

**IN THE DISTRICT COURT OF EL PASO COUNTY, TEXAS
205TH JUDICIAL DISTRICT**

ANNUNCIATION HOUSE, INC.,

Plaintiff,

v.

**KEN PAXTON, in his official capacity as
Texas Attorney General, and JENNIFER
COBOS, in her official capacity as Director of
Regional Operations & Strategy for the
Office of the Attorney General,**

Defendants.

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Cause No. 2024DCV0616

ORDER

This matter was set for hearing on Thursday, March 7, 2024 at 9:00 am. After careful review of the pleadings, as well as due consideration of the evidence, authority and arguments presented by the parties, the Court issues the instant order.

PROCEDURAL BACKGROUND

1. On February 7, 2024, the Attorney General served an administrative subpoena on Annunciation House, Inc., pursuant to its authority under the Texas Business Organizations Code §12.152. Specifically, the administrative subpoena (referred to herein as “Request to Examine” and “RTE”) stated, “this office reviews nonprofit entities to determine compliance with Texas law.” The RTE did not cite which Texas laws the Attorney General believed were being violated.

2. Counsel for Annunciation House, Inc. (“Annunciation House”) replied at the end of the day (4:47 pm) that it would provide the requested documents within thirty (30) days. The Attorney General demanded production by February 8, 2024 or else Annunciation House would be deemed to be non-compliant.

3. On February 8, 2024, Plaintiff filed its Verified Original Petition for Declaratory Judgment, Application for Temporary Restraining Order, and Application for Temporary Injunction.

4. After careful consideration of the verified original petition, the supporting exhibits and the applicable legal standards, the Court granted Plaintiff's Application for Temporary Restraining Order ("TRO") on March 7, 2024. On February 21, 2024, the TRO was extended, in compliance with Tex. R. Civ. P. 680, until March 7, 2024.

5. Subsequent to the issuance of the TRO, the parties filed the following motions still pending before the Court:

- a. Defendants' Plea to the Jurisdiction;
- b. Defendants' Motion for Leave to File Counterclaim in the Nature of Quo Warranto; and
- c. Plaintiff's Motion to Quash Administrative Subpoena and Witness Subpoena.

6. In addition to the pending motions listed above, pending before the Court is Annunciation House's petition for declaratory judgment pursuant to the Uniform Declaratory Judgments Act, TEX. CIV. PRAC. & REM. CODE § 37.004(a).

7. The TRO expired on March 7, 2024.

LEGAL AUTHORITY

8. "The purpose of a temporary restraining order is to preserve the status quo, which the supreme court has defined as 'the last, actual, peaceable, non-contested status which preceded the pending controversy.'" *In re Pierce*, 2012Tex.App. LEXIS 6881, *7 (Tex. App.—Corpus Christi-Edinburg 2012), citing *In re Newton*, 146 S.W.3d 648, 652-53 (Tex. 2004); see also *Tex. Parks & Wildlife Dep't v. RW Trophy Ranch, Ltd.*, 2022 Tex. App. LEXIS 2943, *2 (Tex. App.—Dallas 2022).

9. In the case at hand, the last, actual, peaceable, non-contested status which preceded the pending controversy was Annunciation's House right to exist as a non-profit entity and conduct business in the State of Texas. The Attorney General's efforts to run roughshod over Annunciation House, without regard to due process or fair play, call into question the true motivation for the Attorney General's attempt to prevent Annunciation House from providing the humanitarian and social services that it provides. There is a real and credible concern that the attempt to prevent Annunciation House from conducting business in Texas was predetermined.

10. Given that the TRO expired on March 7, 2024, the request for a temporary injunction is moot.

11. Similarly, the filing of Annunciation House's petition for declaratory judgment means that this case is now subject to the discovery rules set forth in the Texas Rules of Civil Procedure. Both the Attorney General and Annunciation House are now obliged to litigate this matter within the guidelines set forth by the Texas Rules of Civil Procedure, created to ensure fair play between litigants. Thus, Annunciation House's motion to quash the RTE is also moot because the Attorney General's administrative subpoena (the RTE) is superseded by the discovery rules under the Texas Rules of Civil Procedure.

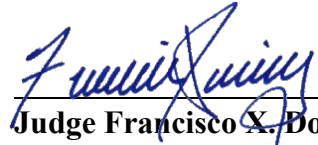
12. This matter will proceed to a final adjudication in an efficient, orderly and respectful manner.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that Annunciation House, Inc.'s request for temporary injunction is **MOOT**.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that Annunciation House, Inc.'s motion to quash the Attorney General's administrative subpoena is **MOOT**, and the Attorney General's administrative subpoena is **SUPERSEDED** by the Texas Rules of Civil Procedure discovery rules.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the pending plea to the jurisdiction and motion for leave to file counterclaim in the nature of quo warranto will be set for hearing by separate order.

So ordered this 10th day of March, 2024.



Judge Francisco X. Dominguez
205th District Court

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Status as of 3/11/2024 8:18 AM MST

Associated Case Party: Annunciation House, Inc.

Name	BarNumber	Email	TimestampSubmitted	Status
Jerome Wesevich		jwesevich@trla.org	3/11/2024 8:07:52 AM	SENT

Associated Case Party: Ken Paxton

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JEROME WESEVICH		WESEVICH@TRLA.ORG	3/11/2024 8:07:52 AM	ERROR