

RANGER AIRFIELD MAINTENANCE	§	IN THE DISTRICT COURT OF
FOUNDATION,	§	
	§	
Plaintiff,	§	
v.	§	91 st JUDICIAL DISTRICT
	§	
CITY OF RANGER, a Texas Municipal	§	
Corporation,	§	
	§	
Defendant.	§	EASTLAND COUNTY, TEXAS

ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES

TO THE HONORABLE COURT:

COMES NOW THE CITY OF RANGER, TEXAS, DEFENDANT (hereinafter referred to as “Defendant” or the “City”) in the above entitled and numbered cause, files this its *Original Answer and Affirmative Defenses* in response to *Plaintiff’s Original Petition*, and respectfully shows and submits to the Court as follows:

I. GENERAL DENIAL

Pursuant to Texas Rule of Civil Procedure 92, Defendant asserts a general denial and demand that Plaintiff be required to prove the charges and allegations against Defendant by a preponderance of the evidence.

II. AFFIRMATIVE DEFENSES

Without limiting or waiving the above general denial or any other affirmative defense, Defendant asserts that Plaintiff’s breach of contract/specific performance claims are barred in whole in in part by the affirmative defenses of laches, waiver, estoppel, quasi-estoppel, accord and satisfaction and unclean hands.

Without limiting or waiving the above general denial or any other affirmative defense, Defendant asserts as a defense that Plaintiff's breach of contract/specific performance claims are barred by governmental immunity.

Without limiting or waiving the above general denial or any other affirmative defense, Defendant asserts as a defense that it is a governmental entity, organized and operating under the laws of the State of Texas, with sovereign immunity from claims asserted by Plaintiffs, except to the extent that such immunity is waived under the provisions of the Texas Constitution or applicable statutes. The City asserts in full its statutory and common law immunities from suit. Defendant alleges it is not liable for claims that do not properly invoke the jurisdiction of the Court.

Without limiting or waiving the above general denial or any other affirmative defense, Defendant asserts as a defense, any and all statutory caps on damages recoverable, immunity from punitive damages, as well as other exclusions and limitations as provided by the Texas Tort Claims Act, or other applicable law.

Without limiting or waiving the above general denial or any other affirmative defense, Defendant asserts it is immune from liability generally, and it is specifically not liable for:

- a. Discretionary or legislative functions;
- b. Claims for which Defendant has not received timely notice of claim under the Texas Tort Claims Act, or other applicable law;
- c. Exemplary or punitive damages;
- d. Any amounts in excess of statutory caps or other limits identified under the Texas Tort Claims Act, or other applicable law;
- e. Damages proximately caused by the acts or omissions of others not under the City's control;

- f. Claims that do not overcome the City's presumption of governmental immunity, including but not limited to a claim involving a governmental function, which does not satisfy a clear and unambiguous waiver of immunity;
- g. Void acts;
- h. Claims for which there is no basis in law, fact, or both;
- i. Claims that do not entitle Plaintiff to the relief sought as a matter of law.

III. MOTION TO STAY DISCOVERY AND FOR PROTECTION

Defendant places Plaintiff on notice of its challenge to subject matter jurisdiction in this case by raising the defense of governmental immunity from suit in this Answer. In accordance with Texas common law, all discovery propounded against Defendant must be stayed until jurisdiction is determined to exist. See *In re Hays County Sheriff's Dep't*, 03-12-00343-CV, 2012 WL 6554815, at *3 (Tex. App.—Austin Dec. 12, 2012, no pet.) (internal citations omitted). Defendant hereby moves that the Court enter an order abating any discovery requests to Defendant until such time as discovery is determined to exist, following the exhaustion of all applicable appeals.

PRAYER

WHEREFORE, PREMISES CONSIDERED, DEFENDANT CITY OF RANGER, TEXAS, prays and respectfully requests this Court, to:

1. enter an order dismissing this case with prejudice to refileing the same;
2. enter judgment that Plaintiff take nothing by this suit;
3. enter judgement against Plaintiff, and in favor of the Defendant City of Ranger, Texas, that awards to Defendant attorney's fees and costs of court;
4. award Defendant City of Ranger, Texas, prejudgment and post-judgment interest as provided by law; and such other and further relief to which Defendant is justly entitled.

Respectfully submitted,

/s/ Bradford E. Bullock

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Associated Case Party: A TEXAS MUNICIPALITY OF RANGER

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