

For Immediate Release

March 14, 2022

City of Wichita Falls Prevails on Temporary Injunction

Wichita Falls, Texas- The City of Wichita Falls announces that it has prevailed in the 78th District Court concerning the temporary restraining order (TRO) issued during the March 1, 2022, Council Meeting. Today, the Applicant filed a Motion to Nonsuit and withdrew his suit.

“I am happy the City prevailed today. We knew from day one that the law was on our side and that the City had fully complied with state procurement regulations,” said R. Kinley Hegglund, Jr., City Attorney. “I suspect the Applicant nonsuited once he realized that his petition was factually and legally deficient.”

Had City Attorneys been able to present their case before the Court, the City planned to show that the Applicant’s TRO Petition was fatally flawed in multiple different ways:

1. The TRO did not comply with Texas Rules of Civil Procedure §§ 680 and 683 because the Applicant failed to explain why the City Attorney’s Office was not notified of the proceeding and the Applicant failed to plead an irreparable injury.
2. The TRO was issued prematurely, as courts cannot enjoin legislative action of passing an ordinance (Separation of Powers Doctrine). The enactment of an ordinance is exclusively a legislative function not to be usurped by the courts. Texas Constitution Article II, Section I; *City of Dallas v. Couchman*; *City of Monahans v. State*; *Spinks Industries, Inc. v. Fort Worth*.
3. Applicant erroneously claimed that the City’s attempt to declare an emergency was done to circumvent competitive bidding requirements when in fact, it was being declared to meet a valid budget amendment legal requirement.
4. Applicant failed to realize that the purchase of sanitation trucks is for the health, safety, and welfare of the public and, therefore, is exempt from the competitive bidding requirement of Texas Local Government Code § 252.022(a)(2). *Hoffman v. City of Mt. Pleasant*; *Browning-Ferris, Inc. v. City of Leon Valley*; Op. Tex. Atty Gen. No. JC0281 (2000).
5. Injunctive relief is not available under Texas Local Government Code § 252 unless a contract has already been awarded, making the Applicant’s TRO defectively premature. *City of Brownsville v. Brownsville GMS, Ltd.*
6. This situation would have been resolved on the morning of March 1 if only the opposing attorney had properly complied with Texas Rules of Civil Procedure and Wichita County Local Rule 2.1 and notified the City’s legal staff of the proceeding, thus giving City Attorneys the opportunity to provide to the Court accurate facts and law.