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Federal court blocks Austin from taking back land it set free, calling the city's rationale "nonsensical"

The Western District of Texas has barred the City of Austin from re-asserting jurisdiction over Travis County properties pending resolution of lawsuit.

AUSTIN, Texas — On August 4, Judge Robert Pitman of the U.S. District Court for the Western District of Texas granted a preliminary injunction barring the City of Austin from enforcing its March 2026 attempt to reassert jurisdiction over land it previously released from its extraterritorial jurisdiction. The court found that the property owners are likely to prove the city violated their constitutional right to due process and acted beyond its legal authority when it tried to reclaim the land. The order protects all affected property owners while the lawsuit proceeds.

The dispute goes back to Senate Bill 2038, a 2023 law that lets landowners petition to leave a city's ETJ — the land outside the city limits where a city imposes rules on people who receive no city services and cannot vote in its elections. If an owner meets the statute's conditions, release is automatic. The law carves out a few exceptions, including one for land within five miles of a military base — the provision now at the center of this case.

Between 2023 and early 2026, the owners of about 170 properties near the Bee Caves Armory — a small facility operated by the Texas Army National Guard — petitioned to leave Austin's ETJ. The city reviewed the petitions, confirmed in writing that each property qualified, and released them. Then, in March of this year, the city changed its mind. In letters to the owners, it declared the releases were "issued in error," asserting for the first time that the armory is a "military base" and that the properties were ineligible for release. City code inspectors immediately began posting violation notices that threatened criminal and civil penalties. Development projects halted, property values plummeted, and pending sales collapsed.

The court did not mince words about the city's defense. Austin argued that it had no duty to decide whether a property qualified to leave its ETJ before issuing the releases — yet claimed it was obligated to "correct" the releases after the fact. The court called that a "nonsensical proposition."

Notably, the court did not have to resolve the parties' dispute over whether the Bee Caves Armory counts as a "military base." It ruled that, even if it were, Austin still could not strip owners of releases it had already granted without notice, a hearing, or the legal authority to do so.

"Austin acts as though there's no limit on its power. But the Constitution and Texas law have established clear boundaries on government authority — and the Court agrees," said Alexa L. Gervasi of Cobb & Gervasi, PLLC, which represents the plaintiffs.

“This ruling reaffirms a basic limit on government power: a city cannot hand you a right and then revoke it on a whim,” said co-counsel Bill Cobb. “When the Legislature let these owners out of Austin’s ETJ, that was the end of the city’s authority over their land. This decision protects not just these property owners, but every Texan who relies on the government keeping its word.”

The preliminary injunction does not end the case; it holds the city’s retraction in check while the litigation continues toward a final judgment.

The case is *Property Owners Withstanding ETJ Retractions, et al. v. City of Austin, et al.*, No. 1:26-cv-1518-RP, in the U.S. District Court for the Western District of Texas. Copies of the [court’s order](#) and other filings are available on POWER’s website, [POWER-Coalition.com](https://www.power-coalition.com).

About Cobb & Gervasi, PLLC

Cobb & Gervasi, PLLC, is an Austin-based, Texas government-litigation firm representing the plaintiffs in this matter.

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