



TO: Mayor and Council

FROM: Sylvia Borunda Firth
Laura Prendergast Gordon
Kenneth A. Krohn

RE: City of El Paso v. Greg Abbott, Attorney General

DATE: May 15, 2014

Pursuant to the City Council's instructions the City's legal counsel has engaged in discussions with the Intervenor's legal counsel to negotiate a resolution in this case. The Intervenor, Stephanie Allala, continues to insist that the City produce all records maintained by current and former City Council members on personal devices, and Ms. Allala further demands that the City of El Paso sue the individual Council members, former officials or the City Manager to compel production of the emails maintained on their personal devices.

The Texas Attorney General is satisfied with the City's efforts to release the documents and the City filed a Plea to the Jurisdiction seeking dismissal of the lawsuit. The Attorney General did not file a response to the Plea to the Jurisdiction, conceding that the Attorney General's office was satisfied with the City's response and release of the documents.

The trial court granted the City's Plea to the Jurisdiction but retained Jurisdiction over Ms. Allala's request. Because the City could not resolve the dispute to the satisfaction of Ms. Allala, it filed a Notice of Appeal.

The parties filed timely briefs on the law. The City as Appellant and Ms. Allala as Intervenor/Appellee. The Attorney General filed a notice with the court that it was satisfied with the position taken by the City of El Paso and it was declining to participate either by filing of a brief or appearing at Oral Argument. (See documents attached.)

Oral Argument is presently scheduled for May 22, 2014 in Austin, Texas.

The City and the Attorney General have been willing to end the litigation for the last several months and have made several attempts to satisfy the concerns of the Intervenor but she has insisted that the litigation continue and will not enter into meaningful settlement discussions .

Mayor
Oscar Leeser

City Council

District 1
Ann Morgan Lilly

District 2
Larry Romero

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Dr. Michiel R. Noe

District 6
Eddie Holguin Jr.

District 7
Lilia B. Limon

District 8
Cortney C. Niland

City Manager
Joyce A. Wilson

The following is timeline of relevant events documenting the City of El Paso's efforts to resolve this lawsuit.

- September 6, 2012: City receives the first request for public information from Aleshire on behalf of Allala requesting all e-mails (including e-mails written using personal e-mail accounts) regarding matters of public business of the City between the Mayor, Council Representatives, and City Manager.
- October 4, 2012: City requests a legal opinion from the Texas Attorney General regarding this request.
- October 8, 2012: City receives the second request for public information from Aleshire on behalf of Allala.
- November 1, 2012: City requests a legal opinion from the Texas Attorney General regarding this request.
- November 30, 2012: City receives the Attorney General's response to the City's request for a legal opinion. (OR2012-19216).
- December 10, 2012: City files its Original Petition for Declaratory Relief under *City of El Paso v. Greg Abbott*, in the District Court of Travis County, Texas.
- August 6, 2013: Council took action and gave direction that the City Attorney bring back a Resolution addressing the issue of the Texas Public Information Act and the responsibilities of elected officials and employees with regard to public information created, transmitted, received or maintained on any personal device.
- August 13, 2013: Council passed a Resolution recognizing the definition of "public information" to include information related to City Business that is created, transmitted, received or maintained on any personal device and directing that all elected officials, employees, contractors or volunteers managed public information received on personal devices.
- August 20, 2013: Council passes a Motion authorizing the City's Public Information Officer to exercise the authority granted to the governing body to request the voluntary submittal of any email in the possession of any current or immediately preceding council member and the City Manager that would be responsive to the requests for public information

currently pending resolution in Travis County District Court.

Council authorizes the unilateral release of:

- 1) The fifteen previously undisclosed pages of information accessible to the City and response to Aleshire's September 5, 2012 and October 5, 2012 requests;
- 2) The 168 previously undisclosed pages of information accessible to the City and responsive to Rojas' February 7, 2013 request; and,
- 3) Any responsive email voluntarily made accessible by current and former City Council members and the City Manager since the requests were received or in response to the Public Information Officer's request as described above.

Council also authorizes the City Attorney in consultation with outside Counsel to offer this unilateral action by the City as an amicable resolution of the lawsuit City of El Paso, Texas vs. Greg Abbott, Attorney General, Cause No. D-1-GN-12-003879, our file number 12-1001-034.

- September 16, 2013: The City publicly releases all remaining responsive documents in its possession.
- September 30, 2013: Plea to the Jurisdiction hearing. The Texas Attorney General did not opposing granting the City's Plea to the Jurisdiction as to all requests. Intervenor objects to dismissal of the case.
- November 25, 2013: Supplemental Plea to the Jurisdiction hearing. The Texas Attorney General did not opposing granting the City's Plea to the Jurisdiction as to all requests. Intervenor insists that the City sue its current and former City Council Members and employees to get requested records.
- December 2, 2013: The district court issues its order on the City's plea to the jurisdiction. Through this order the court dismisses all claims except for Ms. Allala's claim.
- December 12, 2013: City of El Paso files its Notice of Appeal with the Austin Court of Appeals challenging the district court's order regarding Ms. Allala's lawsuit.
- April 29, 2014: Texas Attorney General files notice with the Austin Court of Appeals stating its support of the City of El Paso's position in this appeal.

May 22, 2014: Oral Arguments scheduled in this appeal.