The flood of lawsuits anticipated over a proposed upscale golf resort begins with this unique set of facts... The underlying current of the litigation is long standing concern about the main source of water lying under this region. Hanging over these issues are the clouds of extreme term limits and allegations of a tainted political process. Plaintiffs apparently are fearful we *Homo Sapiens* will figuratively boil ourselves before realizing too late what we have done. Plaintiffs Save Our Aquifer (“SOA”) and others allege causes of action under:

Initially, plaintiffs seek to temporarily restrain “defendants from taking any action to implement the ‘PGA Village Agreement in Lieu of Annexation’ approved October 24, 2002 and from taking any other action to implement the PGA Village Project without first submitting the matter to a vote of the electors or submitting the voting change to preclearance by the Department of Justice, in compliance with Section 5 of the Voting Rights Act.” Defendants contend plaintiffs have not shown they are entitled to injunctive relief and have not shown a voting change subject to preclearance.

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* Edited by Professor Marcilynn A. Burke, October 2, 2003.
this Petition, being ten percent or more of the electors qualified to vote at the last preceding regular election of the City of San Antonio (the “City”), hereby respectfully petition and request that:

Ordinance No. 95579 approving a development agreement between the City, Cibolo Canyon Conservation and Improvement District No. 1, Bexar County, Texas, and Lumberman’s Investment Corporation (the “PGA Village Ordinance”) be either repealed by the City Council of the City of San Antonio or submitted to a vote of the electors of the City of San Antonio as provided by article IV, § 35 of the Charter of the City of San Antonio.

(Emphasis added). The drive garnered approximately 107,000 signatures, 77,419 of which were certified as registered voters by the city clerk, Norma Rodriguez.

On August 1, 2002, the city council held a regular meeting to consider whether to repeal or refer the ordinance for a vote as requested in the petition. Just prior to the beginning of the meeting, the executive vice president for Lumberman’s, John Pierret, sent a letter via facsimile to the mayor in which he urged the ordinance be repealed. Mr. Pierret stated he had been advised by the PGA:

[T]hey desire not to proceed with an election on the Cibolo Canyon Conservation and Improvement District No. 1 project. As such, given the development agreement is contingent upon PGA participation, please consider this correspondence our formal request that the city council repeal Ordinance 95579.

Mr. Pierret attached a letter which he had received from the PGA which set forth the commitment of Lumberman’s and the PGA to continue to work with the City on the project. The letter states:

[T]he PGA has been supportive of the desire to protect the aquifer as outlined in the development agreement. We had hoped that all parties were moving toward implementing the agreement previously approved by the San Antonio City Council.

Recent actions, however, have caused us to reevaluate the current position of the PGA toward the Cibolo Canyon project. While we remain interested in a future relationship with Lumberman’s, we must withdraw our commitment at this time. The PGA does not wish to be involved in an issue that is creating so much controversy and divisiveness within the San Antonio community. If in the future an agreement is reached between Lumberman’s and the City of San Antonio regarding the development of the Cibolo Canyon property, we would be interested in revisiting a PGA relationship.

At this August 1, 2002 hearing, representatives of the three groups which had circulated the petitions addressed the city council. . . . Significantly, all three organizations (COPS, METRO and SOA) urged the mayor and council to continue to try to find a way to locate this project in San Antonio. SOA, however, continued to oppose the location of the development over the aquifer. A partial transcript of the August 1st city council meeting provides testimony from the groups’ representatives. Pastor Armando Trujillo of St. Leonard’s Catholic Church stated on behalf of COPS and METRO:

I am here representing COPS and METRO to say that we are glad that the city council is repealing the PGA development agreement. I want to underscore that COPS and METRO were never against PGA coming to San Antonio. We are for responsible economic development. Mayor and council, you know very well what are our issues: protecting our water, living wages, and opposing corporate welfare. We would have hoped that you, mayor and council, would have listened to the community and rescinded your vote when the petition was certified. We recognize PGA officials for providing the leadership and
understanding that an election was not in the best interests of San Antonio and asking that you rescind on this issue.

(Emphasis Added). Mike Phillips of METRO stated:

Let me reemphasize that our focus was not against the PGA. METRO Alliance and COPS focus has always been on the effects on our families and on our most precious public resources of our community. . . . Today we need you to respond to the interests and needs of this community and not the needs and interests of greedy developers.

. . . John Thompson of SOA stated:

Mr. Mayor, members of the council, my name is John Thompson and I am here on behalf of Save Our Aquifer campaign Save Our Aquifer was there at the very beginning during negotiations to find a viable site for PGA. We supported the mayor in his attempts to find a site that was not over the aquifer, to find tax incentives that were reasonable and perhaps to include a land swap. Lumberman’s refused to consider a land swap. They refused to give up on the amount of their historic and outrageous tax deal. . . . Now PGA . . . has acknowledged that the voters do not support this project on this site with this huge tax forgiveness. So what now? . . . The PGA understands that there are options that would allow them to locate in San Antonio still. If they are convinced that San Antonio would make a good location then it would be prudent for them to come back to the table. They need to take a firm hand with their developer and instruct them to develop a flexibility that the developer was missing. They also need to convince the voters that that deal is fair and respectful. Save Our Aquifer and the voters of San Antonio would like to be included in those talks should they happen with one proviso, not over our water and not with a huge tax break.

(Emphasis added).

. . . The city council voted to repeal the ordinance.

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