

CAUSE NO. 11-3-1250

TEXAS TRAFFIC SAFETY COALITION
Plaintiff,

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IN THE DISTRICT COURT

V.

CALHOUN COUNTY, TEXAS

CITY OF PORT LAVACA
Defendant.

26th JUDICIAL DISTRICT

FINAL SUMMARY JUDGMENT

On this 14th day of May 2012, came to be heard the Plaintiff's Motion for Summary Judgment in the above styled and numbered cause. Both Plaintiff and Defendant appeared through their respect attorneys of record.

After considering the pleadings, motion, response, evidence on file, and arguments of counsel, the Court GRANTS the motion.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED, that Plaintiff, Texas Traffic Safety Coalition shall have declaratory relief pursuant to Chapter 37 of the Texas Civil Practice and Remedies Code. Accordingly the court hereby DECLARES as follows:

1. City of Port Lavaca Ordinance #S-1-08, located at CODE OF ORDINANCES CHAPTER 48, ARTICLE III, SECTIONS 48-149 through 48-157 "appropriates money" as that term is used in Article 5 Section 5.02 of the Port Lavaca City Charter.

2. City of Port Lavaca Ordinance #S-1-08, located at CODE OF ORDINANCES CHAPTER 48, ARTICLE III, SECTIONS 48-149 through 48-157 "sets fees" as that term is used in Article 5 Sections 5.02 and 5.03 of the Port Lavaca City Charter.

3. Therefore, City of Port Lavaca Ordinance #S-1-08, located at CODE OF ORDINANCES CHAPTER 48, ARTICLE III, SECTIONS 48-149 through 48-157 is not the proper subject for an initiative pursuant to Article 5 Section 5.02 of the Port Lavaca City Charter.

4. Because City of Port Lavaca Ordinance #S-1-08, located at CODE OF ORDINANCES CHAPTER 48, ARTICLE III, SECTIONS 48-149 through 48-157 is not the proper subject for an initiative, it is not subject to the power of referendum as set forth in Article 5 Section 5.03 of the Port Lavaca City Charter.

5. City of Port Lavaca Ordinance #S-1-08, located at CODE OF ORDINANCES CHAPTER 48, ARTICLE III, SECTIONS 48-149 through 48-157 implicates and involves the city's budget as contemplated under Article 5 Section 5.03 of the Port Lavaca City Charter.

6. City of Port Lavaca Ordinance #S-1-08, located at CODE OF ORDINANCES CHAPTER 48, ARTICLE III, SECTIONS 48-149 through 48-157 appropriates money for capital

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DISTRICT CLERK CALHOUN CO.

expenditures as contemplated under Article 5 Section 5.03 of the Port Lavaca City Charter.

7. Because City of Port Lavaca Ordinance #S-1-08, located at CODE OF ORDINANCES CHAPTER 48, ARTICLE III, SECTIONS 48-149 through 48-157 implicates and involves the city's budget and appropriates money for capital expenditures, it is not subject to the power of referendum as set forth in Article 5 Section 5.03 of the Port Lavaca City Charter.

8. The enactment and repeal of local legislation relating to the use of photographic traffic signal enforcement systems has been withdrawn from the field in which the initiative process operates because TEX. TRANSP. CODE §707.002 grants the Port Lavaca City Council, as the governing body of the City of Port Lavaca, the exclusive authority to implement such systems by ordinance.

9. Because City of Port Lavaca Ordinance #S-1-08, located at CODE OF ORDINANCES CHAPTER 48, ARTICLE III, SECTIONS 48-149 through 48-157 is not subject to the power of initiative or referendum, any petition for referendum seeking to repeal such ordinance is invalid and the City Council of the City of Port Lavaca is without legal authority to place it before the electorate for consideration.

10. The Petition for Referendum filed with the City Secretary on or about January 25, 2012 seeking reconsideration and electoral approval or rejection of City of Port Lavaca Ordinance #S-1-08, located at CODE OF ORDINANCES CHAPTER 48, ARTICLE III, SECTIONS 48-149 through 48-157 is invalid and the City Council of the City of Port Lavaca is without legal authority to place it before the electorate for consideration.

This judgment is final and disposes of all issues and all parties and is appealable.

SIGNED on this 14 day of May 2012.


JUDGE PRESIDING