

Opinion issued March 29, 2022



In The
Court of Appeals
For The
First District of Texas

NO. 01-21-00250-CV

IN RE 2016 BAYTOWN WARD RD LLC D/B/A WATERMARK AT BAYTOWN APARTMENTS, 2015 HOUSTON REDFORD, LLC D/B/A THE REDFORD APARTMENTS, 2013 HOUSTON MAXEY, LLC D/B/A ROLLINGWOOD APARTMENTS, 2013 HOUSTON FLEMING, LLC D/B/A TIMBER RIDGE APARTMENTS, 2013 TRAVIS OAK CREEK, LP D/B/A LUCERO APARTMENT HOMES, 2013 TRAVIS OAK CREEK GP, LLC, LUCERO, LLC, 2015 HOUSTON GULFTON, LLC D/B/A LA ESTANCIA APARTMENTS, 2014 GALVESTON JONES DRIVE, LLC D/B/A ISLAND BAY APARTMENTS, EUREKA MULTIFAMILY GROUP GP, INC., EUREKA MULTIFAMILY GROUP, LP, RENE CAMPOS, JIMMY ARNOLD, CHRIS ROBERSON, KENNETH B. CHAIKEN, AND CHAIKEN & CHAIKEN P.C., Relators

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relators filed a petition for writ of mandamus challenging the trial court's May 11, 2021 order denying their motion to transfer.¹ Because the challenged order was issued by the former trial court judge, this Court abated this original proceeding to allow the successor trial court judge to reconsider the May 11, 2021 order. *See* TEX. R. APP. P. 7.2(b). On October 20, 2021, the successor trial court judge granted relators' motion to transfer and transferred the underlying proceeding as requested. Relators have now filed a motion to dismiss their mandamus proceeding as moot. The certificate of conference states that counsel for real parties in interest did not indicate whether real parties in interest opposed the motion to dismiss. However, more than ten days have passed since the motion to dismiss was filed, and no party has filed a response to the motion. *See* TEX. R. APP. P. 10.3(a).

¹ The underlying case is *The Cweren Law Firm, PLLC v. 2016 Baytown Ward Rd LLC d/b/a Watermark at Baytown Apartments, 2015 Houston Redford, LLC d/b/a The Redford Apartments, 2013 Houston Maxey, LLC d/b/a Rollingwood Apartments, 2013 Houston Fleming, LLC d/b/a Timber Ridge Apartments, 2013 Travis Oak Creek, LP d/b/a Lucero Apartment Homes, 2013 Travis Oak Creek GP, LLC, Columbia Housing SLP Corporation, Lucero, LLC, 2015 Houston Gulfon, LLC d/b/a La Estancia Apartments, 2014 Galveston Jones Drive, LLC d/b/a Island Bay Apartments, Eureka Multifamily Group GP, Inc., Eureka Multifamily Group, LP, Rene Campos, Jimmy Arnold, and Chris Roberson*, Cause No. 1156293, pending in the County Civil Court at Law No. 2 of Harris County, Texas, the Honorable Jim F. Kovach presiding.

This Court cannot decide a case that has become moot. *See Heckman v. Williamson County*, 369 S.W.3d 137, 162 (Tex. 2012); *In re Salverson*, No. 01-12-00384-CV, 2013 WL 557264, at *1 (Tex. App.—Houston [1st Dist.] Feb. 14, 2013, orig. proceeding) (mem. op.). “If a proceeding becomes moot, [we] must dismiss the proceeding” *In re Salverson*, 2013 WL 557264 at *1. Here, the successor trial court judge granted relators’ motion to transfer and signed an order transferring the underlying proceeding. Because relators have received the relief requested in their mandamus petition, “there is no longer a justiciable controversy between the parties that would be resolved by the petition for [writ of] mandamus.” *See In re Salverson*, 2013 WL 557264, at *1–2 (dismissing petition for writ of mandamus as moot where “there [was] no longer a justiciable controversy between the parties that would be resolved by the petition”); *In re Jackson*, No. 01-12-00020-CV, 2012 WL 405707, at *1 (Tex. App.—Houston [1st Dist.] Feb. 9, 2012, orig. proceeding) (mem. op.) (dismissing petition for writ of mandamus as moot because relator “received the relief requested in his mandamus petition”); *In re Becker*, No. 01-10-00917-CV, 2011 WL 1588520, at *1 (Tex. App.—Houston [1st Dist.] Apr. 21, 2011, orig. proceeding) (mem. op.) (dismissing petition for writ of mandamus as moot where successor trial court judge vacated orders about which relator complained in his petition).

Accordingly, we reinstate this original proceeding on the Court's active docket, grant relators' motion to dismiss, and dismiss the petition for writ of mandamus as moot. We dismiss any pending motions as moot.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Countiss and Farris.