

**CAUSE NO. D-1-GN-16-001762**

GRAYSON COX ET AL.,	§	IN THE DISTRICT COURT
Plaintiffs	§	
	§	
vs.	§	TRAVIS COUNTY, TEXAS
	§	
CITY OF AUSTIN,	§	
Defendant	§	
	§	126 <sup>TH</sup> JUDICIAL DISTRICT
	§	

**AMICUS CURIAE BRIEF FILED BY CITY OF AUSTIN RESIDENTS  
IN SUPPORT OF PLAINTIFFS**

TO THE HONORABLE JUDGE OF THIS COURT:

1. This amicus brief is intended to convey to the court that major concerns about the Grove at Shoal Creek Planned Unit Development (the Grove PUD) are widely shared by not only the residents immediately surrounding the development, but also by many residents of the City of Austin who do not live in very close proximity to the development. Amici are homeowners and renters currently living in the City of Austin who recognize that the City’s improper denial of valid petition rights to those living within 200 feet of the proposed Grove PUD sets a significant and impactful precedent that will likely affect the neighbors of many other hundreds of acres of currently-unzoned, State-owned land within the City limits.

2. Plaintiffs and other neighbors have filed the requisite valid petitions to trigger  $\frac{3}{4}$  voting under the Zoning Enabling Act. The City has rejected those petitions based on the contention that the Grove PUD is exempt from the mandatory application of the Valid Petition Rights Statute. To protect the property rights of the existing landowners, the Legislature has mandated that any ordinance

changing the city's land use regulations to allow objectionable new or different uses, must receive at least a  $\frac{3}{4}$  vote by the city council to be effective. The fundamental law granting cities zoning powers says ordinances in such cases are not to be determined by the politics of a simple majority vote of city council. The Valid Petition Rights Statute is specifically intended to give nearby landowners a meaningful voice in situations such as this, where a landowner seeks to change the zoning ordinance regulations to allow a new and different land use from the surrounding existing uses established under the current regulations. That right is especially important in cases such as this where the existing uses are homes.

3. Amici's *interest* in this case corresponds with the *rights* of Plaintiffs to participate meaningfully in the city review and approval process for this PUD, which are being adversely affected by the City's determination not to comply with the Valid Petition Rights statute. Specifically, Amici recognize that there is a significant amount of state-owned land within the City that is designated unzoned, including tracts such as those currently used by the Texas School for the Deaf, the Texas School for the Blind and Visually Impaired, the Austin State Hospital, the Austin State Supported Living Center, the Texas State Library and Archives Commission, the Texas Department of Public Safety, and others, which may in the future be sold to private developers and thus subject to the same zoning process to which the proposed Grove PUD is currently being subjected.<sup>1</sup> The City's treatment of the Grove PUD – including its determination regarding whether its neighbors are entitled to valid petition rights under state law and city ordinance – will thus set a precedent that will be applied to the neighbors of these other currently-unzoned tracts of land in the event those tracts are sold. Thus, this is an issue of importance

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<sup>1</sup> On June 10, 2016, the *Austin Monitor* reported that the State is considering the sale of the Austin State Hospital and the Austin State Supported Living Center. Sales of these properties would affect the neighbors of nearly 200 additional acres of unzoned land and bring the petition rights of those Austin residents into question.

not only to the neighbors of the Grove PUD, but to all Austin citizens whose property values and standards of living will be affected by the development of these tracts of land.

4. Further, Amici believe that all homeowners in the City of Austin should be afforded an equal right to protest new and significantly different land uses within 200 feet of their homes under the Valid Petition Rights Statute, regardless of whether such land was previously zoned. This is especially true where the proposed use is a Planned Unit Development (“PUD”), a unique land use which can have a very significant impact on the use and enjoyment of the homes of those living within 200 feet of such development.

#### **PRAYER FOR RELIEF**

WHEREFORE, Amici respectfully pray that the Court render declaratory judgment on behalf of Plaintiffs.

Respectfully submitted,

## Amici

<b>Name</b>	<b>Address</b>