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IN THE THIRD JUDICIAL DISTRICT COURT FOR SALT LAKE COUNTY
STATE OF UTAH

BRYAN JONES and HILARI JONES,
individuals,

Plaintiffs,

vs.

LAURYN LEVERENZ and DARREN
LEVERENZ, individuals,

Defendants.

VERIFIED COMPLAINT

Tier 2

(Jury Demanded)

Case No. _____

Honorable _____

Plaintiffs Bryan Jones and Hilari Jones (“Plaintiffs”), by and through undersigned counsel,
hereby complain against Defendants Lauryn Leverenz and Darren Leverenz, and allege as follows:

PARTIES

1. Plaintiffs are individuals residing at and owning certain real property located at
1458 East Kensington Avenue, Salt Lake City, Utah, 84105 (“1458 Kensington”), more partic-
ularly described as:

The East 15 feet of Lot 45, all of Lot 46 and the West 3 feet of the North 89 feet of
Lot 47, Block 3, EMERSON HEIGHTS ADDITION, according to the official plat

thereof, filed in Book “F” of Plats at Page 20 of the Official Records of the Salt Lake County Recorder. Together with 1/2 of the vacated alley abutting said property on the South.

2. On information and belief, Defendants are individuals residing at and owning certain real property located at 1466 East Kensington Avenue, Salt Lake City, Utah, 84105 (“1466 Kensington”), more particularly described as:

Beginning at a point 3 feet East of the Northwest corner of Lot 47, Block 3, EMERSON HEIGHTS SUBDIVISION, and running thence South 89 feet; thence West 3 feet to the West line of said Lot 47, thence South 54 feet; thence East 50 feet; thence North 143 feet; thence West 47 feet to the place of beginning. Together with one-half of the Vacated Alley Abutting on the South.

GENERAL ALLEGATIONS

3. Between houses situated on 1458 Kensington and 1466 Kensington runs a concrete driveway beginning at the public street and terminating between the houses (the “Driveway”).

4. The following image from Google Street View, dated June 2019, accurately portrays the Driveway:



5. Exhibit A hereto is a true and correct copy of full-size Google Street View images from July 2011 and June 2019 accurately portraying the Driveway.

6. The Driveway is approximately 17 feet, 4 inches wide between the two houses, large enough to fit two cars side-by-side with their doors closed.

7. From 1993 to 1998, 1458 Kensington was owned by the Plaintiff Hilari Jones's father and stepmother.

8. Plaintiffs visited the property during that time and so were familiar with it before 1998.

9. Plaintiffs purchased and began living in 1458 Kensington in 1998.

10. Since before 1998, and continuing to at least 2020, Plaintiffs, their predecessors, and the owners of 1466 Kensington have mutually treated the midpoint of the Driveway as the property line between 1458 Kensington and 1466 Kensington, for the entire length of the Driveway

from the public sidewalk to the north face of Plaintiffs' garage, a distance of approximately 90 feet.

11. Prior to 2002, the midpoint of the Driveway was marked by a visible difference in the concrete pads that had been installed by the owners of 1458 and 1466 Kensington.

12. From before 1998 until 2002, the owners of the respective properties treated the line between the two concrete pads as the boundary between the properties.

13. For example, Plaintiffs and their vehicles and other possessions occupied the western half of the Driveway up to the midpoint line whenever it suited Plaintiffs.

14. Plaintiffs habitually parked cars on their side of the Driveway up to the midpoint line and invited guests to do the same.

15. In all respects, Plaintiffs treated the western half of the Driveway as part of the 1458 Kensington property.

16. Plaintiffs cared for the western half of the Driveway, engaging in snow removal and other routine maintenance.

17. Similarly, the then-owner of 1466 Kensington, Ruth Jackson, limited her occupation of the Driveway to the east side of the midpoint line.

18. Further, it was often the case that Plaintiffs and Ms. Jackson would transitorily engage in use of the Driveway over the midpoint line, including walking over the midpoint line and opening car doors over the midpoint line to facilitate entering or exiting their cars.

19. In 2002, the Driveway was torn out and repoured.

20. Plaintiffs and Ms. Jackson each paid half the cost of the new Driveway, reflecting the half ownership each of them claimed in the Driveway.

21. As shown in the Street View photograph above and in Exhibit A hereto, the new Driveway had a clearly visible expansion line or joint down the middle of the concrete, coinciding with the prior line between the two concrete pads.

22. Starting at the public sidewalk adjacent to the front boundary of the two properties, the expansion line runs perpendicular to the front boundary for approximately 75 feet, 9 inches due south, after which it angles slightly to the south-southwest and runs for another 17 feet, 8 inches to the northeast corner of Plaintiffs' garage.

23. As it runs between the houses, the expansion line is approximately 8 feet, 8 inches from Plaintiffs' house and 8 feet, 8 inches from Defendants' house.

24. The Plaintiffs and Ms. Jackson continued to use the Driveway as they had before, with the expansion line or joint being mutually treated as the boundary between the properties up to Plaintiffs' garage and each party occupying their land up to that boundary.

25. Ms. Jackson passed away, and in approximately January 2018, 1466 Kensington was sold to Holy Flip, LLC.

26. The Plaintiffs and representatives and invitees of Holy Flip, LLC, continued to use the Driveway as the parties had before, with the expansion line or joint being mutually treated as the boundary between the properties up to Plaintiffs' garage and each party occupying their land up to that boundary.

27. In or about February 2020, Defendants purchased and began residing in 1466 Kensington.

28. Defendants have since attempted to exclude Plaintiffs from the western half of the Driveway and have interfered with their use of the Driveway.

29. Beginning in mid-September 2021, Defendants began deliberately parking their cars immediately next to Plaintiffs' cars, leaving no room for Plaintiffs to open their car doors, making it extremely difficult for Plaintiffs to get into their cars.

30. Defendants explained that they were deliberately doing this to claim the Driveway and to "train" Plaintiffs not to park their cars on the Driveway.

31. On October 27, Defendants peremptorily and unilaterally, without consent or even prior notice, destroyed Plaintiffs' back yard fence, which had been in place for approximately thirty years.

32. Defendants falsely claimed that the back yard fence was on Defendants' property, despite the fact that that fence had been acquiesced in as the boundary between that portion of the lots for more than two decades.

33. More recently, Defendants have threatened to install a fence of their own on the western half of the Driveway, well past the midpoint line that has been the boundary between the properties for more than 28 years.

34. Defendants have begun taking steps to build the fence, including hiring a contractor who has filed for a building permit.

35. On approximately November 15, Defendant Darren Leverenz marked a chalk line on the Driveway approximately 18 inches on the Plaintiffs' side of the expansion line and drilled small holes in the concrete along that chalk line.

36. Defendant Darren Leverenz told Plaintiff Bryan Jones that those holes were going to be for fence posts, for a fence that would go down the driveway along the chalk line.

37. A fence built along that chalk line, with posts placed where the holes were drilled, would be as close as 7 feet from the side of Plaintiffs' house, and would prevent Plaintiffs from parking their cars on the Driveway and make it nearly impossible to even navigate a vehicle back to the garage.

38. Defendants' installation of the threatened fence would thus render 1458 Kensington without a useable driveway, which is a practical necessity in that neighborhood with limited street parking for residents.

FIRST CAUSE OF ACTION – QUIET TITLE/DECLARATORY JUDGMENT

BOUNDARY BY ACQUIESCENCE

39. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

40. Under Utah Code § 78B-6-401, this Court “has the power to issue declaratory judgments determining rights, status, and other legal relations within its respective jurisdiction.”

41. Under Utah Code § 78B-6-406, this Court may grant “[f]urther relief based on a declaratory judgment or decree . . . whenever necessary or proper.”

42. Under Utah Code § 78B-6-1301, a “person may bring an action against another person to determine rights, interests, or claims to or in personal or real property.”

43. Plaintiffs and their predecessors in interest have occupied the western half of the Driveway from the sidewalk to Plaintiffs' garage since before 1998.

44. The midpoint of the Driveway has been visibly marked since before 1998.

45. Plaintiffs and the previous owners of 1466 Kensington acquiesced to the midpoint of the Driveway as the boundary from the sidewalk to Plaintiffs' garage since before 1998.

46. By threatening to exclude Plaintiffs from part of the western half of the Driveway, including by taking steps to build a fence, Defendants have created an actual controversy with Plaintiffs that requires resolution and is ripe for the Court's adjudication.

47. The Court should quiet title in the western half of the Driveway, from the sidewalk to Plaintiffs' garage, in Plaintiffs, and should issue a Declaratory Judgment confirming the midpoint or expansion line in the Driveway as the boundary between Plaintiffs' and Defendants' properties from the sidewalk to Plaintiffs' garage.

SECOND CAUSE OF ACTION – QUIET TITLE/DECLARATORY JUDGMENT

PRESCRIPTIVE EASEMENT

48. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

49. Under Utah Code § 78B-6-401, this Court “has the power to issue declaratory judgments determining rights, status, and other legal relations within its respective jurisdiction.”

50. Under Utah Code § 78B-6-406, this Court may grant “[f]urther relief based on a declaratory judgment or decree . . . whenever necessary or proper.”

51. Under Utah Code § 78B-6-1301, a “person may bring an action against another person to determine rights, interests, or claims to or in personal or real property.”

52. Plaintiffs and their predecessors in interest have used the entire western half of the Driveway from the sidewalk to Plaintiffs' garage continuously since before 1998.

53. Further, Plaintiffs and their predecessors in interest have regularly and continuously used the area just east of the midpoint line for transitory purposes, including walking over the midpoint line and opening car doors over the midpoint line to facilitate entering or exiting their cars, since before 1998.

54. Plaintiffs' and Plaintiffs' predecessors' use of the Driveway has been open, notorious, and under a claim of right.

55. By excluding and threatening to exclude Plaintiffs from part of the western half of the Driveway, Defendants have created an actual controversy with Plaintiffs that requires resolution and is ripe for the Court's adjudication.

56. The Court should declare that Plaintiffs have an easement in the western half of the Driveway from the sidewalk to Plaintiffs' garage, and all necessary space appurtenant thereto, for the uses as described above.

THIRD CAUSE OF ACTION – INJUNCTION

57. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

58. Plaintiffs have an enforceable right to use the entire western half of the Driveway, and to use of the adjoining space as necessary to enter or exit their cars, including enough space to open a car door.

59. Defendants have threatened to prevent Plaintiffs from enjoying their rights to the Driveway by erecting a fence in the Driveway.

60. Plaintiffs have no adequate remedy at law for the harm they would suffer if Defendants were to erect a fence in the Driveway so as to interfere with Plaintiffs' established rights to occupy and use the Driveway.

61. Based thereon, Plaintiffs are entitled to the entry of a preliminary and permanent injunction enjoining Defendants from erecting a fence on the Driveway in such a way as to prevent Plaintiffs from being able to drive on the Driveway, park on the Driveway, and get in and out of cars parked on the driveway.

FOURTH CAUSE OF ACTION – DAMAGES

62. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

63. Defendants interfered with and destroyed Plaintiffs' property when Defendants destroyed Plaintiffs' back yard fence.

64. Defendants had no right to destroy Plaintiffs' back yard fence, as the back yard fence belonged exclusively to Plaintiffs and was on Plaintiffs' property.

65. As a result of Defendants' unjustified and improper destruction of Plaintiffs' back yard fence, Plaintiffs have been damaged in an amount to be proved at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ask that the Court enter judgment in their favor in the form of:

A. A declaratory judgment pursuant to Utah Code Ann. §§ 78B-6-401 et seq., or a quiet title order pursuant to Utah Code Ann. §§ 78B-6-1301 et seq., decreeing and confirming that Plaintiffs have the above-described rights to the Driveway, existing in perpetuity and running with the land;

B. A preliminary and permanent injunction enjoining Defendants from interfering with Plaintiffs' rightful use and occupation of the Driveway in any way, including by erecting a fence on the Driveway so as to interfere with Plaintiffs' ability to drive or park cars on the western half of the Driveway and enter and exit those cars;

C. Damages in an amount to be proved at trial;

D. Plaintiffs' costs, attorney fees, and litigation expenses as allowed by law; and

E. Such other and further relief as this Court deems just and proper.

JURY DEMAND

Pursuant to Rule 38 of the Utah Rules of Civil Procedure, Plaintiffs Bryan and Hilari Jones, hereby demand a trial by jury of all issues so triable.

DATED this 22nd day of November, 2021.

ANDERSON & KARRENBURG, P.C.

/s/ Stephen P. Horvat
Stephen P. Horvat
Samantha E. Hawe
Attorneys for Plaintiffs

VERIFICATION

I, Bryan Jones, have read the foregoing Verified Complaint and know the contents thereof.

I declare under penalty of perjury that to the best of my knowledge the foregoing is true and correct.

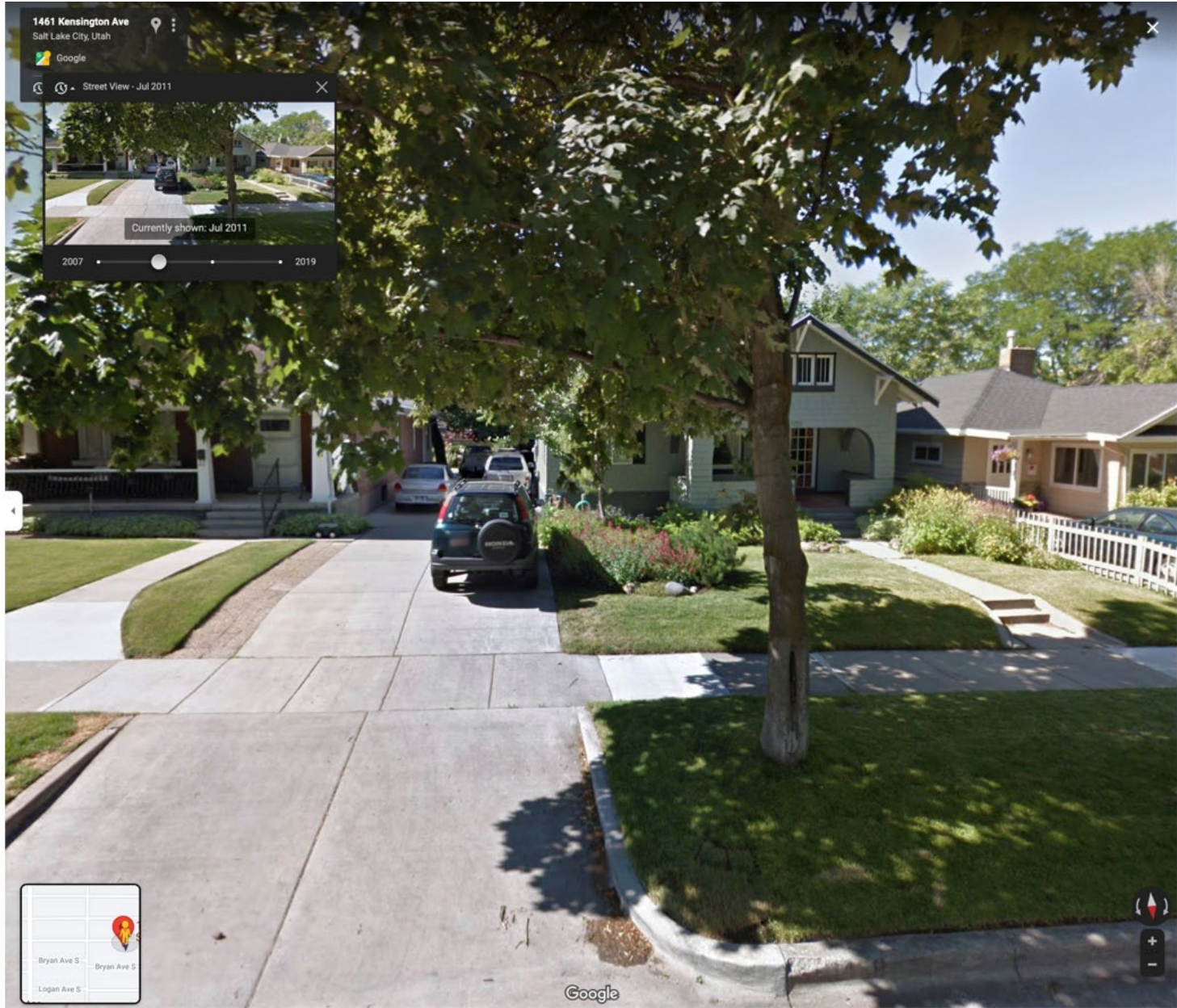
Dated this 22nd day of November, 2021.

/s/ Bryan Jones

Bryan Jones

[Signed by Filing Attorney with Permission]

EXHIBIT A



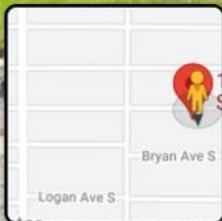
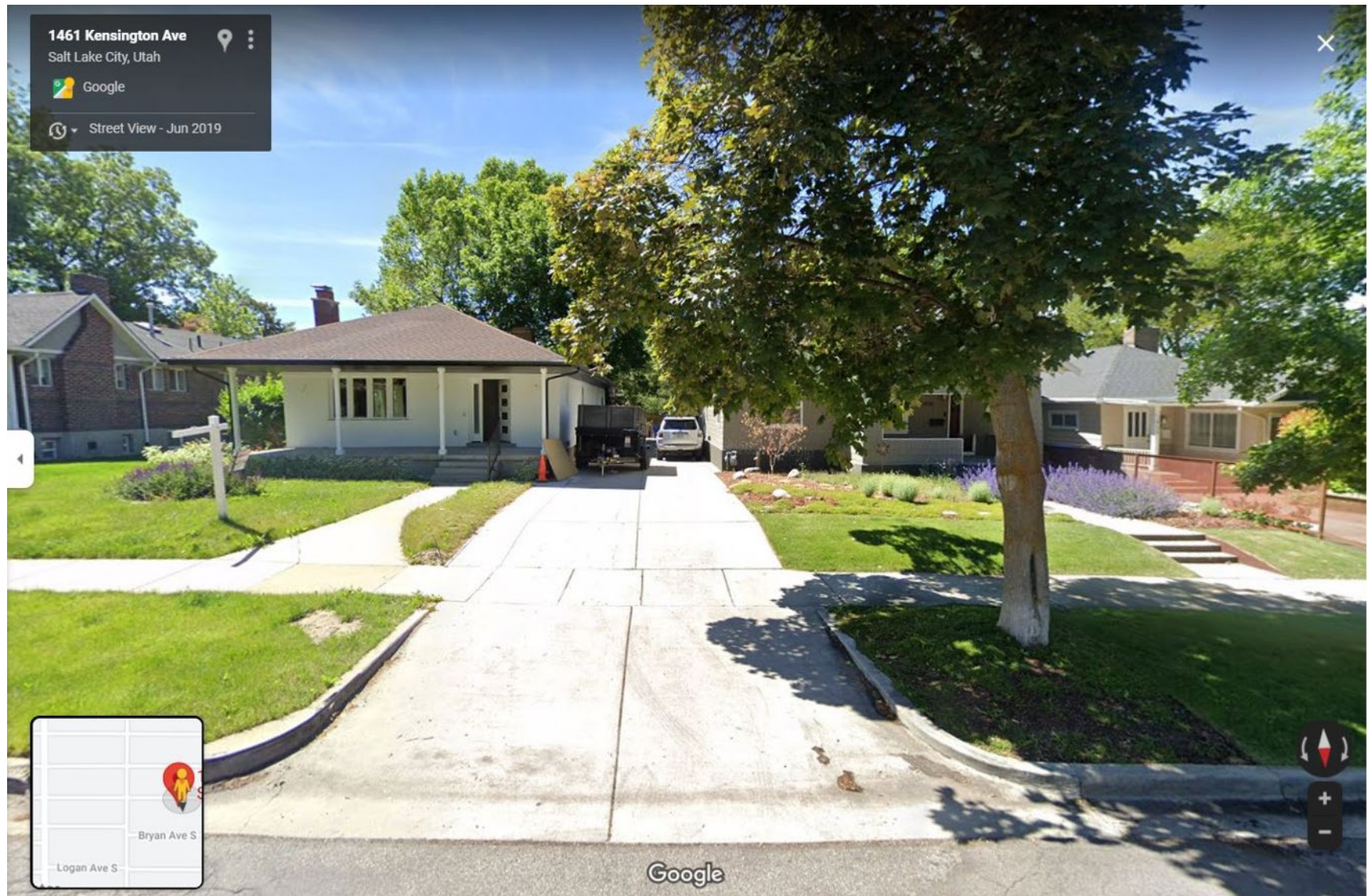
1461 Kensington Ave

Salt Lake City, Utah



Google

Street View - Jun 2019



Bryan Ave S

Logan Ave S

Google

