

CAUSE NO. 2024-63919

STATE OF TEXAS, § IN THE DISTRICT COURT
Plaintiff, §
§
v. §
§
HARRIS COUNTY, TEXAS, HARRIS §
COUNTY COMMISSIONER COURT, §
LINA HIDALGO, in her official capacity §
as Harris County Judge, RODNEY ELLIS, §
in his official capacity as Commissioner of §
Harris County Precinct 1, ADRIAN § 165th JUDICIAL DISTRICT
GARCIA, in his official capacity as §
Commissioner of Harris County Precinct 2, §
TOM RAMSEY, in his official capacity as §
Commissioner of Harris County Precinct 3, §
and LESLEY BRIONES, in her official §
Capacity as Commissioner of Harris County §
Precinct 4, HARRIS COUNTY PUBLIC §
HEALTH, LEAH BARTON, in her §
official capacity as Interim Executive §
Director of Harris County Public Health, §
Defendants, § HARRIS COUNTY, TEXAS

**HARRIS COUNTY’S SUPPLEMENTAL RESPONSE TO STATE OF TEXAS’
APPLICATION FOR RESTRAINING ORDER AND INJUNCTIVE RELIEF AND
HARRIS COUNTY’S PLEA TO THE JURISDICTION**

HARRIS COUNTY, TEXAS, HARRIS COUNTY COMMISSIONER COURT, LINA HIDALGO, in her official capacity as Harris County Judge, RODNEY ELLIS, in his official capacity as Commissioner of Harris County Precinct 1, ADRIAN GARCIA, in his official capacity as Commissioner of Harris County Precinct 2, TOM RAMSEY, in his official capacity as Commissioner of Harris County Precinct 3, and LESLEY BRIONES, in her official capacity as Commissioner of Harris County Precinct 4, HARRIS COUNTY PUBLIC HEALTH, LEAH BARTON, in her official capacity as Interim Executive Director of Harris County Public Health (“Harris County” or “Harris County Defendants”) file this Supplemental Response to the State’s

Application for Restraining Order and Injunctive Relief. In support of this Supplemental Response, Harris County shows the Court the following:

Harris County Is Also Authorized to create the Community Prosperity Program Under Local Gov't Code §§ 381.004.

In its Response, Harris County argued that even if Section 381.003 of the Local Government Code didn't provide the authority for the Community Prosperity Program, Section 381.004 also grants counties the authority to develop and administer programs for economic development, but without the need for a federal connection. Resp. at 32. For clarity's sake, Harris County develops this argument further below.

Section 381.004(b) provides: "To stimulate business and commercial activity in a county, the commissioners court of the county may develop and administer a program . . . for state or local economic development" or "to stimulate, encourage, and develop business location and commercial activity in the county." Tex. Loc. Gov't Code § 381.004(b)(1), (3). Counties may "contract with another entity for the administration of the program"; "use county employees or funds for the program"; and "accept contributions . . . or other resources to develop and administer the program," such as SLFRF funds. *Id.* § 381.004(c)(3)-(4). And a program under § 381.004 may include "making . . . grants of public money." *Id.* § 381.004(h).

Notably, the Legislature added what is now subsection (h) in response to an Attorney General Opinion concluding that the original law did not authorize counties to grant money. Compare Tex. Att'y Gen. Op. No. JC-0092 (1999), with Act of May 17, 2001, 77th Leg., R.S., ch. 1154 § 1, 2001 Tex. Gen. Law 2560, 2560. The Attorney General's Office has recognized that "neither that statute nor the state constitutional provisions at issue impose durational or amount restrictions" on "grants made for economic development under subsection 381.004(h)." Tex. Att'y Gen. Op. No. KP-0261 (2019) at 4. That subsection "leaves the duration and amount of economic

development . . . grants to the commissioners court's budgetary discretion in the first instance, subject to the constitutional limitations" of *Texas Municipal League. Id.*

"As the administrative head of county government, a commissioners court has broad discretion to conduct county business and broad implied powers to accomplish its legitimate directives. In fulfilling its statutory authority to approve and authorize a budget, the commissioners court oversees the fiscal operation of the county, which carries with it 'the essence of the decision making entrusted to [its] judgment' as the commissioners court apportions funds among the various operations and programs of the county." *Id.* (citations omitted).

Further, as the Attorney General has recognized, whether a specific project "serves one or more of these purposes [in § 381.004(b)] will depend on the particular facts and therefore cannot be resolved in an attorney general opinion. Rather, under section 381.004, the commissioners court must determine in the first instance, subject to judicial review, whether a particular program serves a purpose authorized by the statute." Tex. Att'y Gen. Op. No. KP-0116 (2016) at 2-3 (quoting Tex. Att'y Gen. Op. No. KP-0091 (2015) at 2 (stating that "[f]act finding is beyond the scope of an attorney general opinion")). Also, the "commissioners court must determine in the first instance, subject to judicial review, whether an expenditure, . . . meets [the] constitutional requirements" set out in *Texas Municipal League. Id.* at 5.

Thus, counties have the discretion to determine in the first instance whether any particular project, including a guaranteed income program like the Community Prosperity Program, satisfies the requirements of § 381.004 and the Texas Constitution.

PRAYER

Harris County Defendants pray that the Court grant its Plea to the Jurisdiction and deny the State's request for injunctive relief. Harris County Defendants further request such other and

further relief, general and special, legal and equitable, to which they may show themselves justly entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of October, 2024 a true and correct copy of the foregoing document was served via the Court's electronic filing system to all counsel of record.

/s/ Christopher Garza

CHRISTOPHER GARZA

Senior Assistant County Attorney

Unofficial Copy Office of Marilyn Burgess District Clerk

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Status as of 10/24/2024 10:00 AM CST

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