without Just Compensation, Diminution in Value

(A.R.S. § 12-1134)

32. Defendant incorporates by reference all previous admissions, denials and allegations set forth herein above.

33. Defendant denies the allegations set forth in paragraph 33 of Plaintiffs' Complaint.

34. Defendant denies the allegations set forth in paragraph 34 of Plaintiffs' Complaint.

35. Defendant denies the allegations set forth in paragraph 35 of Plaintiffs' Complaint.

36. Defendant denies the allegations set forth in paragraph 36 of Plaintiffs' Complaint.

37. Defendant is without sufficient knowledge or information to either admit or deny the allegations set forth in paragraph 37 of Plaintiffs' Complaint and therefore denies same.

38. Defendant is without sufficient knowledge or information to either admit or deny the allegations set forth in paragraph 38 of Plaintiffs' Complaint and therefore denies same.

39. Defendant is without sufficient knowledge or information to either admit or deny the allegations set forth in paragraph 39 of Plaintiffs' Complaint and therefore denies same.

40. Defendant is without sufficient knowledge or information to either admit or deny the allegations set forth in paragraph 40 of Plaintiffs' Complaint and therefore denies same.

41. Defendant denies the allegations set forth in paragraph 41 of Plaintiffs' Complaint.

Count 2

Declaratory Relief

(A.R.S. § 12-1831 *et seq.*)

42. Defendant incorporates by reference all previous admissions, denials and allegations set forth herein above.

43. Defendant is without sufficient knowledge or information to either admit or deny the allegations set forth in paragraph 43 of Plaintiffs' Complaint and therefore denies same.

44. Defendant denies the allegations set forth in paragraph 44 of Plaintiffs' Complaint.

45. Defendant denies the allegations set forth in paragraph 45 of Plaintiffs' Complaint.

AFFIRMATIVE DEFENSES

1. Defendant denies each and every allegation not herein admitted above.

2. Plaintiffs' Complaint and each and every portion thereof, fails to state a claim upon which relief can be granted.

3. Plaintiffs' Complaint is barred by the applicable statute of limitations and statute of repose.

4. By virtue of Plaintiffs' own acts, representations and conduct, Plaintiffs are estopped from asserting any claims against Defendant.

5. Plaintiffs' Complaint is barred by the doctrine of laches, in that Plaintiffs have unreasonably delayed in asserting their claims against Defendant.

6. Plaintiffs have failed to make reasonable efforts to mitigate their damages, if any, in whole or in part.

7. Upon information and belief, Defendant affirmatively asserts all the immunities available under A.R.S. § 12-820.01-.05, as they may apply.

8. Upon information and belief, Defendant affirmatively asserts all the exceptions available under A.R.S. § 12-1134(B), as they may apply.

9. Plaintiffs did not suffer the loss or reduction of an existing right and thus A.R.S. § 12-1134 does not apply.

10. Any claimed nonconforming right or grandfathered right or use had not vested as of the date the ordinance passed.

11. Defendant hereby reserves its right to plead further affirmative defenses including, but not limited to, those affirmative defenses set forth in Rule 8(c) and Rule 12(b), Arizona Rules

WHEREFORE, having fully answered Plaintiffs' Complaint, Defendant prays:

A. That the same be dismissed and that Plaintiffs take nothing thereby;

B. For Defendant's lawful costs incurred herein;

C. For Defendant's reasonable attorneys' fees incurred herein; and

D. For such other and further relief as the Court deems just and proper.

DATED this 29th day of March, 2024.

DOYLE HERNANDEZ MILLAM

By /s/ William H. Doyle

William H. Doyle

Brandon D. Millam

11811 N. Tatum Blvd., Suite 2900

Phoenix, Arizona 85028

Attorneys for Defendant City of Holbrook

1 **ELECTRONICALLY** filed this 29th day
2 of March, 2024 and COPY e-delivered to:

3 The Honorable Melinda K. Hardy
4 Navajo County Superior Court

5 **COPY** of the foregoing emailed
6 on this 29th day of March, 2024 to:

7 Jonathan Riches, Esq.

8 Stacy Skankey, Esq.

9 **SCHARF NORTON CENTER FOR**
10 **CONSTITUTIONAL LITIGATION AT**
11 **THE GOLDWATER INSTITUTE**

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13 Phoenix, AZ 85004

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15 *Attorneys for Plaintiffs*

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/s/ LaDranda T. Boudwine