TEXAS REALTORS®

Order in the Court:

The Squatter Showdown



Hon. Tricia K. Krenek
Justice of the Peace—Precinct 1, Place 2; *Fort Bend County*

In collaboration with the Texas Justice Court Training Center

Portions of this webinar are part of TJCTC Programs which are an educational endeavor of the Justices of the Peace and Constable's Association of Texas, Inc. and funded by the Texas Court of Criminal Appeals and the Texas Department of Transportation.

Copyright © 2025 Texas Justice Court Training Center

All rights reserved. No part of this work may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying and recording, or by any information storage or retrieval system without the prior written permission of the Texas Justice Court Training Center unless copying is expressly permitted by federal copyright law.

Address inquiries to: Permissions

Texas Justice Court Training Center

1701 Directors Blvd. Suite 530

Austin, TX, 78744

Save a Life™
Texas Department of Transportation



Looking Back—89th Session

SB 38 *(Property Code Ch. 24)*

- Jurisdiction & Venue
- Computation of Time
- Notice to Vacate
- Petition
- Summary Disposition
- Deadlines
- Judgments
- Appeals, Rent & Writs

Key Date:

January 1, 2026

SB 1333 *(Property Code Ch. 24B)*

- “Squatter” Removal

Jurisdiction, Venue & Timelines

- Justice courts have jurisdiction over evictions but cannot adjudicate title to real property–only right to possession
- Counterclaims and third-party claims are not allowed in eviction suits
- Eviction suits must be filed in the county and precinct where the premises are located
- Time periods for filings and notices include weekends and holidays
- If the last day of time period falls on a weekend or holiday, the deadline moves to the next business day

Notice to Vacate (NTV)

(TX Prop Code 24.005)

- Landlord must give at least 3 days written NTV unless the lease specifies otherwise *(same as before)*
- For nonpayment of rent cases—
  - **Must give** "pay rent or vacate" notice if the tenant was **not previously late**
  - **May give either** "pay rent or vacate" or "notice to vacate" if tenant **was previously late**



Delivery of NTV

- The bill essentially repealed the old NTV delivery procedures and made them simpler/easier for landlords

- Notices can be delivered by:
  - ✓ Mail
  - ✓ conspicuous posting inside the premises
  - ✓ hand delivery to a resident age 16 or older, ***or***
  - ✓ electronically including email (if agreed in writing)

- If the tenant **actually** receives notice, **proper notice requirement do not apply**

Petition

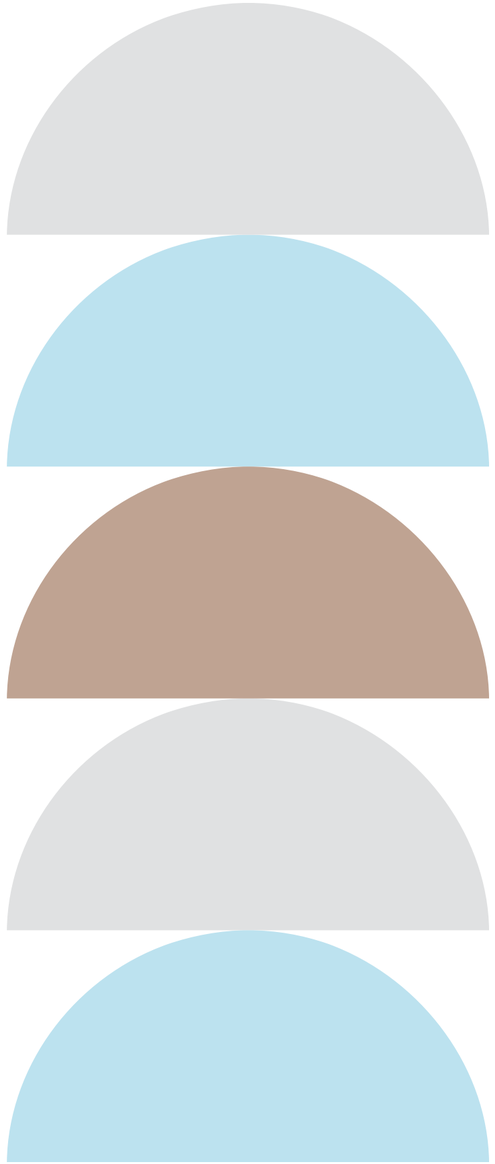
(TX Prop Code 24.00505)

- Eviction suits must be initiated by a sworn petition, which must meet Texas Rules of Civil Procedure requirements *(codifies current rules)*
- A court may **NOT** adopt local rules, forms, or standing orders for eviction suits that:
  - require content in or with the petition other than the content required by the TRCP; or
  - authorize the dismissal of an eviction suit on the basis that the petition is improper if the petition meets the requirements of the TRCP or **can be amended to do so**

Mediation/Pretrial Conferences

(TX Prop Code 24.00505)

A court may **NOT** adopt local rules, forms, or standing orders for eviction suits that require any mediation, pretrial conference, or other proceeding before trial.



Electronic Appearances

(TX Prop Code 24.005105)

- Courts may allow any party to appear virtually ***if the parties agree***

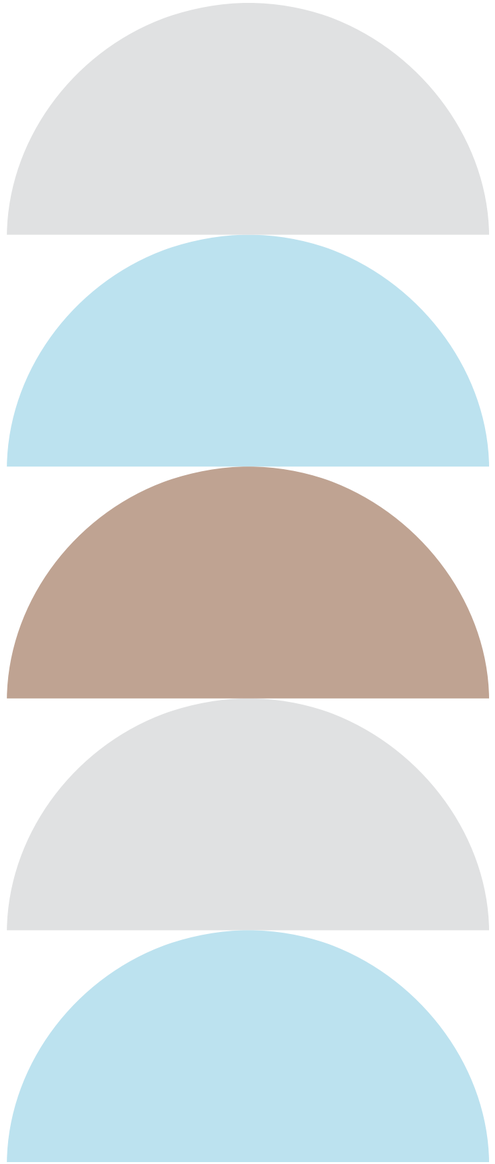
- Courts cannot require electronic appearances if they want to come in person

The Accelerated Pathway: Summary Disposition

(TX Prop Code 24.005106)

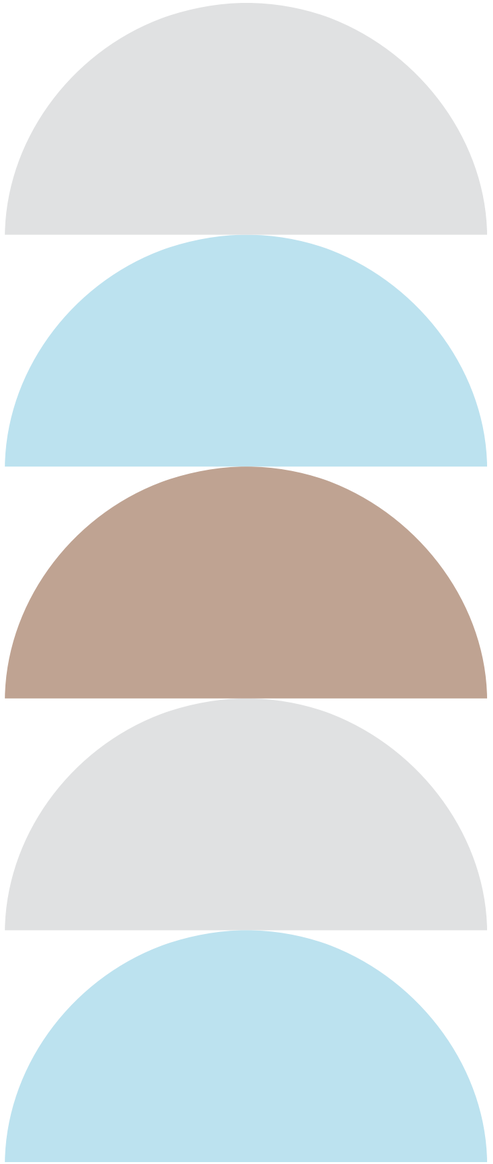
ONLY for Forcible Entry & Detainer/Squatter Cases

- It does <u>NOT</u> count as a FED if the person enters with the consent of:
  - A person in actual possession of the property;
  - A tenant at will or by sufferance; or
  - A person who acquired possession by forcible entry (a squatter)



Summary Disposition – General (TX Prop Code 24.005106(a))

- Landlords may include a motion for summary disposition with their petition if there are no disputed facts
- The sworn motion must set out all supporting facts and any documents relied on must be attached
- Tenants have **4 days** after service to respond and request a trial if there is a genuine dispute
- The citation must include a required notice (language on next slide)



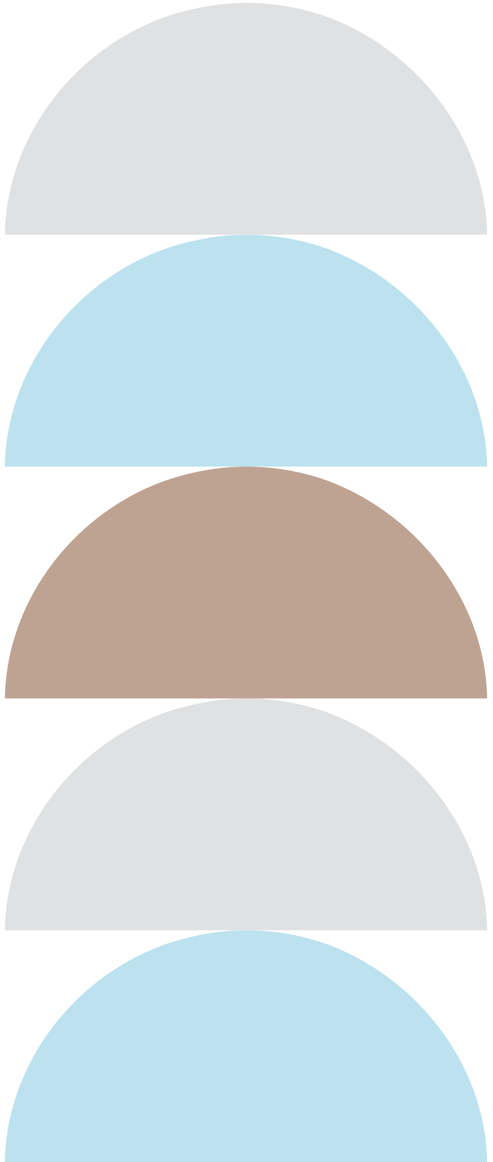
Summary Disposition – Required Notice on the Citation

- The following notice must be in **English** & **Spanish** on the first page in **BOLD and CONSPICIOUS PRINT**

The petition includes a motion for summary disposition. If the motion shows there are no genuinely disputed facts that would prevent a judgment in favor of the landlord, the court may enter judgment in favor of the landlord without a trial unless:

(1) not later than the fourth day after you are served with the landlord 's sworn petition, you file a response setting out supporting facts and any applicable documents on which your response relies; and

(2) the justice court determines that service on you was proper and, based on the landlord 's sworn petition and your response, there are genuinely disputed facts that would prevent a judgment in favor of the landlord.



Service of Citation

(TX Prop Code 24.0051(f))



- Service of citation and petition must be attempted within five business days
  - SHALL make a **“diligent effort”**

Service of Citation—May Be Transferred

(TX Prop Code 24.0051(f))

- If the citation and petition are NOT SERVED on or before the 5th business day—

  - Landlord MAY have the citation and petition served by any other law enforcement officer, including an off-duty officer with appropriate identification
    - received appropriate training in the service of process, eviction procedures, and the execution of writs as determined by TCOLE

Summary Disposition – Timing

(TX Prop Code 24.0051(g) & 24.005106)

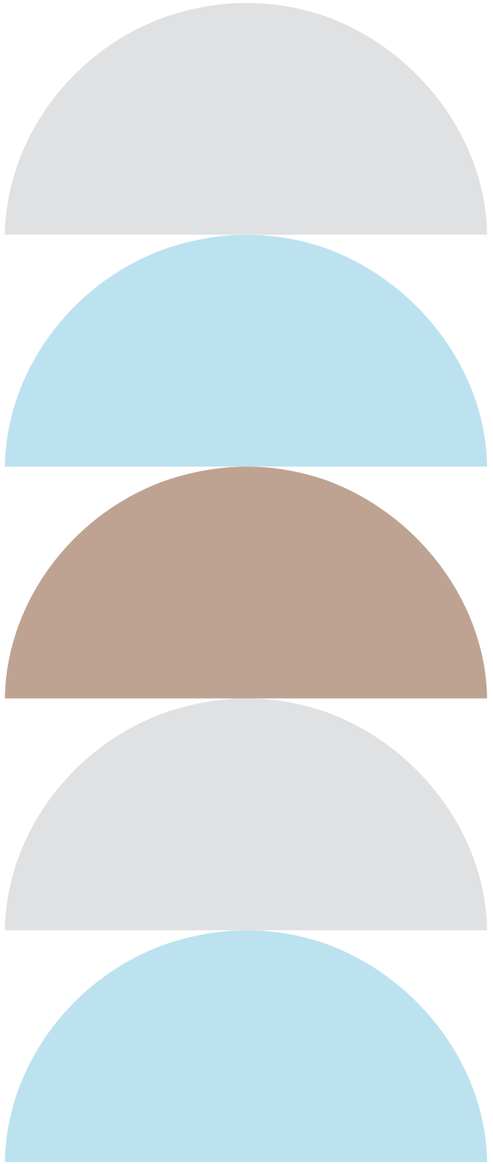
- If the Court determines that there are genuinely disputed facts:
    - Trial shall be set between 10 and 21 days from the filling of the petition, OR
    - May immediately set the case for trial upon the tenant's request for a trial

Summary Disposition – Ruling on the Motion

(TX Prop Code 24.005106 (b)–(c))

- Motion for Summary Disposition should be **GRANTED** if:
  - Motion and petition show no disputed facts,
  - There was proper service on the tenant, and
  - The tenant did not answer *or* the answer does not show a disputed fact

  Note: the Court **may** consider a tenant's late answer if it was received prior to judgment and **"it shows a genuinely disputed fact that would prevent judgment in favor of the landlord"**



Information in Judgment

(TX Prop Code 24.0053(a))

- All judgments (not just non-payment of rent cases) must now include:
  - The appeal bond amount
  - The amount of rent to be paid each rental pay period during the pendency of any appeal
    - ➢ If there is no rental agreement, Court shall make determination





Appeals

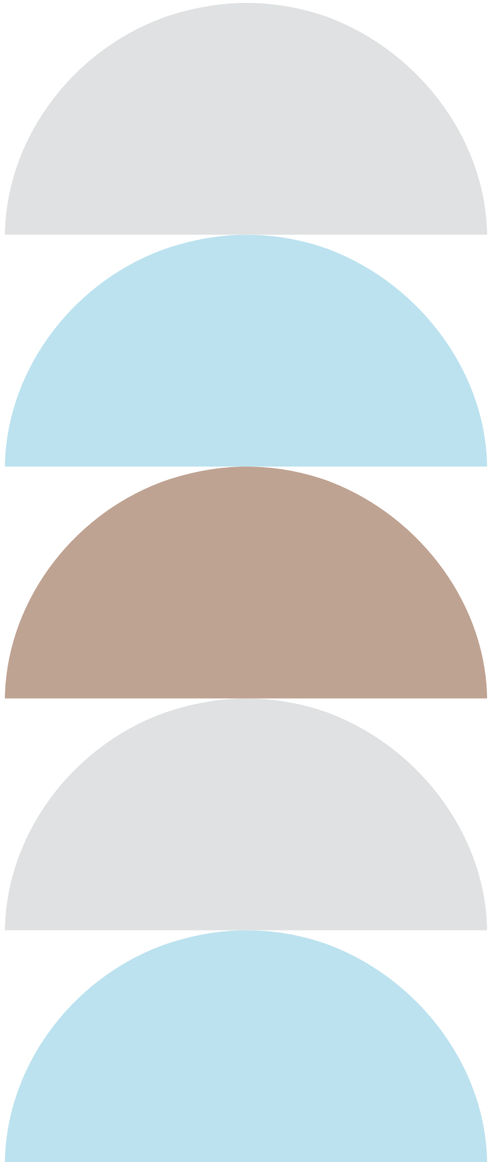
(TX Prop Code 24.005107)

- Appeals from justice courts must be filed within 5 days of judgment by:
  - Posting bond,
  - Making a cash deposit, or
  - Filing a statement of inability to pay must
- Tenant must affirm, under penalty of perjury, tenant's good faith belief that:
  - tenant has a **meritorious defense** and
  - appeal is **not for the purpose of delay**

Representation

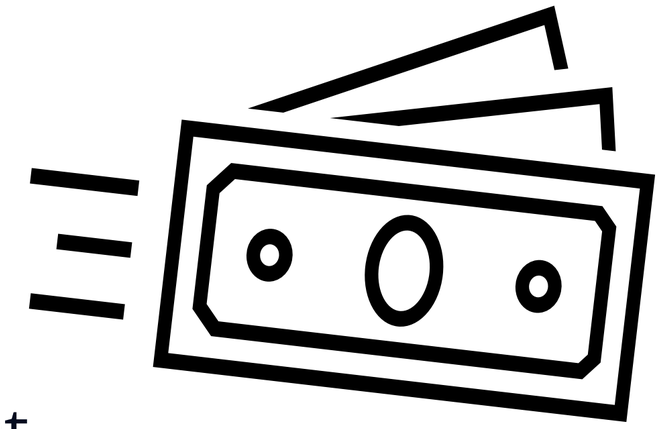
(TX Prop Code 24.011)

Clarified: Any party may be represented by a **non-lawyer** agent in any justice court eviction suit *and* in county or district court on appeal



Rent During Appeals

(TX Prop Code 24.0053 (a-2)-(a-3))



- If appealing, tenant must pay one rental period's rent into the court registry within 5 days and continue to pay as due during the appeal – **in whichever court the case is pending at the time of payment**
- **No longer just for nonpayment of rent cases**, and covers all appeal types, **including cash deposits**
- Courts must disburse these funds to the landlord on request

Rent During Appeals–Amount

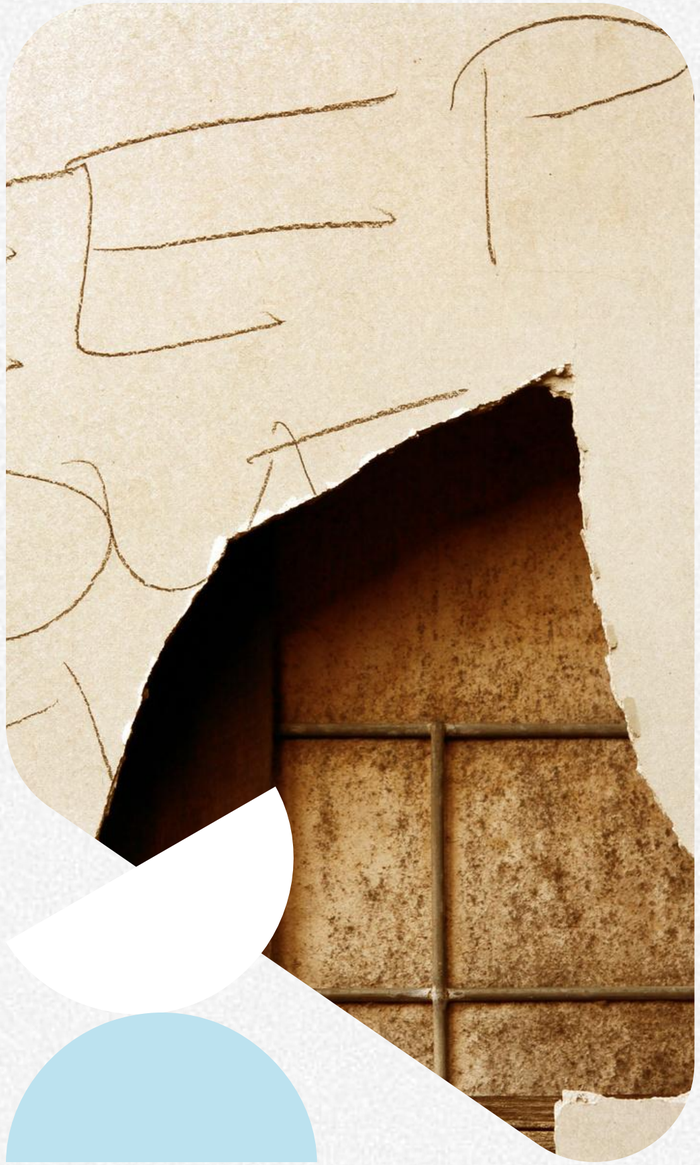
(TX Prop Code 24.0053 (a), (d))

- Amount in rental agreement
- If no amount in a lease, Court must determine the “pay period” and the amount to be paid per period using the following standard:
  - Greater of $250 or
  - Fair market value as determined by the Court
- Either party can file a motion to reconsider the amount of rent during the pendency of appeal

Writs of Possession

(TX Prop Code 24.0054(a)–(a-1); 24.0061(b-1))

- The Court does not have discretion over whether to issue a writ of possession
  - If the requirements are met and no other law bars it, Writ of Possession must be issued
- Writ for failure to pay rent applies if not paid at any point as due during appeal, not just if initial payment not made
- Writ is issued by justice ***or county court*** as applicable



Squatters
SB 1333

- New Criminal Offenses
- Texas Property Code Ch. 24B
  - Immediate Removal
  - Action for Wrongful Removal

Effective Date: September 1, 2025

New Criminal Offense –

False, Fraudulent, or Fictitious Document Conveying Real Property Interest

- Penal Code Section 32.56
- Creates criminal penalties for presenting false or fraudulent documents (e.g., fake leases or deeds) to claim possession of real property.
- Class A misdemeanor

New Criminal Offense –
Fraudulent Sale, Rental, or Lease of Residential Real Property

- Penal Code Section 32.57
- Creates criminal penalties for knowingly selling, renting, or leasing (or listing/advertising for sale, rent, or lease) residential property without legal authority or title.
- First Degree Felony

Amended Criminal Offense –

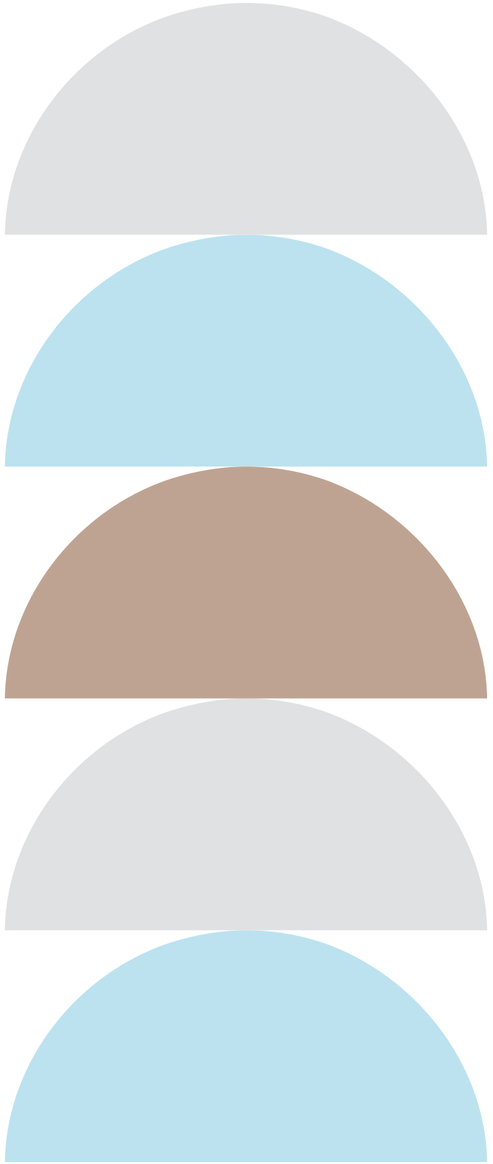
Criminal Mischief

- Amends Penal Code Section 28.03
- Adds a **Second Degree Felony** offense if the damage is more than $1000, but less than $300,000, the building is a habitation, and the person was also criminally trespassing at the time of the damage



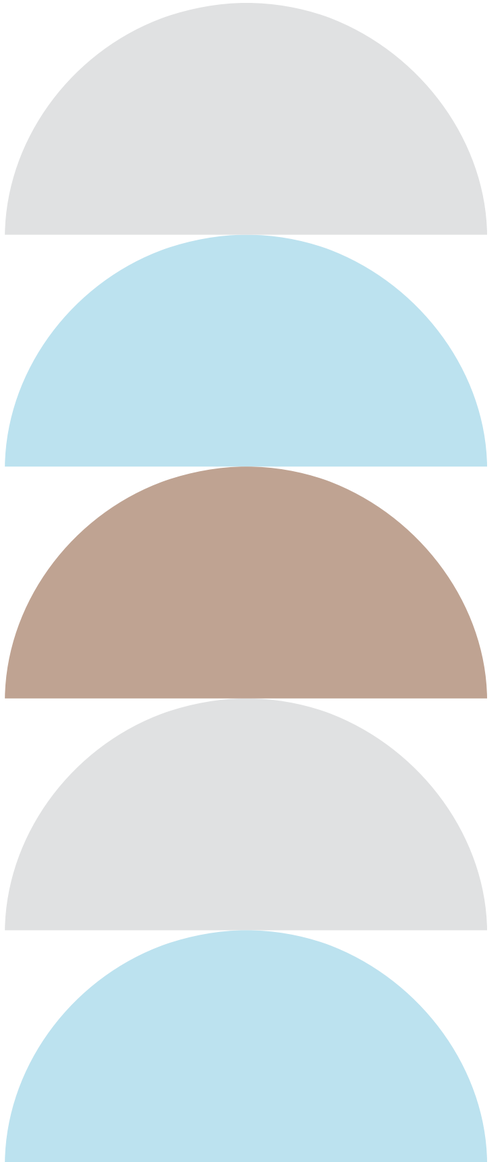
Immediate Removal of Unauthorized Occupants

- Property owners (or their agents) can request immediate removal by sheriff/constable of a person unlawfully occupying a dwelling, if:
  - The property was not open to the public when entered,
  - The property is not the subject of pending litigation between the parties,
  - The owner/agent has directed the person to leave, and they have not done so, and
  - The occupant is not a current/former tenant (under written or oral lease), immediate family, owner, or co-owner



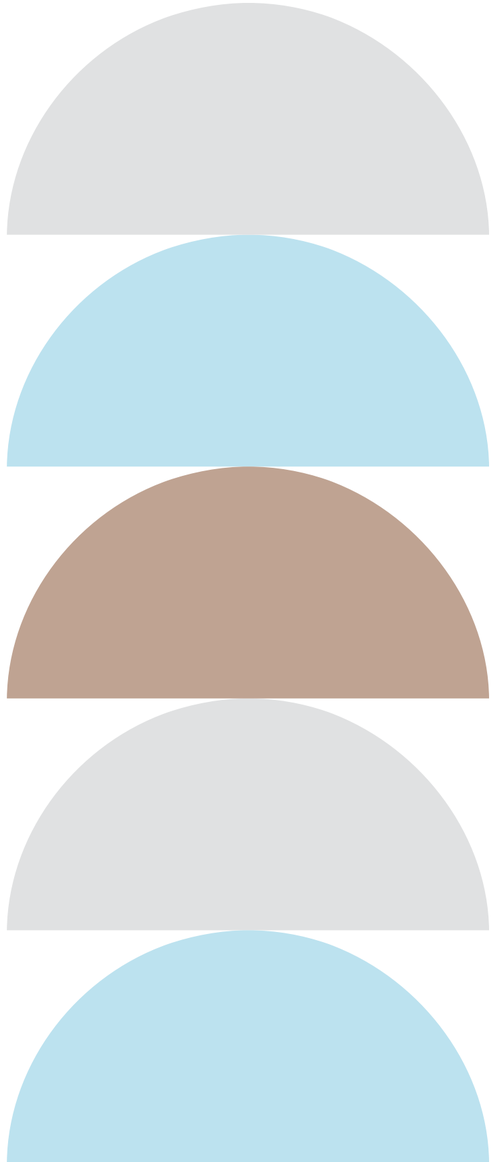
Immediate Removal – Verifying Ownership & Identifying Occupants

- Complainant must be:
  - the record owner of the property that is the subject of the complaint or the owner's agent; and
  - otherwise entitled to the relief sought in the complaint
- Occupants
  - The serving officer must attempt to verify the identity of each person occupying the dwelling and note each identity on the return of service



Immediate Removal – Procedure

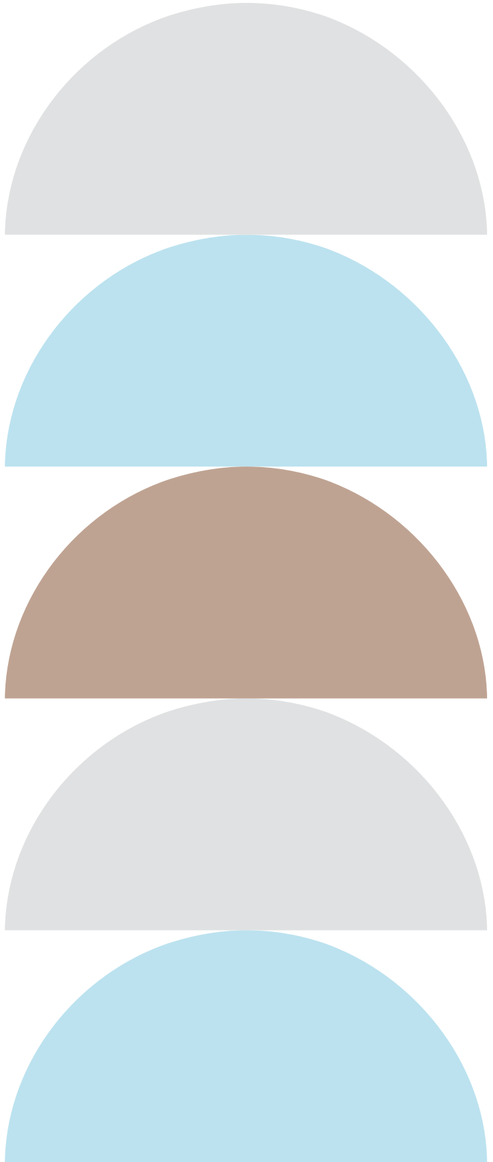
- The owner/agent must file a complaint that is sworn (or has an unsworn declaration) that includes everything listed in the statute and provide ID
    - Note: an agent must give documentation of authority to act on owner's behalf
- Law enforcement must verify ownership and entitlement of the complainant, and then without delay, serve notice to immediately vacate (by hand delivery or affixing the notice to the front door or entrance of the dwelling) and restore possession to the owner



Immediate Removal of Unauthorized Occupants

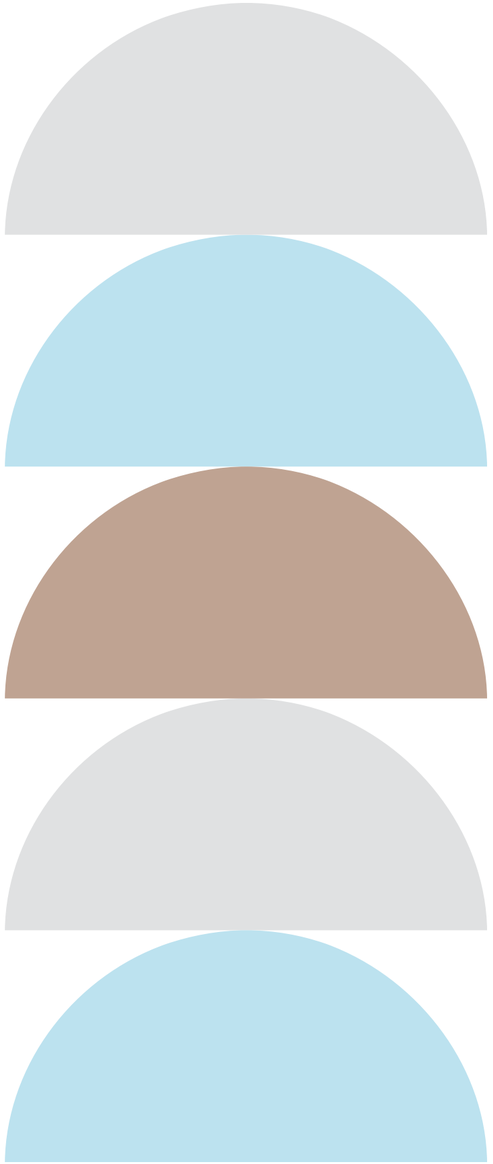
- The Sheriff or Constable will establish the following:
  - The property was not open to the public when entered,
  - The property is not the subject of pending litigation between the parties,
  - The owner/agent has directed the person to leave, and they have not done so, and
  - The occupant is not a current/former tenant (under written or oral lease), immediate family, owner, or co-owner.

  If the Sheriff or Constable determines that at least one of the issues exist, the owner will be directed to proceed to the proper JP Court for the necessary eviction process.



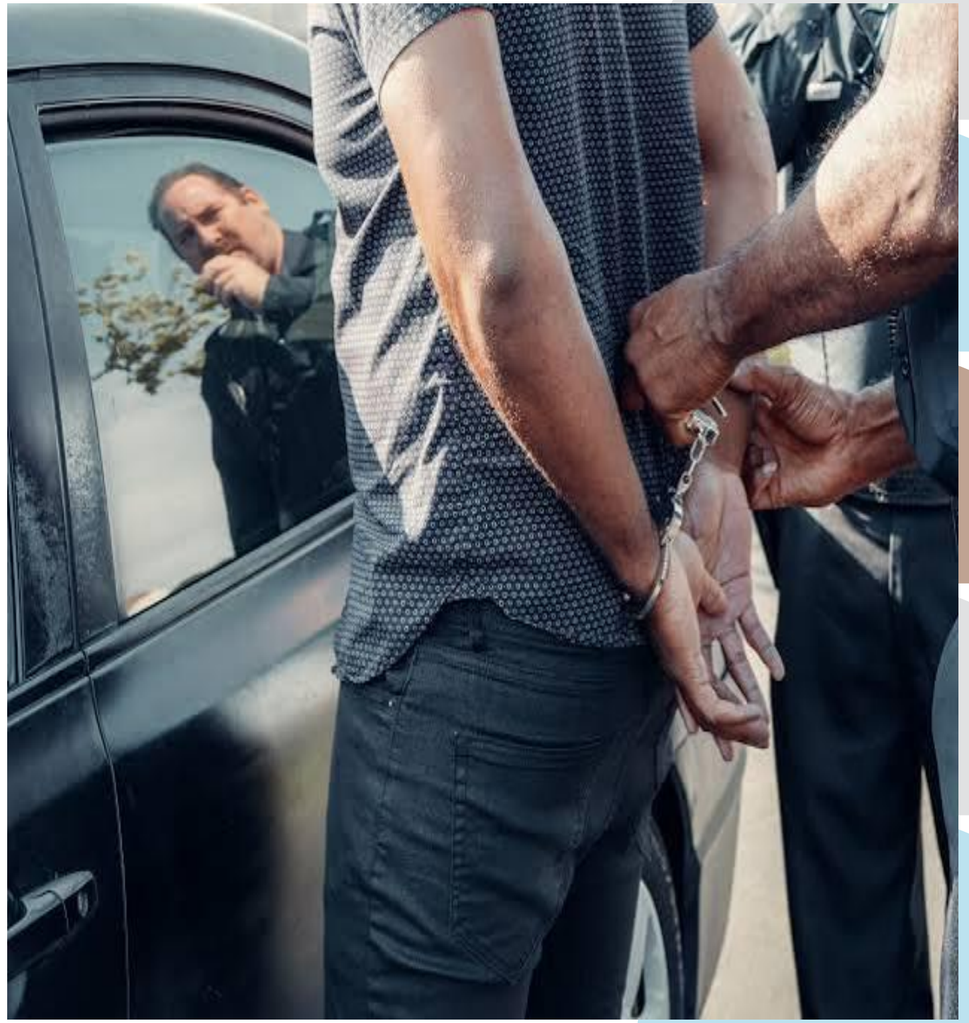
Immediate Removal – Keeping the Peace

- The property owner or owner's agent may request that the sheriff or constable remain on the property to keep the peace while the owner or owner's agent:
  - changes any locks; and
  - removes any personal property of an occupant from the dwelling and places the personal property at or near the property line of the owner's property.



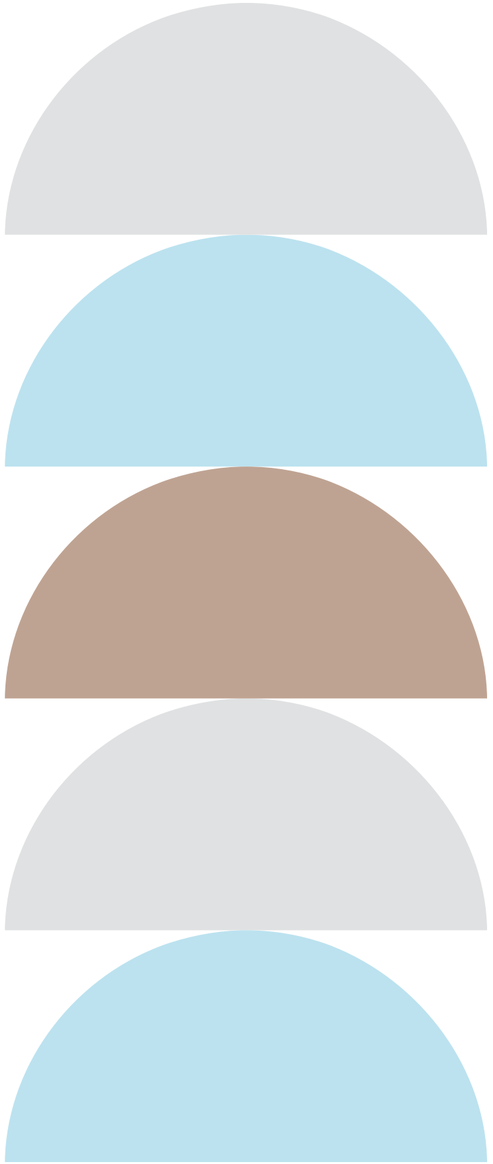
Immediate Removal – Arrest

Law enforcement may arrest unauthorized occupants for trespass, outstanding warrants, or other offenses for which there is probable cause.



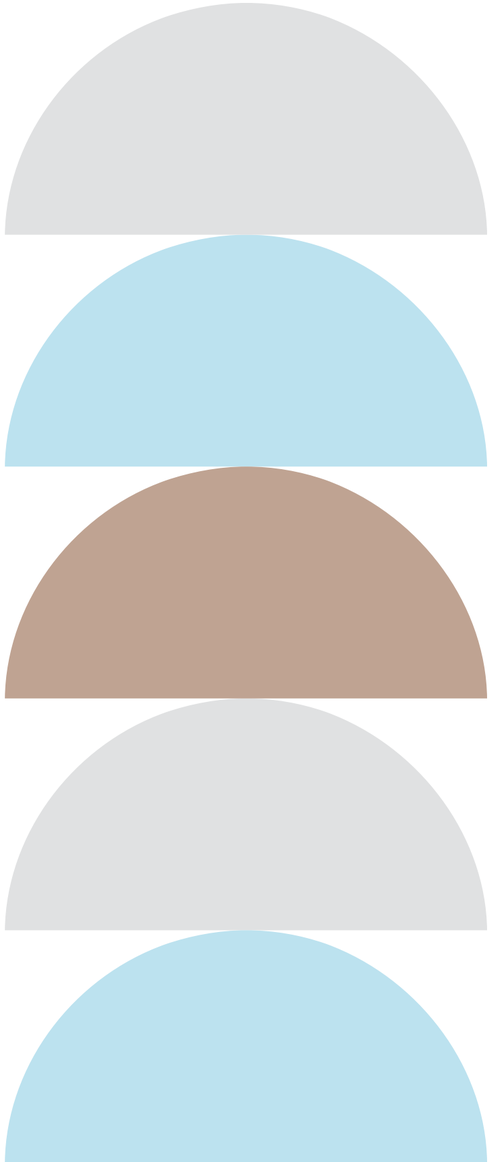
Immediate Removal – Fees and Liability

- Sheriffs/constables may charge a fee equivalent to executing a writ of possession, plus an hourly rate if asked to remain on-site during removal.
- Law enforcement is shielded from liability for loss/damage during removal.
- Owners/agents are generally not liable for property loss/damage from removal but may be sued for wrongful removal and face damages, court costs, and attorney's fees.



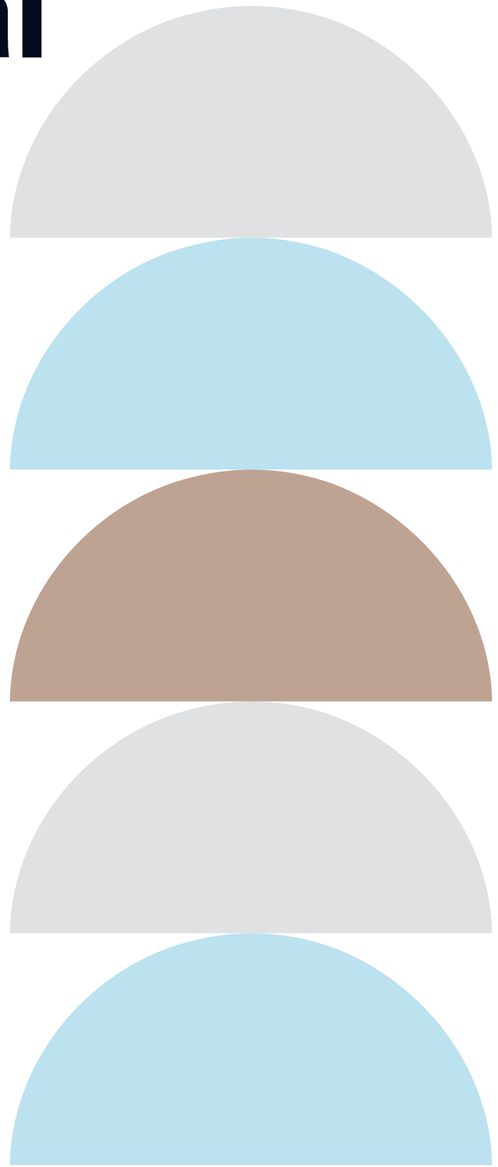
Action for Wrongful Removal

- A person wrongfully removed or whose personal property is wrongfully removed can bring a civil suit to:
  - Recover possession of the real property, and
  - Recover damages from the person who requested the removal
- Court must set the case at the earliest practicable date to expedite the action
- *Note:* No reason they couldn't also still ask for a Writ of Re-entry (as long as all requirements for that are met)



Action for Wrongful Removal – Damages

- Damages available:
  - Actual damages
  - Exemplary/punitive up to 3x the fair market rent
  - Court costs and
  - Reasonable attorney's fees



Questions?



Thank you for joining us!



Judge Tricia Krenek
Justice of the Peace—Pct 1, Pl 2
Fort Bend County, Texas
Tricia.Krenek@fbctx.gov