

**ORIGINAL**

Filed 3/9/2026 12:37 PM  
Joanna Staton, District Clerk  
District Court - Bell County, TX  
by MaryBeth DeLeon, Deputy

CAUSE NO 26DCV360170

**HAUPTSTRASSE BREWING  
COMPANY, LLC  
Plaintiff,**

**v.**

**THE VILLAGE OF SALADO AND  
ZACH HURST  
Defendant.**

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**IN THE DISTRICT COURT**

**146th JUDICIAL DISTRICT**

**OF BELL COUNTY, TEXAS**

**PLAINTIFF'S ORIGINAL PETITION**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**COMES NOW** Plaintiff, Hauptstrasse Brewing Company, LLC, and files this its Original Petition against Defendants the Village of Salado and Zach Hurst and, in support thereof, respectfully shows the Court as follows:

**DISCOVERY CONTROL LEVEL**

1. Discovery in this case is intended to be conducted under Level 3 of Rule 190 of the Texas Rules of Civil Procedure.

**PARTIES**

2. Plaintiff is Hauptstrasse Brewing Company, LLC ("Hauptstrasse"), a Texas limited liability company.

3. Defendant the Village of Salado (the "Village"), pursuant to the Texas Civil Practice and Remedies Code section 17.024(b), may be served by personal service on the Village Secretary, Kathy J. Cherry, at 301 N. Stagecoach Road, Salado, Texas 76571.

4. Defendant Zach Hurst ("Hurst"), in his capacity as Mayor Pro Tem and Alderman of the Village of Salado, may be served with process at 301 N. Stagecoach Road, Salado, Texas 76571.



## VENUE AND JURISDICTION

5. The Court has subject matter jurisdiction over this lawsuit because the amount in controversy is within this Court's jurisdictional limits. Hauptstrasse seeks monetary relief over \$1,000,000 and nonmonetary relief. Hauptstrasse reserves its right to amend this pleading as discovery progresses herein. The Court further has jurisdiction pursuant to Texas common law and the Texas Constitution, Article 1, Section 17. Tex. Const. art. I, § 17.

6. Venue is proper under section 15.002 of the Texas Civil Practice and Remedies Code because this county is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred.

## FACTUAL BACKGROUND

7. Hauptstrasse is the owner of 2.679 acres of real property located at 25 Royal Street and 109 Royal Street in Salado, Texas (the "Property"). Hauptstrasse purchased the Property on December 24, 2019. The deed for the Property, and all deeds before it, confirmed that the tract being conveyed is 2.679 acres.

8. Prior to purchasing the Property, the Village began improving its wastewater system, which included the installation of a lift station next to the Property. The improvements and the lift station honored an 80.67-foot public right-of-way along Royal Street. Other buildings along Royal Street honored the Village's right-of-way and were located right along the 80.67-foot boundary.

9. When purchasing the Property, Hauptstrasse relied on the deed description for the Property, the location of adjacent buildings, the construction of the wastewater improvements, and a land survey, all which indicated that the Village owned only an 80.67-foot right of way making up Royal Street.

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10. After purchasing the Property, Hauptstrasse, when beginning construction on the Property, obtained a survey for the purposes of obtaining a Letter of Map Revision from the Federal Emergency Management Agency. This survey also acknowledged the Property as a 2.679-acre tract and the Village's 80.67-foot public right-of-way for Royal Street. Additionally, Hauptstrasse obtained a sign permit from the Village to place a sign along the edge of the 80.67-foot right-of-way, indicating the Village's confirmation of the width of the right-of-way.

11. In 2024, the Village and Hurst began planning for the reconstruction and improvement of Royal Street from Smith Branch Road to Main Street. The Village contracted with MRB Group, Engineering, Architecture, & Surveying, P.C., d/b/a MRB Group, P.C., to design the improvement plans for Royal Street. Upon information and belief, when the Village and Hurst began drafting plans to improve Royal Street, they contracted a surveyor who determined the right-of-way for Royal Street was only 80 feet wide. However, despite this survey, the plans approved by the Village and Hurst anticipated that the portion of Royal Street along the Property would be 97 ½ feet wide, not 80 feet. Making Royal Street 97 ½ feet wide would require the Village to use approximately 0.2 acres of the Property, which would require the destruction and removal of certain infrastructure, landscaping, parking, signage, and other real improvements Hauptstrasse made and would interfere with Hauptstrasse's use of buildings on the Property.

12. Shortly after learning of the expansion of Royal Street, in November 2025, Hauptstrasse hired legal counsel to reach out to the Village to dispute the claim that Royal Street was a 97 ½ foot wide right-of-way and to negotiate the sale of an easement for the 0.2 acres to the Village. The Village refused, indicating it could not afford to pay for the 0.2 acres.

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13. According to the Texas Department of Licensing and Regulation website, the start date for the Village and Hurst's improvement project for Royal Street is February 27, 2026.

## CAUSES OF ACTION

### Declaratory Judgment

14. The Village and Hurst's, as Mayor Pro Tem for the Village, assertion that the Village is entitled to a 97 ½ foot right of way along Royal Street impacts Hauptstrasse's title to the 2.679 acres of the Property.

15. Chapter 37 of the Texas Civil Practice and Remedies Code, the Declaratory Judgment Act, permits the Court to determine any questions of construction or validity, or determine the rights, status, or other legal relations arising under a deed, will, written contract, or other writing. Tex. Civ. Prac. & Rem. Code Ann. § 37.004(a). Additionally, the Declaratory Judgment Act permits the Court to determine the proper boundary line between adjoining properties. Tex. Civ. Prac. & Rem. Code Ann. § 37.004(c). Declaratory judgment is appropriate when there is a justiciable controversy about the rights and status of the parties, and the declaration would resolve the controversy. *Loya Ins. v. Avalos*, 610 S.W.3d 878, 883 (Tex. 2020). A justiciable controversy exists between Hauptstrasse, the Village, and Hurst, in his official capacity as Mayor Pro Tem, because the Village and Hurst, on behalf of the Village, claim that the Village is entitled to a 97 ½ foot right of way along Royal Street, which would traverse over the boundary line of the Property, when the title history and prior acts by the Village demonstrate it is only entitled to an 80 foot right of way. Additionally, a justiciable controversy exists between Hauptstrasse and the Village because the Village is taking a portion of Hauptstrasse's Property for public use without just compensation in violation of the United States and Texas Constitutions.

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16. Hauptstrasse requests that this Court enter a declaratory judgment under the Declaratory Judgment Act declaring that the dedicated right-of-way along Royal Street is only 80 feet wide, rather than 97 ½ feet wide. Additionally, Hauptstrasse requests that this Court enter a declaratory judgment, declaring that its ownership interest in the full 2.679 acres of the Property is valid and enforceable. Hauptstrasse further requests that this Court enter a declaratory judgment, declaring that the Village has permanently taken or damaged a portion of Hauptstrasse's Property in violation of Tex. Const. art. I, § 17, the U.S. Const. Amend. V, and the United States Civil Rights Act, 42 U.S.C.A. §§ 1983 to 1988. Hauptstrasse further requests a declaratory judgment pursuant to the Declaratory Judgment Act that the Village and Hurst improperly included part of the Property in its improvement plans for the Royal Street right-of-way against Hauptstrasse's legal rights to the full acreage of the Property.

#### Trespass to Try Title

17. Additionally, and in the alternative, Hauptstrasse seeks a trespass to try title action to determine the proper title to the full acreage of the Property. To prevail in a trespass to try title action, a plaintiff must prove legal title by establishing one of the following: (1) a regular chain of title of conveyances from the sovereign to the plaintiff; (2) a superior title to that of the defendant out of a common source; (3) title by limitations (i.e., adverse possession); or (4) possession that has not been abandoned. *Brumley v. McDuff*, 616 S.W.3d 826, 832 (Tex. 2021).

18. Hauptstrasse can establish a regular chain of title of conveyances from the sovereign as well as superior title to that of the Village and Hurst, on behalf of the Village, out of a common source, either of which is sufficient to establish Hauptstrasse's legal title to the full 2.679 acres of the Property. Hauptstrasse has fee simple title to the Property, which

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includes the 0.2 acres that Hurst and the Village claim is a part of the Royal Street right-of-way. The Village and Hurst unlawfully entered upon and dispossessed Hauptstrasse of 0.2 acres of the Property when they included it in the improvement plans for Royal Street.

**Suit to Quiet Title**

19. Additionally, and in the alternative, Hauptstrasse will show that the Village and Hurst's claim is invalid or ineffective under a suit to quiet title. A suit to quiet title relies on the invalidity of the defendant's claim to the property. *Essex Crane Rental Corp. v. Carter*, 371 S.W.3d 366, 388 (Tex. App. 2012). The Village and Hurst's claim to the 0.2 acres of the Property is invalid and has created a cloud on the title of the Property, which equity should remove.

**Inverse Condemnation**

20. The Village's action, in declaring the right-of-way along Royal Street is 97 ½ feet, is a physical taking of Hauptstrasse's Property.

21. Hauptstrasse has a vested property interest in the Property as it is the owner of the Property. The Village intentionally made the right-of-way along Royal Street 97 ½ feet wide in its improved plans, ignored surveys that suggested otherwise, knowing that it would cause Hauptstrasse to lose a portion of its Property, as the approved construction drawings go right over obvious demarcations for the Property, the sign the Village approved for a permit, a parking lot, and landscaping done on the boundary of the Property. The Village's claim for a 97 ½ foot right-of-way along Hauptstrasse's Property has resulted in the physical taking of Hauptstrasse's Property in violation of the United States and Texas Constitutions because the increased footage for the right-of-way caused the Property to lose approximately 0.2 acres.

Injunctive Relief

22. Hauptstrasse will succeed on the merits of its declaratory judgment relief, or, in the alternative, its trespass to try title or suit to quiet title action, against Hurst and the Village. Hauptstrasse can establish its fee simple ownership of the Property, and the Village and Hurst's lack a valid interest in the 0.2 acres of the Property to order the construction of improvements on a 97 ½ right-of-way for Royal Street.

23. Unless this Court immediately restrains the Village and Hurst from any further actions in constructing improvement for a 97 ½ foot right-of-way, Hauptstrasse will suffer immediate and irreparable injury to its Property, for which there is no adequate remedy at law to give it complete, final, and equal relief. More specifically, Plaintiff will show the Court the following:

A. The harm to Hauptstrasse is imminent because the Village and Hurst's improvement project for Royal Street begins on or around February 27, 2026, which will eventually require the actual widening of Royal Street and impede Hauptstrasse's Property.

B. This imminent harm will cause Hauptstrasse irreparable injury because Hauptstrasse will be denied use and possession of its real property, for which the damages are not readily calculable, as the improvement plans for Royal Street anticipate constructing new parking spaces and a sidewalk on Hauptstrasse's Property.

C. Hauptstrasse does not have to prove an adequate remedy at law because Hauptstrasse is seeking to prevent irreparable injury to its real property. Tex. Civ. Prac. & Rem. Code §65.011(5). Hauptstrasse is willing to post a reasonable temporary restraining order bond and request the Court to set such bond.

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24. Hauptstrasse has met its burden by establishing each element that must be present before injunctive relief can be granted by this Court. Therefore, Hauptstrasse is entitled to a temporary restraining order.

25. Hauptstrasse requests that the Court restrain the Village, Hurst, their employees, agents, affiliates, assigns, contractors, and attorneys from the following:

- (1) Beginning or performing any construction work on the portion of Royal Street that is adjacent to the Property;
- (2) Conducting any further action required for beginning or performing construction of improvements to Royal Street as anticipated in the approved construction designs.

26. It is essential that the Court immediately and temporarily restrain the Village, Hurst, their employees, agents, affiliates, assigns, and attorneys herein as set forth above.

27. In order to preserve the status quo during the pendency of this action, Hauptstrasse requests that the Village, Hurst, their employees, agents, affiliates, assigns, and attorneys be enjoined pending a final trial from:

- (1) Beginning or performing any construction work on the portion of Royal Street that is adjacent to the Property; and
- (2) Conducting any further action required for beginning or performing construction of improvements to Royal Street as anticipated in the approved construction designs.

28. After a final trial on the merits, Hauptstrasse requests that the Court enjoin the Village, Hurst, their employees, agents, affiliates, assigns, and attorneys from:

- (3) Beginning or performing any construction work on the portion of Royal Street that is adjacent to the Property; and

- (4) Conducting any further action required for beginning or performing construction of improvements to Royal Street as anticipated in the approved construction designs.

### CONDITIONS PRECEDENT

29. All conditions precedent have been performed or have occurred.

### REMEDIES

30. Hauptstrasse is entitled to an award of damages for the Village's acts which constitute an intentional taking, damaging, or destroying of the Property for an application to public use without adequately compensating Hauptstrasse, within the jurisdictional limits of the court.

31. Hauptstrasse further seeks the declarations and injunctive relief requested above.

### ATTORNEY FEES

32. Hauptstrasse is entitled to recover its reasonable and necessary attorney fees pursuant to section 37.009 of the Texas Civil Practice & Remedies Code.

### TEXAS RULE OF CIVIL PROCEDURE 193.7 NOTICE

33. Pursuant to Texas Civil Procedure Rule 193.7, Hauptstrasse hereby gives written notice to Defendants that all documents produced in this litigation will be used by Hauptstrasse at any pre-trial proceedings and at trial. All documents produced in this litigation are deemed self-authenticating for use in any pre-trial proceeding or at trial, and any objections by Defendants shall be in writing and placed on the record, giving Hauptstrasse a reasonable opportunity to establish the challenged document's authenticity.

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff Hauptstrasse Brewing Company, LLC requests that Defendants the Village of Salado and Zach Hurst be cited to

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appear and answer herein, and, Hauptstrasse Brewing Company, LLC be granted the following relief against the Village of Salado and Zach Hurst:

- a. A temporary restraining order will issue without notice to Defendants the Village of Salado and Zach Hurst, and their officers, agents, servants, employees, successors, and assigns, and attorneys as set forth herein;
- b. The Court sets a reasonable bond for the temporary restraining order;
- c. After notice and hearing, a temporary injunction will issue enjoining and restraining Defendants the Village of Salado and Zach Hurst, and its officers, agents, servants, employees, successors, and assigns, and attorneys as set forth herein;
- d. An award of damages for the Village's acts which constitute an intentional taking, damaging, or destroying of the Property for an application to public use without adequately compensating Hauptstrasse, within the jurisdictional limits of the court;
- e. The Court to declare that:
  - a. The Royal Street right-of-way is only 80 feet wide;
  - b. Hauptstrasse's ownership interest to the entire 2.679 acres of the Property is valid and enforceable;
  - c. The Village has taken or damaged Hauptstrasse's right, title, and interest in the Property;
  - d. The Village and Hurst improperly included part of the Property in its improvement plans for the Royal Street right-of-way in violation of Hauptstrasse's right, title, and interest in the Property;
- f. Hauptstrasse recover, in the alternative, title and possession to the total 2.679 acres of the Property;
- g. In the alternative, any cloud on Hauptstrasse's title to the entire 2.679 acres of the Property be removed;
- h. Reasonable and necessary attorney fees;
- i. Prejudgment and post-judgment interest at the maximum rate allowed by law;
- j. Cost of suit; and
- k. All such other and further relief, general and special, at law or equity, to which Hauptstrasse Brewing Company, LLC may be entitled.

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