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Burns v. City of San Antonio by and Through City Public Service Board of San Antonio

Court of Appeals of Texas (15th Dist.) - April 3, 2025 - S.W.3d - 2025 WL 996377

In 2020, the City of San Antonio authorized the issuance, sale, and delivery of 26 public securities ("Public Securities") authorized by 20 bond ordinances ("Ordinances") for the purpose of building, improving, extending, enlarging, and repairing the City's gas and electric utility systems or refinancing previously issued revenue obligations.

The Public Securities issued were outstanding or authorized in the total principal amount of $6,189,680,000. The City obtained the Attorney General's approval of the Public Securities and registered them with the Comptroller of Public Accounts for the State of Texas. The Public Securities and their authorizing Ordinances thus became "incontestable" and "valid, binding, and enforceable according to [their] terms." Tex. Gov't Code § 1371.059(a).

In response to an Initiative Petition circulated by Appellants seeking significant changes to the composition of the Board ("Charter Amendments") the City filed a petition under the Expedited Declaratory Judgment Act (EDJA) in District Court seeking to "adjudicate the legality, validity and enforceability" of the Public Securities and their corresponding Ordinances.

The City alleged that the Charter Amendments sought by the Initiative Petition posed an imminent threat to the validity of the Public Securities in the form of contractual impairment because the modifications would eliminate the City Public Service Board's ("Board") autonomy from City politics. The City further alleged the Initiative Petition directly conflicted with the Ordinances in that the Ordinances could only be amended using exclusive methods promulgated through the Ordinances and as relied upon by holders of the Public Securities.

Citing actual harm rather than "likely" harm, the City alleged that "at least one of the national credit rating agencies" had revised its outlook for the City from "stable" to "negative," based in part on the existence and pendency of the Initiative Petition. The City stated that it depended upon favorable credit ratings and outlooks to borrow money at low interest rates where even small incremental changes can have tremendous financial impact.

The trial court granted the City's requested declaratory relief, declaring the Public Securities and Ordinances "legal, valid, and incontestable."

Appellants challenged the trial court's judgment as (1) void for lack of subject matter jurisdiction; and (2) void for a denial of notice amounting to a constitutional due process violation.

This litigation became increasingly lengthy and complex. As the Court of Appeals noted, "This case presents a cornucopia of issues—the review of cross motions for summary judgments, the Expedited Declaratory Judgment Act's interpretation, and the availability of different mechanisms for challenging judgments after the time for an appeal has expired."

After the court disposed of almost all issues in favor of City, it addressed Appellants' claim that they were prevented from asserting meritorious defenses due to the City's failure to serve them personally with notice of the bond-validation suit. Appellants did stipulate that the City had complied with the notice provisions of the EDJA, including notice by publication.

"We conclude that under the facts of this case the City's notice by publication did not violate Appellants' due process rights; therefore, the EDJA court had jurisdiction over the parties."

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