Protecting, Defending and Promoting the Family,
the building block of society

Subject: Amicus Brief on "Justice Policy" Charter Amendment Special Election on May 6, 2023 Ballot

Executive Summary

On February 24, 2023, the San Antonio Family Association attorney, Dennis J. Drouillard filed a Friend of the Court, Amicus Brief to the Supreme Court of Texas.

The Amicus Brief points out that the City of San Antonio (CoSA) failed to meet the Texas Election Code requirements for placing the so-called "Justice Policy" on the May 6th Ballot as a Special Election.

The unjust "Justice Policy" should not be on the May 6 ballot as the CoSA failed its legal duty. Moreover, the City should not comply with criminality. SAFA will educate and make an argument to uphold the rule of law even if CoSA won't.

As a Friend of the Court, SAFA points out in its Amicus Brief to the Supreme Court of Texas that the City of San Antonio:

1. Failed to order the Special Election timely. On Feb. 16, the San Antonio City Council did not get the 8 vote minimum requirement to make the effective date of the Special Election ordinance approved immediate. Only 7 affirmative votes approved the Charter Amendment Special Election. Only Mayor Ron Nirenberg and City Councilmen Districts 1-6 voted for Agenda Item 20, ordinance approving the Special Election of the "Justice Policy" Charter Amendment Ballot Measure to join onto the next Regular Municipal Election. District 7 Councilwoman had resigned prior to the vote and no replacement has been appointed to fill the vacancy. Councilmen Manny Pelaez, District 8, John Courage, District 9, and Clayton Perry, District 10, walked the vote and were considered ABSENT. Therefore, the vote was 7-0-3 and the plain English of the San Antonio City Charter states that the effective date of the less than eight (8) vote affirmed ordinance becomes effective 10 days after the vote on February 26th. Consequently, CoSA missed the Texas Election Code 78-day rule approval before the May 6th election to put it on the May 6 ballot.

2. Failed to meet the signature threshold for more than one (1) petition as this "Justice Policy" is not a single-issue petition but a mixed bag of log-rolled issues. ACT4SA and Ground Game Texas collected approximately 22,400 valid petition signatures which is more than enough for one (1) single-issue charter amendment but it is not enough for six (6) issues to be included on the ballot. The plain English of the Texas Local Government Code mandates that ballot measures must be single-issue.

See more details in the official Amicus Brief filing on the following pages.

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FILED
23-0111
2/24/2023 12:41 PM
tex-73084580
SUPREME COURT OF TEXAS
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February 24, 2023

The Honorable Blake A. Hawthorne
Clerk of the Texas Supreme Court
Post Office Box 12248
Austin, Texas 78711
Via E-file

Re: **No. 23-0111**
In re Maria Teresa Ramirez and Texas Alliance for Life, Inc.

Dear Mr. Hawthorne:

The following submit this letter brief as *amici curiae* in the above-captioned matter: Saint Anthony Family Association, Inc. d/b/a San Antonio Family Association (SAFA);[1] Allied Women's Center of San Antonio, Inc.;[2] Life Choices Care, Inc. d/b/a Life Choices Medical Clinic;[3] Texas State Senator Donna Campbell, M.D. (SD-25); Texas State Representative John Lujan (HD-118); Texas State Representative Steve Allison (HD-121); Texas State Representative Mark Dorazio (HD-122); Honorable Francisco R. Canseco, former Member of Congress;

[1] SAFA is a non-profit advocacy organization that promotes, protects, and defends the family—the *Building Block of Society*. To this end, SAFA promotes the protection of human life from conception, plus, the protection of religious liberty, freedom of speech, and traditional family values. Multiple allies of SAFA who expressed interest in serving as *amici* were not listed due to coordinating time constraints.

[2] Allied Women's Center is a non-profit crisis pregnancy center that opposes elective abortion and helps women in crisis pregnancy.

[3] Life Choices is a non-profit organization that seeks to save the lives of unborn children, minister to men and women facing decisions about pregnancy and show the love of Christ to all.

Honorable Ken Mercer, former State Representative and former Member of the State Board of Education; and Mr. Patrick Von Dohlen, member of SAFA and public conservative advocate.[4]

These *amici* agree with the briefing and status report filed by the Relators and with the *amicus curiae* letter brief submitted by the State of Texas. Nonetheless, the *amici* submitting this letter brief wish to highlight a couple of points. These points are shown as two contentions with succinct briefing under each.

I. Respondents assume away the problem that the order of election from Respondent City Council is too late to meet the statutory 78-day deadline for the uniform election date of May 6, 2023.

In *Relators' Status Report and Letter Br.* of February 20, 2023, Relators briefed to the Supreme Court that Respondent City Council voted on February 16, 2023 to enact the municipal ordinance made the basis of dispute. *Id.* at 2. Relators then point out that the ordinance failed to garner the required eight votes to take immediate effect; therefore, the ordinance is not effective until 10 days after passage—which is February 26, 2023. *Id.* This effective date for the order of election is based upon the express terms of Section 14 of the ordinance and also SAN ANTONIO CITY CHARTER art. II § 15 (*See Relators' Status Report and Letter Br.* at 2; Relators' Ex. C at 19-20).

Respondent City Council asserted in its *Resp't Status Report and Letter Br.* of February 20, 2023 that on "February 16, 2023 the San Antonio City Council ordered the general and measure elections for the May 6 local ballot." [5] *Id.* at 1. Yet, that statement wrongly assumes an effective order as of February 16, 2023 for a charter amendment election. This incorrect assumption is despite Respondents' own admission that the ordinance at issue "passed by a vote of 7 to 0"—not by a vote of at least 8. *Id.*

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[4] No party participated in the preparation of this letter brief. Also, no fee has been or will be paid for the preparation of this letter brief.

[5] Though the TEX. ELEC. CODE § 3.007 provides a safe harbor provision for a general election by reading that a "[f]ailure to order a general election does not affect the validity of the election"—there is no similar safe harbor provision for a measures-election.

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Re: No. 23-0111
Letter brief as amici curie, friend of the Court

The following submit this letter brief as amici curie in the above-captioned matter:
Saint Anthony Family Association, Inc. d/b/a San Antonio Family Association (SAFA);[1]
Allied Women's Center of San Antonio, Inc.;[2] Life Choices Care, Inc. d/b/a Life Choices Medical Clinic;[3]
Texas State Senator Donna Campbell, M.D. (SD-25);
Texas State Representative John Lujan (HD-118);
Texas State Representative Steve Allison (HD-121);
Texas State Representative Mark Dorazio (HD-122);
Honorable Francisco R. Canseco, former Member of Congress;
Honorable Ken Mercer, former State Representative and former Member of the State Board of Education; and
Mr. Patrick Von Dohlen, member of SAFA and public conservative advocate.[4]

The following **also** submit this letter brief as amici curie in the above-captioned matter:

Mike Knuffke, San Antonio Family Association
Daniel J. Petri, San Antonio Family Association
Kevin J. Khattar, San Antonio Family Association
Dina and Carlos Cortez
James Lee Murphy, III, Esq.
David Moore, Ret. SAPD Officer, of Unite San Antonio
George H. Rodriguez
Honorable Weston Martinez, former Texas Real Estate Commissioner
Jim Hezel, Chairman of Allied Women's Center
Steve Pokorny, Freedom Coaching, Inc.
M.J. and Pastor A.D. Smoot, Victory SA Church Ministries
Urban Conservatives of America
Jonathan McCullough, Urban Conservatives of America
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William Robert Wallace
Gabrielle L. Miglis, Life Choices Care, Inc.
Kay Delaney, of San Antonio Right To Life Foundation
Mary Thomas, of San Antonio Right To Life Foundation
Cathy Nix, Chairwoman of San Antonio Coalition For Life
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Bruce Baillio
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Ione McGinty
Becky and Louis Norrell
Alejandra Dipp Gonzalez, of Dippco
Tammy and Jerome Iltis
Kimberly and Agustin McLamb-Quinones
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Jeff Clay, of The Bexar Conservatives
Judy Brown, of The Bexar Conservatives
Rosario Zarb-Cousin, of The Bexar Conservatives
Robert Gonzales, of The Bexar Conservatives
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Chris Byrd
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Mary Ellen Snell
Paula C. Moore
Charlotte Folson
Alma Jackson
Linda Fitch Holland
Sandra Murphy
Diana Ridgway
Christine and Howard Nichol
Janie and Frank Fonseca
Patricia Guido
Kent Roach
Mitch Finnie, of Shavano Family Practice
Fr. Henry Clay Hunt, III, Priest of God

Respondents make efforts to imply an effective date of February 16, 2023. For example, they reference the City Council's vote-count to pass an ordinance as "ordering the May election" when they should have used an accurate statement such as *a vote to pass the ordinance to order an election with the order effective on February 26, 2023. Id.*

Despite their repeated use of the words *ordered* and *ordering* when describing the City Council's action of February 16, 2023—Respondents failed to explain how the "ordinance ordering the May election" is deemed effective on February 16, 2023 despite failing to reach eight council-votes. *See Resp't Status Report and Letter Br.* at 2. Respondents' efforts to pretend they have an order effective on February 16, 2023 (as contained in Ordinance No. 2023-02-16-0098)[6] is wrong.

Instead—as briefed by Relators—Respondents missed the statutory deadline to order an election with the requisite 78 days of notice.

Though the Legislature expressly directed that an authority which orders an election must preserve that written order—*see* TEX. ELEC. CODE § 3.008(a)[7]—Respondents admit that it was Ordinance 2023-02-16-0098 which served as the order for the May election. *See Resp't Status Report and Letter Br.* at 2. This means that the pretense of a vote by itself being an order is both incorrect and contradicted by Respondents' own judicial admission.

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[6] Respondents provide a copy of the ordinance at Ex. A of *Resp't Status Report and Letter Br.*

[7] The provisions of TEX. ELEC. CODE § 3.008(a) require the preservation of an order of election by an authority so ordering. Inherent in such preservation is that the order be a written order. Also, the provisions of TEX. ELEC. CODE § 3.008(b) impose additional requirements upon an authority of a political subdivision regarding entries in the records of the governing body about ordered elections.

II. The effect of violating the one-subject rule to allow a *grab-bag of provisions* in the charter amendment proposal is also to violate the signature threshold requirement of TEX. LOC. GOV'T CODE § 9.004(a).

In its *amicus curiae* letter brief, the State of Texas referenced the "grab-bag of provisions in the charter amendment concerns topics" as a violation of the "long-established one-subject rule". *State of Tex. Amicus Curiae Letter Br.* at 1. Similarly, Relators referenced the same problem as a "multi-headed Hydra on subjects" that varied widely. *Resp't Status Report and Letter Br.* at 4. The *amici* herein agree with both Texas and Relators on this point.

Yet, there is another issue which ought to be considered because of the *grab-bag of provisions* and that is the impact on the signature threshold requirement under TEX. LOC. GOV'T CODE § 9.004(a).

The plain language of the relevant portion of TEX. LOC. GOV'T CODE § 9.004(a) (emphasis added), reads:

> The governing body shall submit **a proposed charter amendment** to the voters for their approval at an election if the submission is supported by a petition signed by a number of qualified voters of the municipality equal to at least five percent of the number of qualified voters of the municipality or 20,000, whichever number is the smaller.[8]

That existing provision references a single amendment—not the plural word *amendments*.

[8] In this case, the smaller, applicable number is 20,000.

Section 9.004(a) can be compared to its pre-codified, predecessor statute at TEX. REV. CIV. STAT. ANN. art. 1170 (Vernon Supp. 1980) (emphasis added), which read as:

> When the governing body desires to submit amendments to any existing charter, said body may on its own motion, in the absence of a petition, and shall, upon receiving a petition signed by qualified voters in such city, town or political subdivision in number not less than five per cent (5%) thereof or 20,000 signatures, whichever is less, submit any proposed **amendment or amendments to such charter**. The ordinance providing for the submission of such amendment or amendments shall require the submission thereof at an election to be held not less than thirty (30) days nor more than ninety (90) days after the passage of said ordinance. If the next regular municipal election is to be held during said period, the submission of said amendment or amendments shall be at such election. Otherwise, a special election shall be called for the purpose.

Clearly, by comparing the plain reading of the pre-codified statute to the current Section 9.004(a)—the Legislature amended the language which gave a choice of placing for election either an amendment or amendments based upon a threshold of 20,000-voter signatures to a singular amendment based upon 20,000-voter signatures.

Additionally, TEX. LOC. GOV'T CODE § 9.004(d) reads: "An amendment may not contain more than one subject."

Accordingly, the plain language of the applicable signature threshold in this case under Section 9.004(a) is 20,000 qualified voter-signatures per amendment. Also, Section 9.004(d) precludes more than one subject per amendment. In other words, by equating amendment and subject, the threshold is 20,000 qualified voter-signatures per subject.

This means that the proponents of the proposed charter amendment have gotten around the threshold signature requirement under Section 9.004(a) by throwing together a *grab-bag of provisions* or a *multi-headed Hydra* where they get to offer 10-plus amendments under one signature threshold of 20,000 voters instead of 200,000 or more voters.

If the proponents would have followed the plain language of the statute, they would have been required to submit at least 200,000 signatures to cover petitions for at least 10 subjects (or, 20,000 signatures per subject).[9] Instead, they admit they only submitted about 39,000 signatures—*Intervenors' Joint Resp.* at 3—which would not cover two subjects under Sections 9.004(a), (d), much less 10-plus subjects.

Accordingly, the effect of what proponents have done in this case is to reduce *de facto* the statutory threshold for the required signatures from 20,000 per subject to 2,000 or less per subject.

Therefore, *amici* herein urge the Supreme Court to issue a writ of mandamus as briefed and requested by Relators.

Respectfully submitted,

Dennis J. Drouillard

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[9] The signatures for each amendment could come from the same group of voters; therefore, it would not be an onerous task. Nonetheless, this construct would align with the express language of the statute requiring one subject per amendment and 20,000-signatures per amendment.

CERTIFICATE OF COMPLIANCE

Pursuant to TEX. R. APP. P. 9.4, I certify that there are 1,350 words in this document, excepting those portions listed in Rule 9.4(i)(1), as calculated by the word count feature of Microsoft Word 97-2003. The Microsoft Word program was used to prepare this document.

Dennis J. Drouillard

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Signed this 24th day of February 2023.

Dennis J. Drouillard

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Read more at https://SanAntonioFamilyAssociation.com/prop.

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