

SUPREME COURT OF TEXAS

River Creek Development Corporation and City of Hutto, Texas v.
Preston Hollow Capital, LLC; 79 HCD Development, LLC; Public
Finance Authority; and U.S. Bank National Association

River Creek · No. 24-1070 · Decided June 12, 2026

SUMMARY

The Supreme Court of Texas held that a local government corporation’s failure to submit a promissory note and supporting contracts to the Attorney General for examination did not render the financing transaction void, although the corporation could not claim statutory incontestability. The Court also held that the transaction did not violate the Public Improvement District Assessment Act because the relevant agreement was an installment sales contract rather than bonds issued under the statutory bond-financing provision. The Court affirmed the court of appeals’ judgment, finding any evidentiary error harmless and concluding that separate proof was not required to support the trial court’s equitable-and-just attorney-fee determination.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice J. Brett Busby; Justice Lehrmann; Justice Devine; Justice Bland; Justice Huddle; Justice Young; Justice Sullivan; Justice Hawkins; Chief Justice Blacklock
JURISDICTION	Supreme Court of Texas
DECIDED	June 12, 2026
DOCKET	24-1070
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review from the Court of Appeals for the Third District of Texas following summary judgment for Preston Hollow and an award of attorney's fees.
PRECEDENTIAL VALUE	Published and precedential Supreme Court of Texas opinion
PARTIES	River Creek Development Corporation, City of Hutto, Texas v. Preston Hollow Capital, LLC, 79 HCD Development, LLC, Public Finance Authority, U.S. Bank National Association

TOPICS

municipal finance

municipal law

public utilities

statutory interpretation

contract interpretation

PRACTICE AREAS

municipal law

public finance

statutory interpretation

contracts

commercial litigation

QUESTIONS PRESENTED

1. Whether Chapter 431 of the Texas Transportation Code required River Creek to submit the promissory note and supporting contracts to the Attorney General for examination and approval.
2. Whether River Creek's failure to obtain Attorney General approval rendered the note, supporting contracts, or entire financing transaction void and unenforceable.
3. Whether the transaction violated the Public Improvement District Assessment Act by using special-assessment revenues in a financing structure involving costs associated with bonds issued by an out-of-state conduit issuer.
4. Whether the trial court improperly considered two attorney opinion letters as summary-judgment evidence.
5. Whether the trial court needed separate evidentiary proof that the attorney's-fee award was equitable and just.

HOLDINGS

1. Section 431.071 of the Texas Transportation Code imposes a mandatory duty on a local government corporation to submit a qualifying bond or note and a supporting contract to the Attorney General for examination.
2. Failure to submit the note and supporting contracts to the Attorney General does not render the entire transaction void or unenforceable; the consequence identified by the court is loss of the statutory defense of incontestability, leaving the instruments subject to challenge by a person with standing.
3. The transaction did not violate the PID Act because the City used an installment-sales-contract method authorized by Section 372.023(d)(1), rather than a bond-issuance method governed by Section 372.024. The restrictions concerning the entities that may issue bonds therefore did not apply to the Interlocal Agreement.
4. The trial court's consideration of two attorney opinion letters was harmless, and separate proof was not required to establish that the attorney's-fee award was equitable and just.

KEY QUOTATIONS

"We answer no." (at 4)

"We hold that the instruction to submit a note like the Promissory Note here to the Attorney General for examination and approval is mandatory, but a consequence of failing to obtain approval is that the note and

its supporting contracts may be contested by anyone with standing to challenge them—not that the transaction is void.” (at 9)

“We interpret statutes by hewing to their plain text and eschewing speculation about what their drafters may have intended.” (at 11)

“We therefore affirm the court of appeals’ judgment.” (at 13)

FACTUAL BACKGROUND

The City of Hutto created a public improvement district and River Creek Development Corporation, a local government corporation, to finance approximately \$17.4 million in public improvements. River Creek borrowed the money from Wisconsin's Public Finance Authority through a loan agreement and promissory note, contracted with 79 HCD Development to construct the improvements, and entered an installment-sale agreement under which the City would purchase the improvements using assessment revenues. River Creek did not submit the note and supporting contracts to the Texas Attorney General, and after new city leadership took office, the City and River Creek sued to have the transaction declared void.

PROCEDURAL HISTORY

The City of Hutto and River Creek sued for declarations that a public-financing transaction was void, primarily because River Creek had not submitted the promissory note and supporting contracts to the Texas Attorney General for examination. Preston Hollow counterclaimed for declarations that the note and contracts were enforceable. The trial court granted Preston Hollow summary judgment and awarded attorney's fees. The court of appeals affirmed, holding that submission was required but that nonsubmission did not void the transaction, and also rejected the statutory, evidentiary, and fee challenges. The Supreme Court of Texas affirmed.

DISPOSITION

affirmed

CASES CITED

- River Creek Development Corp. v. Preston Hollow Capital, LLC, 730 S.W.3d 475, 482, 484, 487-89 (Tex. App.—Austin 2024)
- Image API, LLC v. Young, 691 S.W.3d 831, 840-43 (Tex. 2024)
- Malouf v. State ex rel. Ellis, 694 S.W.3d 712, 730 (Tex. 2024)
- Liberty Mut. Ins. Co. v. Adcock, 412 S.W.3d 492, 497 (Tex. 2013)
- TracFone Wireless, Inc. v. Comm'n on State Emergency Commc'ns, 397 S.W.3d 173, 176, 184 (Tex. 2013)
- King St. Patriots v. Tex. Democratic Party, 521 S.W.3d 729, 743 (Tex. 2017)
- State v. Int'l & Great N. Ry. Co., 179 S.W. 867, 868 (Tex. 1915)
- Greater Houston Transp. Co. v. Phillips, 801 S.W.2d 523, 525 n.3 (Tex. 1990)
- Fitzgerald v. Advanced Spine Fixation Sys., Inc., 996 S.W.2d 864, 866 (Tex. 1999)
- Wis. Cent. Ltd. v. United States, 585 U.S. 274, 284 (2018)

- Hanover Bank v. Comm'r, 369 U.S. 672, 687 (1962)
- Bocquet v. Herring, 972 S.W.2d 19, 21 (Tex. 1998)
- Ridge Oil Co. v. Guinn Invs., Inc., 148 S.W.3d 143, 162 (Tex. 2004)
- Huynh v. Blanchard, 694 S.W.3d 648, 675 (Tex. 2024)
- City of Galveston v. Mann, 143 S.W.2d 1028, 1035 (Tex. 1940)
- PHI, Inc. v. Tex. Juv. Just. Dep't, 593 S.W.3d 296, 305 (Tex. 2019)
- In re Tex. Ass'n of Sch. Bds., Inc., 169 S.W.3d 653, 659 (Tex. 2005)
- City of Denton v. Mun. Admin. Servs., Inc., 59 S.W.3d 764, 770 (Tex. App.—Fort Worth 2001, no pet.)
- Albert G. Hill, Jr. v. Shamoun & Norman, LLP, Hill v. Shamoun & Norman, LLP, 544 S.W.3d 724, 732-33 (Tex. 2018)
- Busse v. S. Tex. Indep. Sch. Dist., ___ S.W.3d ___, 2026 WL 1279764, at *6 (Tex. May 8, 2026)
- Jones v. Turner, 646 S.W.3d 319, 324 (Tex. 2022)
- Columbia Med. Ctr. of Las Colinas, Inc. v. Hogue, 271 S.W.3d 238, 256 (Tex. 2008)
- Gregory v. Helvering, 293 U.S. 465, 469-70 (1935)
- Payne v. Massey, 196 S.W.2d 493, 495 (Tex. 1946)

OPINION

BUSBY, J.

Supreme Court of Texas ===== No. 24-1070 ===== River Creek Development Corporation and City of Hutto, Texas, Petitioners, v. Preston Hollow Capital, LLC; 79 HCD Development, LLC; Public Finance Authority; and U.S. Bank National Association, Respondents ===== On Petition for Review from the Court of Appeals for the Third District of Texas ===== Argued March 3, 2026

JUSTICE BUSBY delivered the opinion of the Court, in which Justice Lehrmann, Justice Devine, Justice Bland, Justice Huddle, Justice Young, and Justice Sullivan joined.

JUSTICE HAWKINS filed an opinion concurring in the judgment, in which Chief Justice Blacklock joined. The central question in this case is whether a local government corporation's failure to submit various public financing agreements for the Attorney General's examination renders the entire underlying transaction void.

We answer no. A city created a local government corporation to assist with financing improvements to a public improvement district (PID). As part of the multi-step financing transaction, the corporation borrowed \$17.4 million from an out-of-state conduit bond issuer under a loan agreement and promissory note.

The Transportation Code requires that a local government corporation "shall submit" such a note and its supporting contracts to the Attorney General for examination. The corporation did not do

so, but the transaction went forward.

After spending most of the money, the city and corporation sued the current bondholder, arguing that the transaction is void because the corporation did not submit the documents and thus it need not repay the loan. Like the trial court and court of appeals, we hold that although the statute mandates submission to the Attorney General, a logically necessary consequence of failing to do so is that the corporation loses the statutory defense of incontestability—not that the entire transaction is void.

We also hold that the transaction did not violate the PID Act, which imposes certain restrictions on bonds issued by the city or corporation, as neither was the issuer here. We therefore affirm the court of appeals' judgment. BACKGROUND In 2018, the leadership of petitioner City of Hutto sought to improve the area around its city hall.

The City authorized the creation of a PID: a geographic area in which property owners finance planned public improvements that will benefit their properties. The City's plan was to develop the area with parks and open space, community facilities, parking, and walkways.

The initial improvements included 2 landscaping, sewage, drainage, and paving. The total budgeted cost of the initial improvements was \$17.4 million. The City owns the improvements and most of the property in the PID.

To finance the improvements using the PID Act, the City created a local government corporation—petitioner River Creek Development Corporation—under the Transportation Code. River Creek borrowed \$17.4 million from a conduit bond issuer in Wisconsin—respondent Public Finance Authority (PFA)—through a Loan Agreement and Promissory Note. From there, River Creek contracted with a construction company—respondent 79 HCD Development, LLC—to build the improvements in the PID.

The City agreed to purchase the improvements from River Creek through an Interlocal Agreement. The Interlocal Agreement was structured as an installment sale, with payments for the improvements set to come from assessments levied on property in the district and other revenues.

To fund the original loan to River Creek, PFA issued bonds, which were subsequently purchased by respondent Preston Hollow Capital. In sum, the transaction was structured so that the City would levy assessments on the properties within the PID, the City would then use the assessment funds to pay River Creek for the improvements under an installment sales contract, and River Creek would use those funds to pay Preston Hollow under the Loan Agreement and Promissory Note.

A few months after the transaction was complete, the people of Hutto elected new city leadership. Within a year, the City was in deep financial distress, and its new leaders blamed former leaders

for financial mismanagement. New leadership requested an opinion from 3 the Texas Attorney General on the validity of the transaction.

The Attorney General responded, declining to opine on its propriety. One month after receiving the Attorney General's response, the City and River Creek filed this lawsuit, seeking a declaratory judgment that the transaction was void for various reasons, including that the Promissory Note and supporting contracts were not submitted to the Attorney General for examination as required by law.

Preston Hollow counterclaimed, seeking declarations that the note and contracts were enforceable against the City and River Creek and did not have to be submitted to the Attorney General. Preston Hollow moved for summary judgment on all claims, which the trial court granted.

The court awarded Preston Hollow attorney's fees based on additional motions and supporting evidence. The court of appeals affirmed. It held that the note and its supporting contracts were required to be submitted to the Attorney General but the failure to submit them did not render them void because the Legislature did not condition the validity of a note on the Attorney General's approval.

730 S.W.3d 475, 484 (Tex. App.—Austin 2024). It also held that the transaction did not violate certain sections of the PID Act, as River Creek and the City claimed, because those sections did not apply to the transaction. *Id.* at 487.

Finally, it rejected River Creek and the City's challenge to the trial court's consideration of certain evidence and their challenge that the fee award was not equitable and just. *Id.* at 488-89. We granted review. 4 ANALYSIS We agree with the court of appeals' disposition of each issue presented by River Creek and the City.

First, we hold that River Creek was required to submit the note and its supporting contracts to the Attorney General, but River Creek's failure to do so does not render the entire transaction void. Second, the transaction does not violate the PID Act.

Finally, the trial court's consideration of two attorney opinion letters was harmless error, and the trial court did not need separate proof to determine that the fees it awarded were equitable and just. I. River Creek's failure to seek the Attorney General's approval does not render the transaction void.

In their first issue, River Creek and the City argue that Chapter 431 of the Texas Transportation Code imposed a mandatory duty to submit the Promissory Note and its supporting contracts (the Loan Agreement and Interlocal Agreement) to the Attorney General.

We agree. But we disagree that River Creek's own failure to submit these documents renders them void and unenforceable. Section 431.070 of the Transportation Code authorizes a local

government corporation like River Creek to issue “bonds and notes” under any power or authority available to it. 1 TEX. TRANSP. CODE § 431.070. This provision contains two limitations on the notes a corporation may issue: the note must be issued “to carry out [the 1 The statute does not define the term “note,” but we agree with the court of appeals that the plain meaning of the word encompasses the Promissory Note entered into by River Creek and PFA.

See 730 S.W.3d at 482. 5 corporation’s] purpose,” and the note must “state on its face that it is not an obligation of the State of Texas.” Id. Section 431.071 then instructs that the “corporation shall submit a bond or note authorized under Section 431.070 and a contract supporting its issuance to the attorney general for examination.” Id. § 431.071(a) (emphasis added).

The Attorney General, in turn, “shall approve” the note upon finding that the note and supporting contract are “authorized under this chapter.” Id. § 431.071(b). “After approval by the attorney general,” the note and contract “may not be contested for any reason.” Id. § 431.071(c). “Shall” means “must.” And when the Legislature uses the word “shall,” it creates a mandatory duty.

Image API, LLC v. Young, 691 S.W.3d 831, 840-41 (Tex. 2024). The parties agree that the Legislature imposed this particular duty on the corporation. See TEX. TRANSP. CODE § 431.071. When a corporation does not fulfill this duty, as River Creek did not here, a court must ask “what consequences follow”? Image API, 691 S.W.3d at 840.

We will apply a particular consequence if it is either “explicit in the text or logically necessary to accomplish the statute’s purpose.” Id. (internal quotation marks omitted). River Creek and the City argue that the logically necessary consequence of River Creek’s own failure to obtain Attorney General approval under Section 431.071 is that the unapproved note and supporting contracts are unauthorized and therefore void, making River Creek’s promise to repay the \$17.4 million unenforceable.

We disagree. The Transportation Code does not expressly provide a consequence for a corporation’s failure to obtain Attorney General approval under Section 431.071, but it does expressly provide a 6 consequence for a corporation’s success in obtaining approval—namely, the corporation enjoys the statutory defense of incontestability. TEX. TRANSP. CODE § 431.071(c) (“After approval by the attorney general, a bond, note, or contract may not be contested for any reason.”).

We hold that one “logically necessary” consequence of a corporation’s failure to obtain approval is simply the inverse of the express consequence of obtaining approval: the corporation cannot invoke the statutory defense of incontestability. 2 Image API, 691 S.W.3d at 841. It is not logically necessary, on the other hand, for the Court to conclude that a note is unauthorized unless approved by the Attorney General.

Such a reading would be wrong for three reasons. First, the statute distinguishes between authorization and approval. The text plainly indicates that a note is authorized under Section 431.070 independent of whether the Attorney General has examined and approved it as required by Section 431.071. See TEX. TRANSP. CODE § 431.071 (directing the corporation to submit a note “authorized under Section 431.070” to the Attorney General for examination).

Under this framework, authorization pre-exists and is separate from approval. Thus, whether the Attorney General approves the note does not determine whether the note is authorized. 3 2 The parties contend that the consequence of failing to obtain approval is either that the contracts are void or that they are contestable.

Because the parties have not argued for any other consequences, we do not address whether or in what circumstances any others might apply. 3 We observe that Section 431.071(b) refers to notes and supporting contracts that the Attorney General finds are “authorized under this chapter,” as opposed to “authorized under Section 431.070,” as the Legislature said in Section 431.071(a).

TEX. TRANSP. CODE § 431.071 (emphases added). But any 7 Under River Creek and the City’s reading, on the other hand, a note and its supporting contracts are either incontestable or totally void. We see no textual indication that the Legislature adopted this all-or- nothing binary approach, foreclosing the existence of notes that are not incontestable but are proven to be authorized.

Second, the statute’s purposes 4 are fulfilled under our plain-text reading without the addition of River Creek and the City’s proposed consequence. The Attorney General disagrees, arguing that “treating only those instruments approved by [him] as authorized and valid[] is necessary to accomplish the Act’s purpose of properly financing public improvements,” protecting the note’s maker and payee, and safeguarding citizens from unauthorized transactions and expenditures of public funds for improper purposes.

5 But these purposes are also accomplished by our reading. An authorized note and accompanying contracts “shall” be approved by the Attorney General and afterward cannot be contested note that the Attorney General examines under subsection (b) has already fulfilled the requirement that it be submitted to the Attorney General. 4 The stated purposes of the Transportation Corporation Act appear to be specific to transportation corporations and not relevant here.

See TEX. TRANSP. CODE § 431.002. Courts should exercise caution in attributing other purposes to a statute, ensuring that they are grounded firmly in the statute’s express requirements. *Malouf v. State ex rel. Ellis*, 694 S.W.3d 712, 730 (Tex. 2024) (“We proceed with great hesitation when asked to construe statutory text based on the statute’s purpose, particularly when the statute never expresses its purpose.”).

5The Attorney General does not explain why he would not have approved this particular transaction even if it had been properly submitted for review. 8 for any reason. TEX. TRANSP. CODE § 431.071. When transaction documents are submitted to the Attorney General, permissible uses of public funds will be approved and afforded the protection and increased reliability that results from incontestability.

Impermissible uses of public funds will not be approved and will be subject to challenge as unauthorized by anyone with standing to sue, including the Attorney General. This enforcement mechanism likewise protects the maker, payee, and public.

Third, the Legislature knows how to condition a transaction's authorization on the Attorney General's approval. See, e.g., TEX. GOV'T CODE § 1371.059 (providing for incontestability if an obligation under that chapter is approved by the Attorney General and expressly stating that an obligation is "not valid, binding, or enforceable unless the obligation is approved by the attorney general"); id. § 1202.003 (requiring an issuer to submit a public security to the Attorney General and stating that "the issuance of a public security except in compliance with this chapter is prohibited").

It chose not to do so here, and we generally treat the Legislature's silence in such a context as purposeful. See *Liberty Mut. Ins. Co. v. Adcock*, 412 S.W.3d 492, 497 (Tex. 2013) ("When the Legislature expresses its intent regarding a subject in one setting, but, as here, remains silent on that subject in another, we generally abide by the rule that such silence is intentional.").

For these reasons, we hold that the instruction to submit a note like the Promissory Note here to the Attorney General for examination and approval is mandatory, but a consequence of failing to obtain approval is that the note and its supporting contracts may be contested 9 by anyone with standing to challenge them—not that the transaction is void. II.

The Interlocal Agreement does not violate the PID Act. In their second issue, River Creek and the City contend that the Interlocal Agreement violates the PID Act because the special assessments levied on properties in the PID are ultimately used in part to pay the out-of-state conduit bond issuer's costs of issuance. 6 We disagree and hold that the PID Act allows the City to pledge its assessment income to make installment payments on its agreement to buy the improvements from River Creek regardless of whether River Creek uses those funds, in turn, to satisfy its debt to the out-of-state bond issuer.

River Creek and the City contend that the PID Act allows the City to pledge income to cover the cost of issuing bonds only when the bonds are issued "under Section 372.024." TEX. LOC. GOV'T CODE §§ 372.023(d)(3), 372.026(f). And under Section 372.024, the bonds must be issued by certain entities of this State or a nonprofit corporation acting on their behalf.

Id. § 372.024 (citing TEX. GOV'T CODE § 1201.002). Here, the bonds to fund the improvements to the PID were issued by a Wisconsin entity, not by River Creek or any entity of the State of Texas. River Creek and the City therefore argue that the City 6 River Creek and the City also assert that the Loan Agreement and Promissory Note between River Creek and the issuer are void under the PID Act.

We agree with Preston Hollow and the court of appeals that River Creek and the City did not properly preserve their challenge to these agreements. 10 cannot pledge special assessments to pay the out-of-state issuer's costs of issuance.

As the court of appeals explained, this argument misunderstands the statute and the transaction at issue here. The Local Government Code sets forth various methods of funding costs of improvements to a PID using special assessments on properties in the district. Id. § 372.023. One method allows improvement costs to be paid with funds obtained from the issuance and sale of bonds by certain entities of the State under Section 372.024, which are paid back using assessment income.

Id. § 372.023(d)(3). A different method allows improvement costs to be paid under an installment sales contract between the municipality and a person who acquires, installs, or constructs the improvements, with assessment income used to make the installment payments. Id. § 372.023(d)(1).

Here, the parties used the second method rather than the first. The Interlocal Agreement is by its terms an installment sales contract between the City and River Creek, which acquired the improvements. Thus, the limits River Creek and the City identify regarding which entities can issue bonds and under what circumstances do not apply to this agreement. River Creek and the City express concern that their own transaction seeks to accomplish indirectly what would be prohibited if attempted directly.

Although we understand this concern, it must be addressed to the Legislature. We interpret statutes by hewing to their plain text and eschewing speculation about what their drafters may have intended to accomplish. This approach is not a rule of convenience; 11 it is a foundational component of due process and the rule of law. 7 Because all people are expected to know and follow the laws enacted by their elected representatives, 8 the people must be able to depend on what those laws say about their rights and obligations.

9 In particular, parties planning financial transactions must be able to rely on courts to apply statutes governing the form and substance of those transactions as written. 10 “[F]illing” what could be perceived as a statutory “gap” or loophole “is best left to legislators, not courts or agencies.” *TracFone Wireless, Inc. v. Comm’n on State Emergency Commc’ns*, 397 S.W.3d 173, 176 (Tex.

2013); see also *id.* at 184 (declining to “stretch” tax statute “beyond its textual reach”). 7 *King St. Patriots v. Tex. Democratic Party*, 521 S.W.3d 729, 743 (Tex. 2017); *State v. Int’l & Great N. Ry. Co.*, 179 S.W. 867, 868 (Tex. 1915); ANTONIN SCALIA & BRYAN A. GARNER, *READING LAW: THE INTERPRETATION OF LEGAL TEXTS* 345 (2012) (“In republics, the very nature of the constitution requires the judges to follow the letter of the law; otherwise the law might be explained to the prejudice of every citizen, in cases where their honor, property, or life is concerned.” (quoting C. MONTESQUIEU, *THE SPIRIT OF LAWS* 75 (T.

Nugent trans., 1949))). 8 *Greater Houston Transp. Co. v. Phillips*, 801 S.W.2d 523, 525 n.3 (Tex. 1990). 9 *Fitzgerald v. Advanced Spine Fixation Sys., Inc.*, 996 S.W.2d 864, 866 (Tex. 1999). E.g., *Wis. Cent. Ltd. v. United States*, 585 U.S. 274, 284 (2018) 10 (rejecting court of appeals’ extension of tax statute and explaining that “[w]ritten laws are meant to be understood and lived by.

If a fog of uncertainty surrounded them, if their meaning could shift with the latest judicial whim, the point of reducing them to writing would be lost.”); *Hanover Bank v. Comm’r*, 369 U.S. 672, 687 (1962) (“[W]e are not at liberty, notwithstanding the apparent tax-saving windfall bestowed upon taxpayers, to add to or alter the words employed to effect a purpose which does not appear on the face of the statute.”).

12 III. The remaining issues present no grounds for reversal. River Creek and the City next contend that the trial court erred in considering as summary judgment evidence two attorney opinion letters addressing the validity of the transaction at issue because they (1) were hearsay and (2) contained legal conclusions.

We agree with the court of appeals that (1) River Creek and the City did not properly object to this evidence as hearsay in the trial court, and (2) although the opinion letters may have been inadmissible as legal conclusions, the trial court’s decision on summary judgment was one of law. 730 S.W.3d at 487-88.

The inclusion of the letters was therefore harmless. Finally, River Creek and the City argue that insufficient evidence supports the trial court’s determination that awarding fees to Preston Hollow was “equitable and just.” We disagree.

Although the Declaratory Judgments Act’s requirements that attorney fee awards be “reasonable and necessary” are matters of fact, its requirements that awards be “equitable and just” are addressed to the trial court’s discretion. TEX. CIV. PRAC. & REM. CODE § 37.009; *Bocquet v. Herring*, 972 S.W.2d 19, 21 (Tex. 1998) (citations omitted). This Court has explained that whether fees are “equitable and just” is not a fact question “because the determination is not susceptible to direct proof but is rather a matter of fairness in light of all the circumstances.” *Ridge Oil Co. v. Guinn Invs., Inc.*, 148 S.W.3d 143, 162 (Tex.

2004). Accordingly, Preston Hollow was not required to introduce separate facts proving by a preponderance of the evidence that the requested fee award would be equitable and just. See *Huynh v. Blanchard*, 694 13 S.W.3d 648, 675 (Tex. 2024) (explaining that “matters of... equitable discretion [are] for a trial court—not a jury—to decide”). CONCLUSION We hold that River Creek’s failure to submit the promissory note and its supporting contracts to the Attorney General does not render the transaction void, nor does the transaction violate the PID Act.

We also hold that the trial court’s consideration of the attorney letters was harmless and that the trial court did not need separate evidence to determine that the fee award was equitable and just. We therefore affirm the court of appeals’ judgment. J. Brett Busby Justice OPINION DELIVERED: June 12, 2026 14

HAWKINS, J, concurring.

Supreme Court of Texas ~~*****~~ No. 24-1070 ~~*****~~ River Creek Development Corporation and City of Hutto, Texas, Petitioners, v. Preston Hollow Capital, LLC; 79 HCD Development, LLC; Public Finance Authority; and U.S. Bank National Association, Respondents ~~*****~~ On Petition for Review from the Court of Appeals for the Third District of Texas ~~*****~~ JUSTICE HAWKINS, joined by Chief Justice Blacklock, concurring in the judgment.

Our Legislature has determined that before a local government corporation may take on public debt to finance public works, it must first submit the debt instrument to the Attorney General of Texas for examination and approval. See TEX. TRANSP. CODE §§ 431.070,.071. This type of safeguard exists “to protect the particular locality and its inhabitants against the imposition of unauthorized or illegal obligations.” *City of Galveston v. Mann*, 143 S.W.2d 1028, 1035 (Tex.

1940). It seeks to ensure, in other words, that municipalities act lawfully before saddling their taxpayers with substantial debt. The City of Hutto created a local government corporation. That corporation contracted with an out-of-state entity to issue \$17.4 million in public debt to fund city improvements. But it skipped the submission to the Attorney General.

No examination occurred. No determination of lawfulness was made. No approval was issued. What consequences follow from that apparent statutory violation? That is the key question this case presents, and the parties offer us two options.

On one side, the City argues the consequence is the automatic and total invalidity of the debt instruments. The City has already benefited from many millions of dollars in public works, but now claims that its promises to pay the loans that financed those improvements cannot be enforced.

On the other side, the financiers argue the sole consequence is the loss of the statutory incontestability defense available to instruments that have been examined and approved. They argue that despite the statutory term “shall,” submission to the Attorney General is a purely optional, take-or-leave invitation that confers a benefit if accepted and no real consequence if declined.

I find both positions unsatisfactory. The statute does not expressly provide for automatic invalidity, a conspicuous omission when other statutory schemes do just that. See, e.g., TEX. GOV’T CODE §§ 1371.059(b), 1202.003(c). At the same time, Respondents’ view would turn the statute’s mandatory “shall” into a permissive “may”; that cannot be right. There must be some real consequence when municipal 2 managers and their financiers together violate a critical statutory measure designed to protect our State’s taxpayers from spendthrift (or worse) local governments.

Mindful of our precedents on forfeiture, estoppel, and the general principles of adversarial presentation, I cannot fault the Court for declining to set aside the parties’ positions and carve a third path that better hews to the legislative directive.

We risk error when we depart from the arguments the parties have developed and the lower courts have tested; in general, it is prudent to avoid adopting legal conclusions the parties themselves have not raised. With some reluctance, but with the utmost respect for my colleagues, I therefore concur in the judgment. But I hope that in a future case, with a more robust exploration from the parties of the relevant textual considerations and contours, we can better assess what this statute means.

The Court’s decision today resolves this particular dispute as it was presented to us, consistent with what the parties requested. It expressly contemplates that the failure to seek Attorney General approval under Chapter 431 may carry other consequences. When the opportunity arises, we should say what they are.

The Court’s second holding—that the Public Improvement District Assessment Act authorizes assessment-funded reimbursement of an out-of-state issuer’s bond-issuance costs—raises similar concerns. Section 372.023(h) limits reimbursable bond-issuance costs to bonds issued by Texas issuers, not out-of-state entities. TEX. LOC. GOV’T CODE §§ 372.023(h),.024; TEX. GOV’T CODE § 1201.002(1).

This case presents a creative workaround: by routing the payments through a series of 3 intermediary arrangements, the foreign conduits get away with doing indirectly what the statute forbids them from doing directly. Today, the Court blesses that loophole. I respect the Court’s view that when it comes to public financing of municipal works, predictability and formalism carry paramount importance.

But make no mistake: today's decision effectively eliminates a critical legislative measure to protect local taxpayers from spendthrift municipalities and the unscrupulous out-of-state financiers seeking to prey on them.

The takeaway from today's decision is that local governments may in fact use taxpayer-funded assessments to pay out- of-state issuer costs—as long as they do so through creative transactions dressed up as “installment sales contracts.” If the Legislature objects, it will be easy enough to say so. In a future case, I hope the parties will better explore what consequences might flow from the failure to seek the Attorney General approval that Chapter 431 mandates.

Here is the relevant statutory text: (a) A corporation shall submit a bond or note authorized under Section 431.070 and a contract supporting its issuance to the attorney general for examination. (b) If the attorney general finds that the bond or note, and any supporting contract are authorized under this chapter, the attorney general shall approve them. (c) After approval by the attorney general, a bond, note, or contract may not be contested for any reason.

4 TEX. TRANSP. CODE § 431.071. The parties have offered two theories on what this text requires. I will explain why I believe each fails. I then will offer a third approach. A First is the view Petitioners and the State advance: the consequence of noncompliance is the automatic invalidity of the instruments.

The Court rejects that view, and I would, too. As the Court correctly observes, the Legislature knows how to declare contracts void for failure to comply with mandatory procedural requirements. See, e.g., TEX. GOV'T CODE § 2254.110 (“A contract entered into or an arrangement made in violation of this subchapter is void as against public policy....”); id. § 1371.059(a), (b) (providing for incontestability if an obligation under the Chapter is approved by the Attorney General and expressly stating that an obligation is “not valid, binding, or enforceable unless the obligation is approved by the attorney general”); id. § 1202.003(a), (c) (requiring an issuer to submit a public security to the Attorney General and stating that “the issuance of a public security except in compliance with this chapter is prohibited”).

It chose not to do so in Section 431.071. Where the Legislature has used voidness language in closely parallel statutes and conspicuously omitted it from the statute before us, we are reluctant to read voidness in by structural inference. See *Liberty Mut. Ins. Co. v. Adcock*, 412 S.W.3d 492, 497 (Tex. 2013) (“When the Legislature expresses its intent regarding a subject in one setting, but, as here, remains silent on that subject in another, we generally abide by the rule that such silence is intentional.”); cf. *PHI, Inc. v. Tex. 5 Juv.*

Just. Dep't, 593 S.W.3d 296, 305 (Tex. 2019) (“[N]o court has the authority, under the guise of interpreting a statute, to engraft extra- statutory requirements not found in a statute's text.”). That is especially so here, in the context of sophisticated public debt instruments, where automatic

voidness would present special considerations and destabilize the public fisc and the ability of municipalities to finance public improvements.

This is enough to reject Petitioners' and the State's view. B The second view comes from Respondents: the sole consequence for disregarding subsection (a) is the loss of the benefit described in subsection (c), the statutory defense of incontestability. This, too, cannot be correct, because it would render the verbs "shall" and "may" interchangeable.

To illustrate, suppose subsection (a) read "may submit" rather than "shall submit." What, according to Respondents, would be different? Nothing. In either case, if a municipality submits an instrument and received approval, it is incontestable. If it decides not to submit an instrument, then the instrument is contestable like any ordinary contract. Respondents' view thus renders the Legislature's use of "shall" a nullity.

The Court wisely rejects that approach. See *Image API LLC v. Young*, 691 S.W.3d 831, 842 (Tex. 2024) (rejecting interpretation of statute that would transform "must" into "may"). Moreover, Respondents' view invites substantial practical problems. Consider how the rule operates from the perspective of the parties most likely to skirt Attorney General review. A corporation contemplating a transaction of dubious legality faces a choice: submit the instruments to the Attorney General, or skip the process entirely.

Under Respondents' view, submission carries real risk. If the Attorney General reviews the documents and concludes they are not authorized, the entire deal collapses on the front end. By contrast, not submitting carries only the risk of later contestability—a risk that may never materialize if no one ever sues, and that, even if someone does, can be defended against by invoking the disruption that a declaration of invalidity would cause.

This produces an incentive structure exactly opposite the one the Legislature intended. The parties with the most reason to avoid Attorney General examination—the parties whose deal is most legally questionable—have the strongest incentive not to submit.

The Public Finance Authority's own brief illustrates the ubiquity of this problem. PFA represents that it has issued bonds for 78 projects in Texas since 2012, totaling \$4.9 billion. Not one of those 78 projects was submitted to the Attorney General for examination. Not one was challenged in any court of any State—until this case.

The State's chief legal officer, through widespread practice norms, is being systematically cut out of a mandatory role the Legislature assigned him. All of this is reason to laud the Court's rejection of Respondents' position. C In my view, there must be some real consequence for the failure to seek Attorney General approval. I offer here one thought that future litigants may wish to explore in an appropriate case.

It seems to me that the proper consequence must lie somewhere between the poles, and Image API’s “logically necessary” inquiry tells us 7 where to find it. *Id.* at 843. The purpose of Section 431.071 is to ensure substantive compliance with Texas law before public-finance instruments obligate public funds. Attorney General examination is the means by which that purpose is ordinarily served.

When parties skip the examination, the statutory process does not run—and the instruments are unverified. The logically necessary consequence is the one that flows from this gap: substantive compliance must be verified some other way. I would put it to the party seeking to enforce the instruments to secure that verification.

Under that approach, the failure to submit a Chapter 431 instrument for Attorney General examination as required by Section 431.071(a) would deprive the instrument of any presumption of regularity or statutory authorization that would otherwise attach.

In any challenge to the validity of the instrument, it would fall to the party seeking to enforce or rely on its consequences to affirmatively demonstrate lawfulness within the meaning of Section 431.071(b)—that is, that the instrument complies with the substantive law that the Attorney General would have examined had submission occurred. This approach would not automatically invalidate prior unsubmitted transactions, but it would make them easy to invalidate in the event they are actually unlawful.

Sophisticated parties might attempt Chapter 431 financings without Attorney General submission, but they would do so with the knowledge that the instruments are presumptively unlawful, and that the presumption of regularity is not available. This, I submit, would give the mandatory submission duty 8 meaningful effect and track the protective function the Legislature assigned to the Attorney General.

And in light of our decisions allowing taxpayers to challenge certain tax assessments, see *Busse v. S. Tex. Indep. Sch. Dist.*, ___ S.W.3d ___, 2026 WL 1279764, at *6 (Tex. May 8, 2026), and unlawful expenditures, see *Jones v. Turner*, 646 S.W.3d 319, 324 (Tex. 2022), municipalities would face a real incentive to seek approval. I of course acknowledge that declaring public debt instruments invalid will always raise difficult remedial questions with no obvious answers.

In the case now before us, the parties have invoked the principle that when a contract is declared void, parties must be restored to their pre-contract positions. See *In re Tex. Ass’n of Sch. Bds., Inc.*, 169 S.W.3d 653, 659 (Tex. 2005). But it is not clear how a court could restore the status quo ante to these major public works projects financed with out-of-state bonds; cities cannot return their new roads to the contractor for a refund.

Other remedies may (or may not) be available. See, e.g., *City of Denton v. Mun. Admin. Servs., Inc.*, 59 S.W.3d 764, 770 (Tex. App.—Fort Worth 2001, no pet.) (“When a court holds a contract

void, not merely voidable, a party may seek recovery for amounts paid under the common law theory of quantum valebant for money had and received.” (citation omitted)); see also *Hill v. Shamoun & Norman, LLP*, 544 S.W.3d 724, 732-33 (Tex.

2018) (discussing circumstances under which a party may recover under common law doctrine of quantum meruit). Whatever the answer, nothing in the Court’s opinion forecloses the possibility that other consequences may flow from the failure to comply with Chapter 431, and future litigants are free to develop arguments along those lines. Ante at 7 n.2.

To be clear, nothing in my opinion (or the Court’s) should be read to suggest that a municipality could avoid paying for what it received. No loophole in our law allows a municipality to receive millions of dollars in public improvements free of charge. II Shifting back to the actual case now before us: Are the underlying instruments unlawful?

The Court says no, at least as to the Interlocal Agreement under the PID Act. Color me skeptical (or dubitante, if you like).¹ The PID Act presents a complex statutory scheme in service of a simple legislative directive to municipalities: do not use taxpayer-funded assessments to pay the issuance costs of out-of-state bond issuers. TEX. LOC. GOV’T CODE §§ 372.023(h), .024; TEX. GOV’T CODE § 1201.002(1).

Here, the City used taxpayer-funded assessments to pay the issuance costs of out-of-state bond issuers. Yet the Court finds no statutory violation—because the City structured this transaction as an “installment sales contract,” under which Peter does not pay Paul directly, but instead pays Mary, knowing Mary in turn routes the money to Paul. 1 The Court does not address the lawfulness of the Loan Agreement and Promissory Note because the Petitioners forfeited their PID Act challenge to those instruments.

I agree that those challenges are forfeited, and I am reluctant to say more about them in the absence of developed analysis below testing competing understandings. 10 Here are the relevant statutory considerations. Section 372.023 specifies the methods by which improvement costs may be paid, and it specifically provides limitations governing special assessments payable in installments.

TEX. LOC. GOV’T CODE § 372.023. Per subsection (d), the costs may be paid through (1) an installment sales contract, (2) a temporary note or time warrant, or (3) “[t]he issuance of bonds under Section 372.024.” Id. § 372.023(d). And per Section 372.023(h): “The costs of any improvement include... all costs incurred in connection with the issuance of bonds under Section 372.024.” Id. § 372.023(h).

Section 372.024 in turn requires that those bonds be issued under Subtitles A and C, Title 9, of the Government Code. Id. § 372.024. And Section 1201.002(1) of that Code defines an “issuer” as a Texas governmental entity “of this state.” TEX. GOV’T CODE § 1201.002(1)(A). Weaving those

statutory threads together, Petitioners' argument is simple enough: reimbursement of bond-issuance costs from PID assessments is permissible only when the bonds were issued by a Texas issuer under Section 372.024.

PFA's bonds were not. They were issued under Wisconsin law, by a Wisconsin governmental entity. Therefore, Section 372.023(h) does not authorize reimbursement of those costs. The PID Act, then, makes the Interlocal Agreement unlawful at least in part.

The Court today rejects that view, letting stand the court of appeals' structural argument that goes something like the following. The PFA bonds were issued in a separate transaction to which Petitioners were not parties, and the Interlocal Agreement does not pay PFA's costs directly. All the Interlocal Agreement does is allow the City to pay River Creek's "indebtedness," which is authorized by Section 11 372.026(f)'s "issued to pay the corporation's costs of issuance" language.

TEX. LOC. GOV'T CODE § 372.026(f). Once River Creek agreed to repay PFA an amount that included PFA's bond-issuance costs, those costs (in Respondents' view) became "the corporation's"—that is, River Creek's—and Section 372.023(d)(1) authorizes assessment-funded reimbursement through an installment sales contract. *Id.* § 372.023(d)(1).

In my view, the web of transactions before us is hard to square with Section 372.023(h)'s "under Section 372.024" restriction. *Id.* § 372.023(h). Subsection (h) is properly understood to limit reimbursable bond-issuance costs to bonds issued by Texas issuers—that is what "under Section 372.024" must mean.

To hold that this limitation may be evaded by routing the transactions through a local government corporation that incorporates the foreign issuer's costs into its own debt renders the Texas-issuer requirement a nullity. See TEX. GOV'T CODE § 311.021(2); *Columbia Med. Ctr. of Las Colinas, Inc. v. Hogue*, 271 S.W.3d 238, 256 (Tex. 2008) (noting courts must not interpret a statute in a manner that renders any part of it meaningless or superfluous); cf. *Scalia & Garner, READING LAW* 167 (discussing whole-text canon); *id.* at 174 (discussing canon against surplusage); *id.* at 180 (discussing harmonious-reading canon).

Furthermore, Section 372.023(d)(1) says nothing about which costs are payable through an installment sales contract. Instead, it merely states that "[c]osts payable from a special assessment" may be paid through an installment sales contract. TEX. LOC. GOV'T CODE § 372.023(d)(1). I am not aware of any provision designating foreign 12 conduit bond issuers' costs of issuance as "costs payable." Subsection (h) only includes the costs of issuing bonds for Texas entities.

Id. § 372.023(h). Municipalities only exercise authority pursuant to powers granted to them by the state. See *Payne v. Massey*, 196 S.W.2d 493, 495 (Tex. 1946) ("Municipalities are creatures of our law and are created as political subdivisions of the state as a convenient agency for the exercise of such powers as are conferred upon them by the state.").

In a future case, if a bond-issuer were tasked with affirmatively proving compliance with Texas law (as I set out above, see *supra* Part I), I am doubtful Section 372.023(d)(1) would properly authorize municipalities' use of interlocal agreements to cover the costs of issuance for foreign bond issuers. And while the Court is correct that Petitioners have not properly preserved their challenges to the Promissory Note and Loan Agreement, I cannot ignore that the structural integration of the agreements supports treating them, for purposes of this analysis, as a single transaction.

The Loan Agreement, the Note, and the Interlocal Agreement were executed on the same day, by overlapping signatories, with cross-references throughout. The Interlocal Agreement directs the City's Installment Payments not to River Creek but to the bond trustee—a routing that bypasses River Creek as paymaster and delivers assessment dollars directly into the bond-debt-service stream.

The Loan Agreement explicitly recites that PFA shall issue its bonds “in connection with this Loan Agreement.” The State's amicus brief aptly describes the agreements as “inextricabl[y] interconnect[ed].” Under these circumstances, the Court's formalism is far removed from the 13 reality of this financial arrangement. Cf. *Gregory v. Helvering*, 293 U.S. 465, 469-70 (1935) (recognizing that substance may control over form when “devious” transactions are made with no legitimate substantive purpose).

III I highlight an additional consideration that future litigants (and the Legislature) may wish to consider further. In my view, Chapter 1202 of the Government Code provides an independent basis for concluding that the Promissory Note in this case required Attorney General review.

The parties do not adequately develop this argument, and the Court does not address it, but in a future case, it may be outcome-dispositive. Section 1202.003 requires submission of public securities to the Attorney General for examination and approval. TEX. GOV'T CODE § 1202.003(a).

The Attorney General “shall” approve the public security if it is “authorized.” Id. § 1202.003(b)(1). And critically: “[T]he issuance of a public security except in compliance with this chapter is prohibited.” Id. § 1202.003(c). That is explicit voidness language—the kind the Court correctly observes is absent from Section 431.071. And I fail to see why it would not apply here.

Section 1202.001(3) sets out to define “public security” as “an instrument, including a... note... that: (A) is issued or incurred by an issuer under the issuer's borrowing power... and (B) is represented by an instrument issued in bearer or registered form or is not represented by an instrument but the transfer of which is registered on books maintained for that purpose by or on behalf of the issuer.” Id. § 1201.001(3).

Section 1202.001(2) defines “issuer” to include “an 14 agency, authority, board, body politic, department, district, instrumentality, municipal corporation, political subdivision, public corporation, or subdivision of this state.” Id. § 1202.001(2).

Here, the Promissory Note meets these criteria. It is a “note” within the meaning of Section 1202.001(3). It reflects River Creek’s promise to pay \$17.4 million plus interest from a defined revenue stream. It was issued by River Creek, a “public corporation” of Texas. It is plainly a “public security.” And it was never submitted to the Attorney General for approval.

It would appear, then, that Chapter 1202 would render the Promissory Note invalid.² Or at least, so goes my analysis based on the materials and arguments provided to us. There may be considerations relevant to Chapter 1202 that were not adequately developed below or in this Court, and since the parties have not fully canvassed its contours, neither will I. I merely flag the issue for future litigants and courts to consider more robustly whether, in light of the Court’s approach to Chapter 431, Chapter 1202 supplies an independent ground for Attorney-General-review-related invalidity.

Future challengers in similar transactions should examine whether Chapter 1202 provides the textual hook the Court finds missing in Chapter 431. ² Respondents invoke Section 1201.041(1) to argue that public securities must be negotiable, and since this Promissory Note expressly states it is not a negotiable instrument, it must fall outside Section 1202. But Section 1201.041 is not a definitional provision—Section 1201.002(2) is, and it does not require negotiability.

Section 1201.041 is descriptive—it tells courts how to treat instruments that have already been determined to be public securities. These are operative consequences that follow from public-security status; they are not threshold criteria for that status. ¹⁵ IV An out-of-state conduit issuer, partnered with a sophisticated bond purchaser, was able to extract over \$17 million from Texas property owners through a transaction that none of the Texas officials charged with reviewing such transactions ever examined or approved.

Based on the particular arguments the parties have presented, and cabined by the particular relief they sought below, the Court declines to invalidate this arrangement. For the foregoing reasons, I do not disagree with the Court’s judgment line. But I reiterate that if the Legislature wants local governments to submit these instruments to the Attorney General, it need only specify a sufficiently severe consequence for noncompliance.

And if the Legislature disapproves of the PID Act loophole the Court endorses today, it is easy enough to say so. Kyle D. Hawkins Justice OPINION FILED: June 12, 2026 ¹⁶