



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 21, 2018

The Honorable Charles Perry  
Chair, Committee on Agriculture,  
Water, and Rural Affairs  
Texas State Senate  
Post Office Box 12068  
Austin, Texas 78711-2068

Opinion No. KP-0222

Re: Whether recreational vehicle park guests  
are licensees or tenants (RQ-0222-KP)

Dear Senator Perry:

You ask whether guests at recreational vehicle parks are licensees or tenants for eviction purposes.<sup>1</sup> Texas law distinguishes between the rights of tenants and licensees. A tenant has a vested interest in the property of another and obtains exclusive possession and control of the premises. *See Olley v. HVM, L.L.C.*, 449 S.W.3d 572, 575 (Tex. App.—Houston [14th Dist.] 2014, pet. denied); *City of Irving v. Seppy*, 301 S.W.3d 435, 446 (Tex. App.—Dallas 2009, no pet.). Therefore, a tenant may file suit to recover possession of leased premises, terminating the tenancy requires proper notice, and eviction may require civil process. *See Mallam v. Trans-Tex. Airways*, 227 S.W.2d 344, 346 (Tex. App.—El Paso 1949, no writ); *see also* Tex. Att’y Gen. Op. No. JC-0237 (2000) at 4–5 (discussing notice required to terminate tenancy); TEX. PROP. CODE § 24.002 (providing for forcible detainer action to evict tenant who refuses to surrender possession of real property). In contrast, a license merely entitles a party to use the land of another for a particular purpose without conveying any interest in the land itself and is revocable at will. *Martin v. Cockrell*, 335 S.W.3d 229, 241 n.20 (Tex. App.—Amarillo 2010, no pet.); *see Olley*, 449 S.W.3d at 575 (“A guest in a hotel is a mere licensee, not a tenant.”). Accordingly, a licensee may not sue to recover possession of the premises and eviction does not require civil process. *See Olley*, 449 S.W.3d at 576 (concluding hotel guest did not have arguable right to possession of hotel room); *McBride v. Hosey*, 197 S.W.2d 372, 374–75 (Tex. App.—El Paso 1946, writ ref’d n.r.e.) (concluding that, in absence of landlord-tenant relationship, a hotel need not resort to a civil detainer action to evict guest upon reasonable notice).

Whether a person is a tenant or a licensee is generally a fact question dependent upon the terms of the parties’ agreement. *Brown v. Johnson*, 12 S.W.2d 543, 545 (Tex. 1929); *see also* Tex. Att’y Gen. Op. No. MW-407 (1981) at 2 (“Whether or not two parties intend to enter into a lease agreement or some other agreement is determined by the contract between them.”). Thus, a prior

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<sup>1</sup>See Request Letter from Honorable Charles Perry, Chair, Senate Comm. on Agric., Water, & Rural Affairs, to Honorable Ken Paxton, Tex. Att’y Gen. at 1 (Apr. 17, 2018), <https://www2.texasattorneygeneral.gov/opinion/requests-for-opinion-rqs> (“Request Letter”).

opinion of this office addressing the legal relationship between a recreational vehicle park and its guests, Attorney General Opinion GA-0606, determined that persons staying at these facilities do not have uniform status as either licensees or tenants. Tex. Att’y Gen. Op. No. GA-0606 (2008) at 3–5. Rather, the opinion concluded that the legal relationship between a recreational vehicle park and its guests depends on the terms of the parties’ agreement:

The operations of an RV park or similar commercial enterprise may present special considerations because of the likely existence of a contract pertaining to the use of the property. As you explain, a guest pays for use of the property, which we assume will be pursuant to an agreement or contract, express or implied, with the proprietor of an RV park. If express, their contract may address such matters such as the length of the guest’s stay, the guest’s right to have other guests, and the right of either party to terminate the agreement. The agreement may constitute a lease, a license, or some other legal relationship, each with potentially different consequences.

*Id.* at 3. Thus, a court would look to the facts of each case to determine whether a guest at a recreational vehicle park is a tenant or licensee.<sup>2</sup> *See id.* “To create the relationship of landlord and tenant, no particular words are necessary, but it is indispensable that it should appear to have been the intention of one party to dispossess himself of the premises and the other party to occupy them.” *Brown*, 12 S.W.2d at 545; *see also* Tex. Att’y Gen. Op. No. MW-407 (1981) at 2–3 (“The first and perhaps most important test to determine whether or not the contract is for a lease of real property is the extent to which the consumer obtains exclusive possession of the property.”). Additionally, a tenancy will only arise when “a definite, certain place [is] demised or rented.” Tex. Att’y Gen. Op. No. MW-407 (1981) at 3 (concluding that right-to-use timeshare did not convey an interest in real property, in part, because the consumer could not expect any definite, certain space to be allotted (quotation marks omitted)).

Briefing submitted in response to your request argues that under Texas law, recreational vehicle parks are commercial properties that provide lodging only to transient or temporary guests and are akin to hotels, motels, or lodges.<sup>3</sup> Although statutory definitions of “recreational vehicle park” and “recreational vehicle” explain that both are “primarily” designed for transient or temporary use, such laws do not prohibit a recreational vehicle park from providing an individual guest with more permanent lodging. *See* TEX. TRANSP. CODE § 522.004(b) (defining “recreational vehicle”); TEX. WATER CODE § 13.087(a)(3) (defining “recreational vehicle park”); *see also* TEX. PENAL CODE § 46.02(a-2) (recognizing that recreational vehicle may be used as either temporary

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<sup>2</sup>We note that you seek an opinion addressing only the relationship between a recreational vehicle park and a guest staying on the premises in a recreational vehicle. Request Letter at 1–2. As you exclude from the scope of your request recreational vehicle parks that lease lots for the installation of manufactured homes, we likewise do not address manufactured homes in this opinion. *See id.* at 1 n.1; *see also* TEX. PROP. CODE §§ 94.001–.303 (governing manufactured home tenancies).

<sup>3</sup>*See* Brief from Bill Cobb, Cobb & Counsel, on behalf of Tex. Ass’n of Campground Owners at 2–3 (May 21, 2018) (on file with the Op. Comm.).

or permanent living quarters). Thus, a blanket rule does not exist for all recreational vehicle park guests; rather, the legal relationship between a recreational vehicle park and its guest depends on the terms of the parties' agreement.

S U M M A R Y

An agreement between a recreational vehicle park and a guest staying on the premises in a recreational vehicle may establish a landlord-tenant relationship, a license, or other legal relationship depending on its terms.

Very truly yours,

A handwritten signature in black ink that reads "Ken Paxton". The signature is written in a cursive, flowing style.

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