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PUBLIC PAYMENTS - TEXAS

American Precision Ammunition, L.L.C v. City of Mineral Wells

United States Court of Appeals, Fifth Circuit - January 12, 2024 - F.4th - 2024 WL 137035

Company brought action against city alleging breach of contract, violation of Texas Open Meetings Act (TOMA), denial of federal due process, and denial of due course of law under Texas Constitution.

The United States District Court for the Northern District of Texas dismissed complaint, and company appealed.

The Court of Appeals held that:

- City's contractual obligation to "gift" private company $150,000 was illegal under state constitution;
- District court's determination that agreement was illegal rendered company's TOMA claim moot; and
- Company lacked protected due process property interest in city's promise to gift it $150,000.

Under Texas law, city's contractual obligation to "gift" private company $150,000 constituted gratuitous payment of public money, and thus was illegal under state constitutional provision prohibiting gratuitous payment of public money by political subdivisions to individuals, associations, or corporations, despite company's contention that city agreed to provide it with payment in consideration of its agreement to relocate to city; agreement did not indicate any consideration in exchange for $150,000 gift, agreement provided that tax abatements—not $150,000 gift—were return benefit that company was set to receive for relocating to city, and agreement provided no other return benefits to city for its gift.

District court's determination that city's agreement with company violated Texas constitution's prohibition against gratuitous payment of public money by political subdivisions rendered moot company's claim that city's termination of its agreement violated Texas Open Meetings Act (TOMA) because agenda notice for city council's meeting did not sufficiently apprise public that agreement would be discussed or that any action might be taken with regard to it; company wanted district court to reinstate parties' agreement, but that claim was predicated on finding that it was valid and enforceable.

Company lacked protected property interest in city's promise to gift it $150,000, and thus city's termination of contract did not violate company's right to due process under Fourteenth Amendment or its right to due course of law under Texas Constitution, despite company's contention that agreement's notice-and-cure provision created property interest in tax abatements provided by agreement; gift violated state constitution's prohibition against gratuitous payment of public money by political subdivisions, and ordinary breach of contract suit in state court could fully protect company's interest in tax abatements.

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