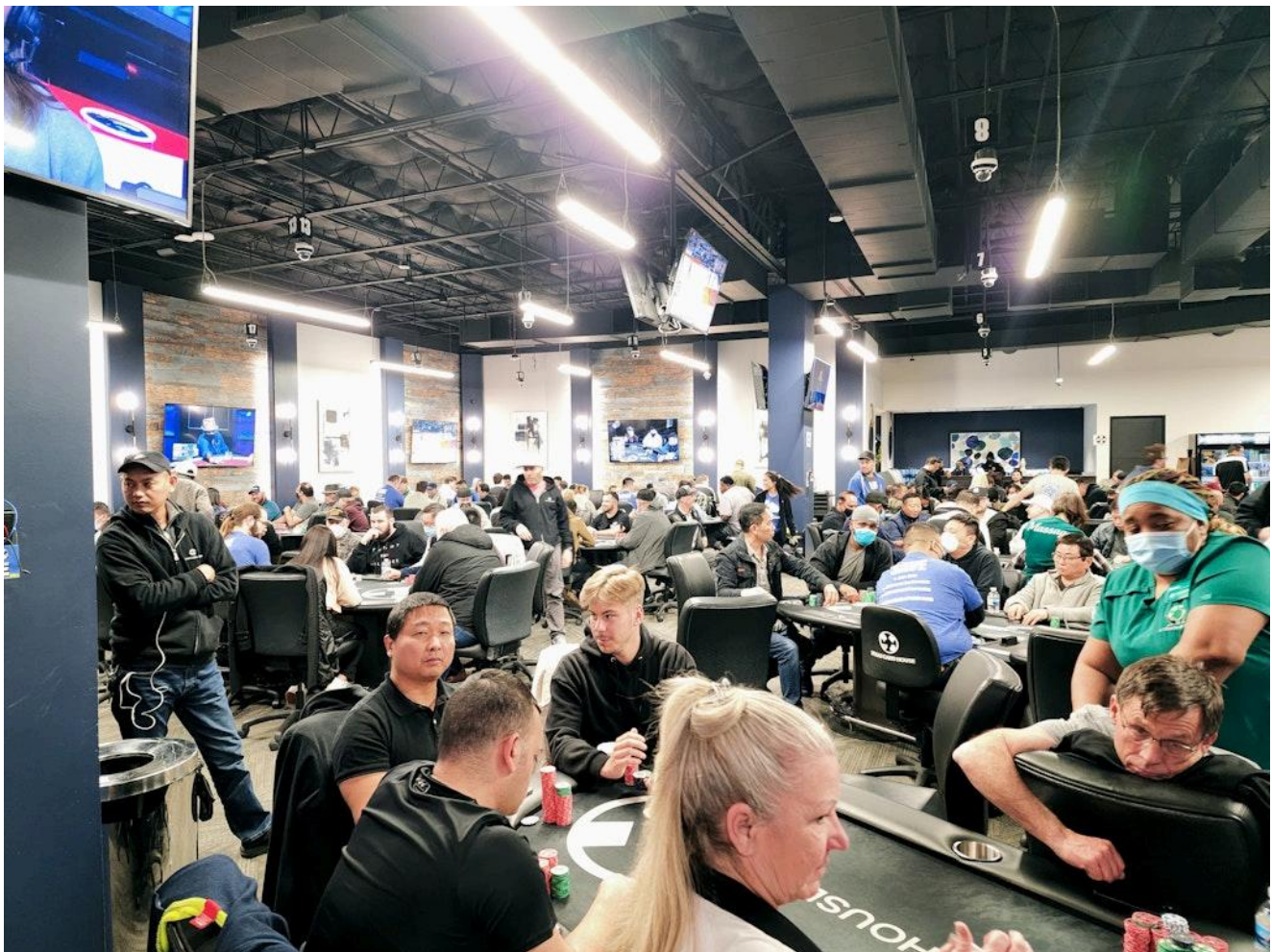


OPINION

Only Dallas could sue itself and still find a way to lose

Hiring counsel to shut down a legal poker room the city authorized in the first place was a bust



The Texas Supreme Court has declined to take up the city of Dallas' efforts to tear up the certificate of occupancy it had already awarded Texas Card House (left), seemingly ending a legal battle over the poker room, writes Robert Wilonsky. (Texas Card House)



In addition to the Harry Hines Boulevard location (above), Texas Card House had tried to open a second location across from the old Valley View mall site. But the city refused to issue that location's certificate of occupancy. (Elias Valverde II/Staff Photographer)

I lost \$10 Sunday night at the Texas Card House on Harry Hines Boulevard. Which is around \$599,990 less than the city of Dallas lost trying to shut down the poker room, so I feel like I came out ahead. Except the city's money was my money, too — and yours, if you're also a Dallas taxpayer living in the city that's very good at wasting its hard-earned on loser lawsuits.

This one, however, was particularly, colossally dumb. And painfully expensive. The City Council in 2022 approved spending up to \$600,000 to hire outside counsel to shut down a very legal business. But I can't say for sure how much it has actually spent, as no one at City Hall will say. But, look, man. I get it. I don't like to talk about embarrassing stuff either.

As first reported by PokerNews on Friday, the Texas Supreme Court declined to take up the city's efforts to tear up the certificate of occupancy it had already awarded Texas Card House. The case technically pit Andrew Espinoza, the city's former chief building official, against Texas Card House. But in reality Espinoza and the city were suing the City Council-appointed Board of Adjustment for reinstating the CO that Espinoza yanked four years ago.

So — and there's no other way to interpret this — the city sued itself, and still managed to lose.

That means, more than likely, the absolutely needless legal battle over the poker room next to Sam Moon has come to an end.

“I hope so,” owner Ryan Crow said when I reached him Monday morning. He found out about the Supreme Court’s wave-off around 9:30 Friday morning. “And I was pretty relieved,” he said. “When things go to the higher courts, anything can happen. We felt pretty confident we were in the right. But sometimes, you never know.”

Actually, Crow and the Texas Card House have been in the right for a very long time. Chris Caso, at the time Dallas’ city attorney, said as much on Jan. 23, 2019, when he told the Dallas City Council that so long as the Texas Card House charged its players a membership fee and didn’t take a cut of any of the winnings — a rake — then it was operating within the law.

By then, Crow had met with the Dallas County District Attorney’s Office, the Dallas Police Department’s Vice Unit, the City Attorney’s Office and numerous Dallas officials to explain that Texas Card House was already operating legally in Austin and other Texas cities. Back in 2019, he told me he’d spent two years doing his due diligence in Dallas before even considering opening here. He was squared away.

Then, the city — an entity as joyless as the building in which it conducts its business — threw it all into the muck.

Five years ago, Crow had hoped to open two rooms in Dallas — the one on Harry Hines, which received its certificate of occupancy on Oct. 23, 2020, and another in a (now-city-owned!) strip mall on Montfort Drive across from the former Valley View mall, where it took a year to get a neighboring property owner to allow the use. But the Montfort location never opened: Without warning, on Dec. 17, 2021, the city revoked the Harry Hines CO, insisting it was “issued in error,” and said it wouldn’t issue one for Montfort either, despite the council having issued a specific use permit in February 2020.

“We were halfway through construction on Montfort, but we had to break that lease and get out of it,” Crow told me. “We had to stop midconstruction. This lawsuit has cost us *millions*. It’s gone. But there was no other thing to do.”

But the Harry Hines location stayed open, and in February and March 2022, Crow and his attorneys took their case to the city’s Board of Adjustment, the council-appointed sorta-judicial body chaired by former council member Dave Neumann. There were two lengthy, packed-house hearings in council chambers attended by poker players who explained why poker is considered a game of skill, not chance, and warned of a return to illegal poker houses should the city revoke the CO.

There’d been some initial reluctance from a few members of the board to go against the city. But almost every time a member would ask city attorneys or building officials why they were revoking the CO — without a single complaint for the police, without a single case instigated by the DA’s office — the lawyers said something about “neighborhood concerns” and giving the law a second look. It wasn’t a compelling argument.

That neighborhood concern actually came from much farther north, from the old III Forks location along the Dallas North Tollway, where another operator, Champions Club Texas, has long hoped to open a poker room near a Collin County neighborhood in council member Cara Mendelsohn’s district. By the summer of 2021, Mendelsohn was posting to Facebook about a “violent incident” in an illegal poker room in her district, and how she was “working hard to shut down poker rooms in District 12, preferably before they open.”

Dallas has already denied Champions’ application for a certificate of occupancy. But the Texas Supreme Court might have dealt the operator a pretty good hand Friday, and at just the right time: Champions takes its case to the Board of Adjustment next Tuesday.

Champions already has a thriving operation in Houston; Texas Card House has six locations throughout the state, including Austin and Houston. Until Dallas, no other city had ever tried to run them out of town.

“Dallas was pretty welcoming, too, until this happened,” Crow said. “And, look, there are a lot of people at the city who have been good to us. But some tried to make a political statement by going after us.”

On March 22, 2022, the Board of Adjustment voted unanimously to reinstate Texas Card House's CO. One board member said the city's decision to grant and then revoke the CO "is not something that is fair to the citizens of the city."

Ten days later — fittingly, on April 1 — the city sued to overturn its own board's decision. The suit was filed by a building official named David Session, who worked for Andrew Espinoza — the same Andrew Espinoza who was among those responsible for moving the city into that unusable \$21 million building on Stemmons Freeway and is now an assistant director in Rowlett.

The city won in district court on Oct. 25, 2022, but the victory was short-lived. The poker room was allowed to stay open during the appeals process, and Dallas lost less than two years later when the 5th Court of Appeals concluded that "the trial court effectively substituted its discretion for that of the BOA in this case."

I can't say why the Texas Supreme Court declined to hear Dallas' case. But fortunately I was able to ask former Texas Supreme Court Justice Dale Wainwright what he thinks, as he represented the Texas Card House during the appeals process. He spent a decade on the court, so I just assume he has a good idea of what gives, even if he's loath to put words in the mouths of his former colleagues.

"My best guess is the court knew that the Board of Adjustment is entitled to deference in its determinations," he said Monday. "It's also unfair and unjust to satisfy all the major decision-makers in the city, to do all that due diligence, to open a business and to then pull the plug after they've been operating for almost a year. I'd like to think the court considered both of those points."

I have no idea what the city will do next — nothing, I should hope. I'd just like to remind everyone about the \$650,000 settlement check City Hall cut to Exxxotica in 2019 and the \$55 million the city owes Trinity East over that fracking lawsuit. For starters. The council will be briefed on the Texas Card House case next week, behind closed doors.

Monday afternoon I called North Oak Cliff council member Chad West, who begrudgingly approved funding the litigation while lamenting that it ever got this far. For the last few years, West, an attorney, has been pushing city staff to make it easier for private game clubs to open without that constant worry about having to suddenly shutter because some council member got unhappy.

"We say we're a business-friendly city and need the tax revenue, but the council keeps doubling down on this bad decision," West said. "This provides jobs for our residents, and it's those underground poker rooms where people are robbed at gunpoint. This place is just a bunch of people playing cards and drinking sodas. It's a very safe, kind of benign environment."

It was also the most diverse Dallas I'd seen in a long time. I divided my time Sunday night at two tables filled with elderly men who grunted in Spanish, middle-aged Asian women and young Middle Eastern men, biker bros and frat boys and any other race, religion and demographic you can Mad Lib.

"It really is a melting pot," Crow said Monday. "It's a community."

There was football on the TV. Servers walked around with small cups of free beer that come with the membership fee. Most folks, save for the one young man at our table stacking plastic cups like it was a hobby, waved her off. The place was bright, clean, bigger than I'd expected. The play was friendly, quick, smart. Nobody slow-rolled big hands. Nobody complained about bad beats.

So basically the opposite of City Hall.

Robert Wilonsky is editorial columnist for The Dallas Morning News.