

City responds to GMS lawsuit

Allegations
denied in
contract dispute

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Attorneys representing the City of Brownsville and its city commissioners have responded to a lawsuit filed over a waste removal contract dispute, denying all of the allegations while asserting government immunity.

Brownsville GMS sued the City of Brownsville, Mayor Tony Martinez, City Commissioners Rose M. Z. Gowen, Ricardo Longoria Jr., Jessica Tetreau, Joel Munguia, Ben Neece and former Commissioner Cesar De León on May 6, alleging that the commissioners orchestrated an effort to keep Brownsville GMS from winning a lucrative waste removal contract, as well as accusing one commissioner of standing to profit from the company not winning the bid and alleging another opposed Brownsville GMS because the company did not donate to his election campaign.

"Defendant hereby generally denies all material allegations contained in the Plaintiff's Original Petition and calls upon Plaintiff to prove its allegations by a preponderance of the evidence as required by the laws of the State of Texas," the city says in its response to Brownsville GMS.

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DISPUTE

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Brownsville GMS sued over a 2016 contract for commercial and industrial waste collection it won in 2016 after an extensive request for proposal process, according to the lawsuit.

However, the City Commission, on March 7, 2017, rejected the contract. Then, on Feb. 5, the City Commission voted to award the contract to Republic Services, but didn't publicly name Republic Services, according to the Brownsville GMS lawsuit.

The City Commission had apparently re-opened a second request for proposals sometime between that Feb. 5 meeting and April 16, when it met and cancelled the second request for proposals and directed City Manager Noel Bernal to "identify a qualified provider."

On May 7, the City Commission was scheduled to award the contract to Republic Services, but that was placed on hold after 445th state District Judge Gloria Rincones granted Brownsville GMS a temporary restraining order.

In addition to what Brownsville GMS views as irregularities in the bidding process that it claims were meant to set it up to lose the bid, the company also levies accusations against former commissioner De León and Tetreau, who recently won re-election.

Brownsville GMS accuses De León of working against it because the company didn't donate money to him. As evidence, Brownsville GMS cites the recording former fire chief Carlos Elizondo secretly made of the former commission.

"I'm going to tell you one thing (inaudible) \$10,000 contract and I see it man. I saw the one with GMS (inaudible) I see and how it is. GMS didn't donate money to me. But they gave Charlie \$15,000. Do you think one doesn't find out? Do you think that the people doesn't find out? Do you think that the people doesn't question it," the lawsuit quotes De León as say-

ing on the Elizondo recording.

Brownsville GMS also alleges that Tetreau had an undisclosed interest in the request for proposal process as well.

"Her husband, Arturo Kalifa, is one of two members of JAAGS, LLC d/b/a/ Carwash Plus, a local Brownsville car wash which has a valuable contract to wash Republic Services' trucks," the lawsuit states. "Were Republic Services to win the contract for Brownsville's commercial and industrial trash collection, it would need to expand its fleet of trucks to perform the work. These new trucks would need washing, and Tetreau would stand to benefit from the increased revenue to her husband's business."

Tetreau denies the allegations and in a social media message told The Brownsville Herald The lawsuit is malicious, frivolous and asserts false information, and that, combined with the newspaper's reporting on the conflict over a tax-funded contract, has damaged Tetreau and Kalifa's business.

Tetreau also said she has filed multiple conflict of interest affidavits each year out of an abundance of transparency, exceeding what the law requires in regards to her solid waste conflict.

"I have also abstained and not participated or discussed anything with any city staff in regards to solid waste," Tetreau said. "My husband has washed for that company for over 19 years, and all of this information is public record as required by law."

Minutes from the Feb. 5 meeting show that Tetreau was not present during executive session discussions about the contract and that she abstained from the subsequent vote awarding the contract to Republic Services.

A hearing over the temporary restraining order is scheduled for May 20 and another hearing over motions to quash deposition notices to Tetreau, De León and a city representative familiar with the issue is scheduled for May 30.

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