

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **BOND ELECTIONS - TEXAS**

### **Ex parte City of El Paso**

**Court of Appeals of Texas, Austin - November 7, 2018 - S.W.3d - 2018 WL 5815098**

City filed action under the Expedited Declaratory Judgments Act (EDJA) seeking declaration regarding its authority to use certain bond proceeds to finance the design and construction of an entertainment facility that could be used for sports and sporting events.

The District Court validated bond election, but limited the scope of the proposed “multipurpose performing arts and entertainment facility” by prohibiting the city from making that facility “suitable for a sports arena.” City and objectors appealed.

The Court of Appeals held that:

- City’s authority to expend bond proceeds on the construction of a “[m]ultipurpose performing arts and entertainment facility” included the building of a facility that could accommodate sports;
- EDJA did not authorize district court to issue a further declaration prohibiting city from using funding from other resources on the facility;
- District court judgment failed to comply with EDJA provisions specifying scope of injunctive relief;
- EDJA required district court to enjoin objectors’ later filed lawsuit alleging that city’s construction plans violated the Antiquities Code; and
- Ordinance did not mandate a particular prioritization of authorized projects.

Ordinance authorizing city to expend bond proceeds on the construction of a “[m]ultipurpose performing arts and entertainment facility” authorized the building of a facility that could accommodate sports; sport is a type of entertainment, to read the ordinance to authorize only performing-arts purposes would be to improperly disregard the word “entertainment,” and a “multipurpose” facility must have uses beyond the performing arts.

District court, determining that ordinance did not authorize city to use certain bond proceeds to finance the design and construction of an entertainment facility that could be used for sports and sporting events, was not authorized under the Expedited Declaratory Judgments Act (EDJA) to issue a declaration further prohibiting city from using funding from other resources on the facility.

Expedited Declaratory Judgments Act (EDJA), authorizing an “issuer” of public securities to bring a declaratory-judgment action involving the legality or validity of the bonds, bond expenditures, bond authorizations, and the issuer’s authority to issue the bonds, does not authorize a declaration regarding hypothetical future spending of other unknown resources.

District court’s judgment in a bond-validation proceeding under the Expedited Declaratory Judgments Act (EDJA) was improper, as it provided that it was a permanent injunction against “any matter adjudicated by this Final Judgment,” but omitted the statutory phrase “that could have been raised in the action”; because the statute specified the injunctive parameters of an EDJA judgment, the district court’s judgment should have ordered injunctive relief that complied with those parameters.

District court, presiding in bond-validation proceeding seeking declaration regarding city's authority to use certain bond proceeds to finance the design and construction of an entertainment facility that could be used for sports and sporting events, was required, under the Expedited Declaratory Judgments Act (EDJA), to enjoin objectors' later filed lawsuit alleging that city's plans for construction of the facility at issue were in violation of the Antiquities Code; objectors' suit sought to stop city from taking certain actions in connection with the development and construction of the facility funded by bond proceeds, and objectors' suit prevented final resolution of all matters subject to the city's EDJA lawsuit.

City ordinance authorizing expenditure of bond proceeds for various "quality of life" projects did not mandate a particular prioritization of authorized projects; although the ordinance described twenty discrete projects for which bond proceeds may be used, nothing in the text of the ordinance required city to build every named project, there was no language that prioritized the listed projects, and the only ordinance-based limitation on city's discretion was that it could not spend bond proceeds on unlisted projects until after it proceeded with listed improvements.