

No. D-1-GN-17-001888

EX PARTE  
  
CITY OF EL PASO

§ IN THE DISTRICT COURT OF  
§  
§ TRAVIS COUNTY, TEXAS  
§  
§ 250<sup>th</sup> JUDICIAL DISTRICT

Filed In The District Court  
of Travis County, Texas

AUG - 7 2017

At 9:49 A.M.  
Velva L. Price, District Clerk

**FINAL JUDGMENT**

On May 30, 2017 and July 17-18, 2017, the Court conducted a hearing and trial on the Original Petition for Expedited Declaratory Judgment, as supplemented (collectively, the “Original Petition”) previously filed by the City of El Paso (the “City”), pursuant to Chapter 1205 of the Texas Government Code. The City appeared through its designated representative and its counsel of record.

The Attorney General of the State of Texas also appeared, having been individually served with process as required by Chapter 1205.

Respondent Max Grossman (“Grossman”) filed an answer and counterclaim and appeared through his counsel of record. Respondent Leonard “Tripper” Goodman III answered in support of the relief requested by the Original Petition; he appeared in person and through his counsel of record. Respondents Antonia Flores Morales, Candelaria Garcia, Emily Saenz Gardea, and Olga Lopez (collectively “Morales”) filed objections and counterclaims and appeared through their counsel of record. Respondent Yolanda Chavez Leyva (“Leyva”) also filed objections and counterclaims and appeared *pro se*.

After considering the pleadings of the Parties, the relevant evidence admitted at trial, the arguments of counsel and the legal authorities cited to the Court in briefs, the Court ORDERS AND DECLARES:

1. The City's August 14, 2012 adoption of Ordinance No. 0178949 (the "Election Ordinance") and the subsequent election of November 6, 2012 ("Election"), are legal, valid, enforceable and incontestable.

2. At the Election and pursuant to the Election Ordinance, the El Paso voters approved the issuance of City general obligation bonds (the "Bonds") to finance, *inter alia*, Museum, Cultural, Performing Arts, and Library Facilities with such projects to include a newly constructed, renovated or improved Multi-purpose Performing Arts and Entertainment Facility located in Downtown El Paso (the "Facility").

3. The City is authorized to issue general obligation bonds to finance the construction, improvement, renovation and equipping of the Facility, and the acquisition of land and rights-of-way therefor.

4. To the extent the Bonds have been previously issued, such Bonds are legal, valid, enforceable, and incontestable; and the additional Bonds to be issued to finance the costs of the Facility, when issued in conformity with applicable law and as approved by the Texas Attorney General, will be legal, valid, enforceable and incontestable.

5. The City may lawfully expend proceeds generated from the sale of the Bonds to design, construct, improve, renovate and equip the Facility in Downtown El Paso to function as a performing arts facility that is suitable for and will accommodate the various performing arts (*e.g.* musical performances, orchestra performances, theater and other stage performances) and

similar entertainment. No funding from other sources may be used to modify, complete or enhance the Facility beyond this voter-approved, quality-of-life purpose.

6. The City may not lawfully expend proceeds generated from the sale of the Bonds to design, construct, improve, renovate or equip the Facility in Downtown El Paso to be suitable for a sports arena. No funding from other sources may be used to modify, complete or enhance the Facility to make it suitable for a sports arena, which would not comport with the ordinance.

7. Subject to paragraphs 5 and 6 above, the City may lawfully expend the current and future proceeds generated from the sale of the Bonds to acquire land, design, construct, improve, renovate and equip the Facility, and each such expenditure and proposed expenditure relating to the Bonds and the Facility is legal, valid, enforceable, and incontestable.

8. This Court has no subject matter jurisdiction over and alternatively declines to exercise venue over, the City's request that it enjoin a voter initiative purportedly underway by certain persons pursuant to the City Charter to impose an historic district overlay on property located within the following boundaries: West San Antonio Street on The North, Paisano Drive on The South, Durango Street on The West And South Santa Fe Street on The East.

9. The Court takes judicial notice of Cause No. 2017-DCV-2528; *Max Grossman v. City of El Paso*, filed on July 31, 2017, and pending in the 384<sup>th</sup> Judicial District Court of El Paso County, Texas, wherein injunctive relief is being sought against the City pursuant to the Antiquities Code of Texas to refrain from the demolition of properties within the Duranguito neighborhood until the City complies with applicable notice requirements for projects on public lands and the requirements of the Texas Historical Commission. TEX. NAT. RES. CODE § 191.0525 (the "Antiquities action"). Venue over the Antiquities action lies in El Paso County, Texas. TEX.

NAT. RES. CODE § 191.173 (b); TEX. CIV. PRAC. & REM. CODE § 15.002. This Judgment does not adjudicate or affect the claims asserted therein.

IT IS FURTHER ORDERED that, pursuant to TEX. GOV'T CODE § 1205.151, this Final Judgment shall, as to all matters adjudicated, be forever binding and conclusive against the City, the Attorney General of the State of Texas, the Comptroller and over all persons who reside in the territory of the City, who own property located within the boundaries of the City, are taxpayers of the City, or have or claim any right, title or interest in any property or money to be affected by a public security authorization or the issuance by the City of the public securities described in the Original Petition, irrespective of whether any such parties filed an answer or otherwise appeared herein.

IT IS FURTHER ORDERED that, pursuant to TEX. GOV'T CODE § 1205.151, this Final Judgment shall constitute a permanent injunction against the filing by any person or entity of any proceeding contesting the validity of bonds, the authorization of bonds, the expenditure of money relating to the bonds in conformity with paragraphs 5 and 6 above, the provisions made for the payment of bonds or of interest thereon, and any matter adjudicated by this Final Judgment.

IT IS FURTHER ORDERED that the Attorney General of the State of Texas shall, on the transcript of proceedings and record of action delivered thereto, approve the issuance of the bonds in accordance with its standard review and approval procedures as reflected by TEX. GOV'T CODE § 1202.003.

IT IS FURTHER ORDERED that all relief not expressly granted herein is denied. The Court retains jurisdiction to enforce this Judgment.

IT IS FURTHER ORDERED that the temporary injunction previously entered by this Court in this action is dissolved.

IT IS FURTHER ORDERED that each party will pay its own courts costs, expenses, and attorneys' fees.

This Judgment finally disposes of all parties and all claims and is appealable as an accelerated appeal pursuant to the terms of TEX. GOV'T CODE § 1205.068.

Signed on this 7<sup>th</sup> day of August, 2017



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Judge Amy Clark Meachum