



**Fourth Court of Appeals**  
**San Antonio, Texas**

**OPINION**

No. 04-19-00836-CV

Al **SUAREZ**, as Mayor of the City of Converse; Jeff Beehler, as Place 5 Member, City Council of the City of Converse; Kathy Richel as Place 1 Member, City Council of the City of Converse; Shawn Russell, as Place 3 Member, City Council of the City of Converse; Marc Gilbert, as Place 6 Member, City Council of the City of Converse; Le Ann Piatt, as City Manager of the City of Converse; Holly Nagy, as Secretary of the City of Converse; and City of Converse,  
Appellants

v.

Katherine **SILVAS**,  
Appellee

From the 438th Judicial District Court, Bexar County, Texas  
Trial Court No. 2019CI22419  
Honorable Mary Lou Alvarez, Judge Presiding<sup>1</sup>

Opinion by: Patricia O. Alvarez, Justice

Sitting: Patricia O. Alvarez, Justice  
Luz Elena D. Chapa, Justice  
Irene Rios, Justice

Delivered and Filed: May 20, 2020

**REVERSED IN PART, AFFIRMED IN PART**

The appellants are the City of Converse and its mayor, all city councilmembers except the Place 4 member, city manager, and city secretary. The appellee, Katherine Silvas, is the city

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<sup>1</sup> The Honorable Mary Lou Alvarez granted the temporary injunction. The Honorable Peter Sakai denied the plea to the jurisdiction.

councilmember elected to Place 4. The appellants appeal the trial court's orders denying their plea to the jurisdiction and granting a temporary injunction in favor of Silvas.

### **BACKGROUND**

The City is a home rule city whose operations are governed by a Home Rule Charter. The Charter provides for a council-manager style of government. Under the Charter, the powers of the City are vested in the City Council, which enacts local legislation, adopts budgets, determines policies, and appoints a City Manager. The City Council is composed of a mayor and six councilmembers who are elected at large. The City Manager is "responsible to the City Council for the execution of the laws and the administration of the government of the City."

#### **A. Charter Provisions**

Article II of the Charter is entitled "The Council," and Section 2.07 is entitled "Prohibitions." Section 2.07(C) provides as follows:

Interference with Administration. Except for the purposes of inquir[i]es and investigations under Section 2.11[,] the Mayor and all Council persons shall deal with City officers and employees who are subject to the direction of the City Manager solely through the City Manager. Neither the Mayor nor any Council person will give orders to any such officer or employee, either publicly or privately, except as otherwise provided in this Charter.

Section 2.11 of the Charter, titled "Investigative Body," provides, in pertinent part, as follows:

The Council shall have the power to inquire into the official conduct of any department, agency, office, officer, or employee of the City. For this purpose, the Council shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, and other evidence material to the inquiry.

Section 2.12 of the Charter, titled "Forfeiture of Office," provides, in pertinent part, as follows:

A Council person or the Mayor shall forfeit his office if he:

. . .

B. Violates any express prohibition of this Charter.

Finally, Article V of the Charter is entitled “Administrative Organization,” and Section 5.01 is entitled “City Manager.” Section 5.01(D) of the Charter, entitled “Freedom from Interference,” contains the following sentence:

Except for the purpose of inquir[y], the City Council and its persons shall deal with the City Staff solely through the City Manager, and neither the Council nor any member not having administrative or executive functions under this Charter shall give orders to any of the subordinances of the City Manager, either publicly or privately.

**B. September 2019 Monthly Report**

In preparation for the October 15, 2019 City Council Meeting, the City Council received a document from the City’s Development Services Department entitled “September, 2019 Monthly Report.” The document is in memo format and is styled as follows:

To: Hon. Mayor Suarez and City Council  
 Thru: Le Ann Piatt, City Manager  
 From: John J. Quintanilla, Dir. of Development Services  
 Linda Gonzales, Building Permit Tech

The document contains data regarding total permits issued and inspections completed for the month of September 2019 and the 2019 fiscal year with comparison data for the month of September 2018 and the 2018 fiscal year. The document also contains specific data regarding new home construction permits and associated revenue for five fiscal years: 2015–2019. The evidence is undisputed that Silvas was in contact with Quintanilla on October 15, 2019, prior to the City Council meeting.

**C. Temporary Injunction Hearing**

At the hearing on the temporary injunction, Silvas testified she initially contacted Piatt, the City Manager, and asked that Quintanilla call her about the report.<sup>2</sup> The evidence is also undisputed that Silvas asked Quintanilla if the report included data on commercial permits. At the temporary

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<sup>2</sup> We note Silvas did not testify at the hearing on the plea to the jurisdiction.

injunction hearing, Silvas testified Quintanilla told her the report did not include commercial permit data and offered to run a report for that data. In an e-mail to Piatt dated October 22, 2019, Quintanilla stated he told Silvas the report “included permit data from both residential and commercial projects.” The e-mail further stated Silvas expressed a desire to discuss commercial permit data at the October 15, 2019 City Council meeting, and Quintanilla responded that he “could run a report for data on commercial permits for FY 2020.” The e-mail then stated, “Councilwoman Silvas requested that I run a report for the last five fiscal years and conduct an analysis for discussion at the 10.15.2019 City Council meeting.” The e-mail finally stated, “When I ran the reports, it produced 25 pages of permit data and I was concerned that the directive to have a complete analysis prepared for discussion would not allow for a through [sic] and comprehensive analysis by the 7PM City Council meeting.”

At the temporary injunction hearing, Silvas testified Quintanilla offered to run a five-year report containing commercial permit data and denied that she directed Quintanilla to perform an analysis or that she even requested such an analysis. Instead, Silvas testified Quintanilla asked if she would like a five-year analysis of commercial permit data, and she responded she would. Silvas further testified she told Quintanilla “never mind” when he reported from the dais at the City Council meeting that the information regarding commercial permits would require the generation of a twenty-five-page report.

**D. Special Meeting October 22, 2019**

On October 22, 2019, the mayor called a special meeting of City Council. The only item on the agenda referenced Texas Open Meetings Act 551.074 personnel matters “to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee” and “to hear a complaint or charge against an officer or employee: Councilwoman Kate Silvas.” Silvas did not attend the Council meeting, later testifying the

meeting conflicted with her son's soccer game. At the end of the meeting, one of the Council members moved that the Council forfeit Silvas's position on the Council pursuant to Section 2.12(B) of the Charter for violating Section 2.07 by "giving a directive/order to a City employee subject to the direction of the City Manager on or about October 15, 2019." It is undisputed that the "directive" referenced in Quintanilla's October 22, 2019 e-mail was the sole "directive/order" relied on by the Council in declaring that Silvas forfeited her Council position.

#### **E. Silvas's Suit**

Silvas's petition asserted immunity did not bar "a declaratory judgment suit or suit for injunctive relief to compel a governmental official to cease *ultra vires* activity and comply with statutory or constitutional provisions." Among the declarations Silvas sought were declarations that (1) "the City Council under the City Charter has no express authority of removal of one of its members or to declare a forfeiture of office"; (2) "[t]here is no express, self-enabling forfeiture in this case under the City Charter"; (3) "[t]he City Charter on its face, or as applied, violates [the law] insofar as said Charter on its face or as applied prohibits members of Council from making a lawful request for public information to subordinates of the City Manager"; and (4) "[t]he City Council acted *ultra vires* and without authority under the City Charter or statute for the declaration and removal it attempted to do." Silvas also sought a temporary restraining order and temporary injunction alleging the City's website, which she alleged is maintained by City Manager Piatt and City Secretary Holly Nagy, lists Place 4 on the Council as vacant and has a notice posted stating the Council was accepting applications for Place 4. Silvas further alleged Piatt and Nagy are responsible for compiling and processing the applications. Silvas sought to enjoin the defendants from obstructing, hindering, or removing her from her Place 4 seat on the Council. Silvas filed the underlying lawsuit on October 28, 2019, and the trial court granted a temporary restraining order the same day.

**F. Special Meeting November 1, 2019**

Before the trial court's hearing on the temporary injunction, the City Council held another special meeting on November 1, 2019, to reconsider its declaration that Silvas forfeited her position on the Council. Although Silvas was present at the meeting, she did not explain her version of the events involving Quintanilla as she did in her testimony at the temporary injunction hearing. At the temporary injunction hearing, Silvas testified she did not provide the explanation based on the advice of her attorney. Silvas further testified she was not questioned about the events at the meeting by the other Council members.

**G. Trial Court's Order**

At the conclusion of the temporary injunction hearing on November 6, 2019, the trial court signed an order enjoining the appellants from "taking any action to obstruct, hinder, or remove" Silvas from her duly elected office or blocking her access to "City-issued electronic accounts and key cards." On December 3, 2019, the trial court held a hearing on the appellants' plea to the jurisdiction and took it under advisement. On December 9, 2019, the trial court signed an order denying the plea. The appellants appeal both orders.

**PLEA TO THE JURISDICTION**

The appellants first challenge the trial court's order denying their plea to the jurisdiction on several grounds.

First, the appellants contend Silvas does not seek a declaration construing an ordinance or statute and does not challenge the constitutionality or validity of a statute or ordinance. Instead, Silvas seeks a declaration that the appellants violated a statute or ordinance or a declaration of her rights under a statute or ordinance. In making this argument, the appellants assert the Charter is not a statute or ordinance.

Next, although the appellants agree immunity is waived for ultra vires claims seeking prospective relief, they contend Silvas is seeking retrospective relief for past actions. They also assert an ultra vires claim is not properly brought against the City itself and that Silvas did not allege any ultra vires claims against the city manager or city secretary.

Finally, the appellants assert they are entitled to absolute legislative immunity. In making this argument, the appellants contend they were acting in their legislative capacity in making legislative findings that Silvas violated the Charter.

#### **A. Standard of Review**

A trial court's ruling on a plea to the jurisdiction is reviewed de novo on appeal. *Chambers-Liberty Ctys. Navigation Dist. v. State*, 575 S.W.3d 339, 345 (Tex. 2019). "Parties may submit evidence at the plea-to-the-jurisdiction stage, and the trial court's review generally mirrors the summary judgment standard." *Id.* "[W]e take as true all evidence favorable to the nonmovant," and "[w]e indulge every reasonable inference and resolve any doubts in the nonmovant's favor." *Tex. Dep't of Parks & Wildlife v. Miranda*, 133 S.W.3d 217, 228 (Tex. 2004).

"If the evidence creates a fact question regarding the jurisdictional issue, then the trial court cannot grant the plea to the jurisdiction, and the fact issue will be resolved by the fact finder. However, if the relevant evidence is undisputed or fails to raise a fact question on the jurisdictional issue, the trial court rules on the plea to the jurisdiction as a matter of law." *Chambers-Liberty Ctys. Navigation Dist.*, 575 S.W.3d at 345 (quoting *Miranda*, 133 S.W.3d at 227–28).

#### **B. Evidence Considered by the Trial Court**

As previously noted, at the hearing on the appellants' plea to the jurisdiction, Silvas did not testify. In addition, based on Silvas's objections, the trial court excluded the transcripts of the October 22, 2019 and November 1, 2019 special meetings of the City Council. The appellants did not raise an issue on appeal challenging the trial court's ruling; therefore, we do not consider the

excluded evidence. *See City of Dall. v. Rodriguez*, No. 05-19-00045-CV, 2019 WL 3729504, at \*3 (Tex. App.—Dallas Aug. 7, 2019, no pet.) (mem. op.) (sustaining appellate issue challenging trial court’s exclusion of evidence offered in support of plea); *Jefferson Cty. v. Dent*, No. 09-19-00005-CV, 2019 WL 3330589, at \*3–4 (Tex. App.—Beaumont July 25, 2019, no pet.) (mem. op.) (overruling appellate issue challenging trial court’s consideration of affidavit offered in support of plea and holding trial court did not abuse its discretion in considering the evidence); *In re Vida*, No. 04-14-00636-CV, 2015 WL 82717, at \*3 n.3 (Tex. App.—San Antonio Jan. 7, 2015, original proceeding [mand. denied]) (mem. op.) (overruling complaint regarding court’s consideration of evidence presented in support of a plea and holding ruling on a plea “is not an implicit ruling on any objections to evidence presented in support of or in response to the plea”); *cf. Tex. Dep’t of Criminal Justice v. Miller*, 51 S.W.3d 583, 587 (Tex. 2001) (referring to evidence offered in support of a plea as “summary judgment evidence”); TEX. R. CIV. P. 166a(f) (noting requirements of summary judgment affidavits and noting objections to form of affidavits must be specifically pointed out to trial court). Because we do not consider the transcripts, we also disregard all factual statements made in appellants’ brief supported by citations to the transcripts. In view of the foregoing, we note the only evidence regarding the basis for the Council’s declaration that Silvas forfeited her position on the Council that was before the trial court at the hearing on the appellants’ plea was Quintanilla’s October 22, 2019 e-mail.

**C. Declarations Regarding the Construction or Validity of a Statute or Ordinance**

The appellants first argue Silvas did not assert a permissible claim for a declaration regarding the construction or validity of a statute or ordinance. Silvas responds that she sought such a declaration because she sought a declaration that the Charter did not authorize the City Council to declare a forfeiture of her office and that the Charter was constitutionally invalid. To determine whether the trial court erred in denying the plea as to Silvas’s requested declarations



regarding the Charter, we must first decide whether the Charter is a statute or ordinance as those terms are used in section 37.004(a) of the Declaratory Judgments Act. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 37.004 (declaratory relief).

“A home rule city derives its power . . . from Article XI, Section 5, of the Texas Constitution.” *Lower Colo. River Auth. v. City of San Marcos*, 523 S.W.2d 641, 643 (Tex. 1975). As such, a home rule city “has all the powers of the state not inconsistent with the Constitution, the general laws, or the city’s charter.” *Proctor v. Andrews*, 972 S.W.2d 729, 733 (Tex. 1998).

“A home-rule city’s charter is its organic act; it is the fundamental law of the municipality just as a constitution is the fundamental law of a state.” *Tex. River Barges v. City of San Antonio*, 21 S.W.3d 347, 354 (Tex. App.—San Antonio 2000, pet. denied). Unlike a statute or ordinance which is enacted or passed in the exercise of legislative authority, a home-rule city’s charter is adopted and amended by a majority vote of the city’s qualified voters. TEX. CONST. art. XI, § 5. Furthermore, in authorizing home rule cities, the Texas Constitution expressly distinguishes charters from ordinances. *Id.* (providing “no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State”).

In view of the foregoing and for the questions presented in this appeal, we hold a home-rule city’s charter is its constitution and not its statute or ordinance.<sup>3</sup> Accordingly, we hold the trial court erred in denying the appellants’ plea as to those claims in Silvas’s pleadings seeking to have the charter provisions construed.<sup>4</sup>

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<sup>3</sup> We reject Silvas’s argument that the reference to the Charter in Section 2.40 of the City’s Code of Ordinances equates the Charter to an ordinance for purposes of section 37.004(a).

<sup>4</sup> We note immunity is also not waived for claims seeking a declaration of a person’s rights under a statute or other law. *See Tex. Dep’t of Transp. v. Seftzik*, 355 S.W.3d 618, 621–22 (Tex. 2011).

#### **D. Ultra Vires Claims**

The appellants next contend the trial court erred in denying their plea against Silvas's ultra vires claims because Silvas sought retrospective relief. Suits alleging a government officer acted without legal authority are permitted under the ultra vires exception to immunity. *See City of El Paso v. Heinrich*, 284 S.W.3d 366, 372 (Tex. 2009). Here, Silvas alleges the appellants acted without legal authority in declaring her position as a councilmember forfeited and preventing her from serving as the Place 4 councilmember. Accordingly, Silvas has alleged a proper ultra vires claim.

The ultra vires exception to immunity, however, "is subject to important qualifications. Even if such a claim may be brought, the remedy may implicate immunity." *Id.* at 373. One such qualification is that "retrospective monetary claims are generally barred by immunity." *Id.* at 374. However, "a claimant who successfully proves an *ultra vires* claim is entitled to prospective injunctive relief, as measured from the date of injunction." *Id.* at 376.

In arguing this issue, the appellants focus on Silvas's challenge to the October 22, 2019 Council declaration that she forfeited her office. However, Silvas's request that the trial court declare the appellants' actions determining she forfeited her office to be void is not a request for retrospective monetary relief. Furthermore, Silvas's live pleadings clearly seek injunctive relief against the appellants to prevent them from taking any future action interfering with her serving as the Place 4 councilmember. Accordingly, the relief Silvas sought did not "implicate immunity." *See id.* at 373.

Under the ultra vires exception, however, "the governmental entities themselves—as opposed to their officers in their official capacity—remain immune from suit." *Id.* at 372–73. Because we have held the trial court erred in denying the appellants' plea as to Silvas's claim seeking a declaration to construe the Charter, and her ultra vires claims are the only claims

remaining, the trial court erred in denying the plea as against the City itself. Although the appellants also contend Silvas did not assert any ultra vires claims against the city manager and city secretary, Silvas alleged they maintain the City's website which lists Place 4 on the Council as vacant and has a notice posted stating the Council is accepting applications for Place 4. Silvas further alleged the city manager and city secretary are responsible for compiling and processing the applications.

**E. Absolute Legislative Immunity**

The appellants next contend the trial court erred in denying their plea because they were entitled to absolute legislative immunity.

Absolute immunity protects “legislators from litigation resulting from decisions made in a legislative capacity, and from the burden of defending themselves in such litigation.” *Camacho v. Samaniego*, 954 S.W.2d 811, 823 (Tex. App.—El Paso 1997, pet. denied). “Texas courts have acknowledged that absolute legislative immunity extends to local officials acting in a legislative capacity.” *Id.* Such immunity, however, extends “only to ‘functionally legislative’ activities.” *Id.* “When an official with legislative duties engages in activities insufficiently connected with the legislative process to raise genuine concern that inquiry into the motives for his actions would thwart his ability to perform legislative functions, absolute legislative immunity does not apply.” *Id.* at 824. “Although no clear standard exists to distinguish legislative from non-legislative acts, courts employ a fundamental distinction between establishing a policy, act, or law, as opposed to enforcing or administering an already-established policy, act, or law.” *Id.*

Here, the Council's actions in declaring that Silvas forfeited her office are not legislative in nature. Although the appellants cite a federal case holding “a legislative body's internal disciplinary actions of its own members were protected” by absolute immunity, *see Erwin v. Russ*, No. W:09-CA-127, 2010 WL 11507142, at \*2 (W.D. Tex. July 19, 2010), *aff'd*, 481 Fed. App'x

128 (5th Cir. 2012), the actions taken by the appellants in this case were not “internal disciplinary actions.” Instead, those actions were taken to “enforce” the forfeiture provision contained in the City’s Charter. As such, we hold the appellants’ actions were not protected by absolute legislative immunity.

#### **F. Conclusion**

The trial court erred in denying the appellants’ plea as to Silvas’s claims seeking declarations involving the construction or validity of the City’s Charter. The trial court did not err in denying the appellants’ plea as to Silvas’s ultra vires claims with the exception of any ultra vires claims alleged against the City itself.

### **TEMPORARY INJUNCTION**

The appellants next challenge the trial court’s order granting the temporary injunction. The appellants first contend the temporary injunction did not preserve the status quo. In addition, the appellants contend the trial court did not have the equitable authority to grant the temporary injunction. We first address the appellants’ equitable authority argument.

#### **A. *White v. Bolner***

This court previously addressed a similar issue regarding a trial court’s equitable authority to issue an injunction in *White v. Bolner*, 223 S.W.2d 686 (Tex. App.—San Antonio 1949, writ ref’d). In that case, a statute authorized the mayor to remove a commissioner of the San Antonio Housing Authority for inefficiency, neglect of duty, or misconduct in office. *Id.* at 688. Exercising that statutory authority, the mayor entered an order ousting three commissioners and appointing their replacements. *Id.* at 687. The ousted commissioners obtained a temporary injunction restraining the mayor from taking further action to oust them and enjoining their replacements from acting as commissioners. *Id.*

On appeal, this court first noted the ousted commissioners had the right to a judicial review of the mayor's decision to determine if the mayor acted arbitrarily, capriciously, or illegally in removing them. *Id.* at 688–89. With regard to the injunctive relief, however, this court held “the right to a review by a judicial body [did] not entitle the [ousted commissioners] to a temporary injunction, the effect of which is to perpetuate them in office pending that review.” *Id.* at 688. In support of this holding, this court reasoned as follows:

Having jurisdiction and having made an order ousting appellees, this order must be presumed to be correct and must be given effect until the contrary is shown. While appellees have a right to a judicial review of this matter, they do not have the right to have this action by the Mayor suspended and rendered inoperative pending their judicial review of the matter.

It is the policy of courts to interfere as little as possible with the administrative officers in the discharge of their duties, and while the action of Mayor White in ousting the appellees [is] subject to judicial review, such orders under the facts here shown must be given effect pending that review.

*Id.* at 688–89.

**B. *City of Alamo v. Garcia***

Relying on this court's decision in *White*, our sister court similarly held injunctive relief was not available in a lawsuit challenging an automatic forfeiture under a city charter. *See City of Alamo v. Garcia*, 960 S.W.2d 221 (Tex. App.—Corpus Christi 1997, no pet.). In that case, the city charter provided that an elected city commissioner forfeits his office if he fails to attend four consecutive regular meetings of the Board of Commissioners or eight regular meetings in any anniversary year. *Id.* at 222. The evidence was undisputed that Ponciano Garcia failed to meet both of the attendance requirements. *Id.* Although the city charter provided the Board could excuse the absences by a unanimous vote, the Board voted not to do so. *Id.* After subsequently holding a hearing at which Garcia was given the opportunity to explain his absences, the Board did not change its vote. *Id.* at 222–23.

Garcia filed suit seeking a declaration that he had not forfeited his seat. *City of Alamo*, 960 S.W.2d at 223. After a new commissioner was elected to Garcia’s place on the Board, Garcia amended his pleadings to request declaratory and injunctive relief relating to his forfeiture and the seating of the newly elected commissioner. *Id.* The trial court granted a temporary injunction, finding the actions of the Board were unreasonable and enjoining the seating of the newly elected commissioner. *Id.* The City appealed the temporary injunction. *Id.*

On appeal, the City “argue[d] that although Garcia was entitled to judicial review of the Board’s decision not to excuse his absences, injunctive relief was not available.” *City of Alamo*, 960 S.W.2d at 223. Quoting extensively from this court’s decision in *White* and citing other authority, our sister court agreed injunctive relief was not available provided that the Board was “acting pursuant to its ‘lawful authority.’” *Id.* at 223–24. Our sister court noted the actors in the cited cases were acting pursuant to “‘lawful authority.’” That is, the provisions acted upon [in removing the plaintiffs in the cited cases], whether they [were] city ordinances or other statutory authority, were either not challenged or were found ‘lawful.’” *Id.* at 224. After holding the city charter’s forfeiture provision was “lawful” authority, the court held “injunctive relief [was] not available.” *Id.* at 226–27.

### **C. Constitutionality of Charter**

Although we have held the trial court was without jurisdiction to determine the validity of the Charter under section 37.004(a) of the Declaratory Judgments Act, in determining whether the Charter’s forfeiture provision was “lawful” thereby precluding injunctive relief, we must first address Silvas’s challenge to the constitutionality of the Charter. In her petition, Silvas alleged the Charter “on its face, or as applied, violates the statutory rights of citizens under Chapter 551 of the Texas Government Code insofar as said Charter on its face or as applied prohibits members of Council from making a lawful request for public information to subordinates of the City

Manager.” Chapter 551, however, is the Texas Open Meetings Act. As our sister court explained in *City of Alamo*,

The city charter provision in question, however, does not require action on the part of the Board. Rather, the charter provision which disqualified Garcia from holding his position was self-enacting. Upon the occurrence of his fourth consecutive and eighth absence, his disqualification from office was automatic without the need for further action by the remainder of the commission. The Board did not terminate Garcia’s position. Garcia forfeited his position. Therefore, the provisions of the Open Meetings Act are inapplicable.

*Id.* at 226.

**D. Injunctive Relief Inapt**

Rejecting Silvas’s challenge to the lawfulness of the Charter’s forfeiture provision, and following the precedent this court established in *White*, we hold injunctive relief was not available in the instant case. Accordingly, we reverse the trial court’s order granting that relief.

**CONCLUSION**

The portions of the trial court’s order denying the City’s plea to the jurisdiction as it relates to all declaratory relief claims against the City and denying the remaining appellants’ plea as it relates to all declaratory relief claims other than Silvas’s ultra vires claims are reversed, and judgment is rendered dismissing those claims. The portion of the trial court’s order denying the appellants’ plea as it relates to Silvas’s ultra vires claims against all appellants other than the City is affirmed. The trial court’s order granting the temporary injunction is reversed, and judgment is rendered denying the temporary injunction. The cause is remanded to the trial court for further proceedings.

Patricia O. Alvarez, Justice