CASE NO. 09-0257

IN THE SUPREME COURT OF TEXAS

CITY OF DALLAS,

Petitioner,

v.

HEATHER STEWART,

Respondent.

Appeal from the
Fifth District Court of Appeals at Dallas
Cause No. 05-07-01244-CV

BRIEF OF AMICUS CURIAE INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION (IMLA),

IN SUPPORT OF PETITIONER'S MOTION FOR REHEARING

Marianne Landers Banks
Counsel for Amicus Curiae
International Municipal Lawyers Association (IMLA)

Member of the Board of Directors for IMLA and
Assistant City Attorney
City of Springfield Law Department
840 Boonville Ave.
Springfield, MO 65802
Telephone: 417-864-1123
Fax: 417-864-1705

SUPPLEMENT TO LIST OF PARTIES AND COUNSEL

In supplement to the information provided by the parties, Amicus Curiae identifies the following:

1. Pursuant to Rule 11(b) of the Texas Rules of Appellate Procedure, the Amicus Curiae presenting this brief is the International Municipal Lawyers Association (IMLA), a nonprofit, professional organization of over 3,000 local government entities, whose home office is located in the Washington, D.C., metropolitan area.

2. *Amicus Curiae* is represented by:

Marianne Landers Banks
Texas Bar No. 1684400
Member of the Board of Directors for IMLA and
Assistant City Attorney
City of Springfield Law Department
840 Boonville Ave.
Springfield, MO 65802
Telephone: 417-864-1123
Fax: 417-864-1705

Other attorneys not licensed in Texas who assisted with the preparation of this brief included Dan Wichmer, City Attorney, and Nancy Yendes, Assistant City Attorney, City of Springfield, Missouri, who are licensed in the State of Missouri.

STATEMENT OF COMPLIANCE WITH RULE 11 OF THE TEXAS RULES OF APPELLATE PROCEDURE

No person other than *Amicus* made a monetary contribution to the preparation or submission of this brief. No legal fees have been paid by any person or entity for the preparation of this brief.

TABLE OF CONTENTS

INDEX OF AUTHORITIES

Cases **Pages**

Cases (continued)

Constitutional Provisions, Statutes and Rules

Attorney General Opinions

Other Authorities

CASE NO. 09-0257

IN THE SUPREME COURT OF TEXAS

CITY OF DALLAS,

Petitioner,

v.

HEATHER STEWART,

Respondent.

Appeal from the
Fifth District Court of Appeals at Dallas
Cause No. 05-07-01244-CV

BRIEF OF AMICUS CURIAE INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION (IMLA),

IN SUPPORT OF PETITIONER'S MOTION FOR REHEARING

INTRODUCTION

The INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION, acting under authority of Rule 11 of the Texas Rules of Appellate Procedure, hereby submits its brief, as *amicus curiae* in support of the position of the Petitioner, City of Dallas.

IDENTITY AND INTERESTS OF *AMICUS CURIAE*

The International Municipal Lawyers Association (IMLA) is a nonprofit, professional organization of over 3,000 local government entities, including cities, counties, and special district entities, as represented by their chief legal officers, state municipal leagues, and individual attorneys. Since 1935, IMLA has served as a national, and now international, clearinghouse of legal information and cooperation on municipal legal matters. IMLA's mission is to advance the responsible development of municipal law through education and advocacy by providing the collective viewpoint of local governments around the country on legal issues before the United States Supreme Court, in the United States Courts of Appeals, and in state supreme and appellate courts. There are over 39,000 local government entities in the United State comprised of counties, municipalities, towns and townships.[1] IMLA has an immediate interest in the outcome of the present case as it impacts the ability of municipalities to effectively utilize their police power to preserve the health, safety and welfare of their communities. Because of this unique expertise, IMLA submits this brief to assist the Court in considering the merits of Petitioner's request for a rehearing.

[1] *See* U.S. Census Bureau, Governments Division, 2007 Census of Governments, *Local Governments and Public School Systems by Type and State: 2007 (2009), available at* http://www.census.gov/govx/cog/GovOrgTab03ss.html.

STATEMENT OF JURISDICTION

Amicus Curiae adopt the statement of jurisdiction contained in the Petitioner City of Dallas' Brief on the Merits.

ISSUES PRESENTED

Whether the decision of the Court eliminates the police power of a city to abate nuisances without compensation?

Whether the decision of the Court eliminates the administrative process for municipalities in determining and abating nuisances?

STATEMENT OF FACTS

Amicus Curiae adopt the statement of facts contained in Petitioner City of Dallas' Brief on the Merits.

SUMMARY OF THE ARGUMENT

I. Constitutional fact doctrine

II. Regulation of public nuisances

III. Municipal separation of powers

IV. Conclusion

ARGUMENT AND AUTHORITIES

The decision issued by the Court appears to significantly change the law of nuisance regulation within the State of Texas, greatly limiting the exercise of

municipal police powers, and involves several principles of municipal law, on which *Amicus Curiae* would offer authority for consideration by the Court in determining whether Petitioner's Motion for Rehearing merits granting.

I. Constitutional Fact Doctrine

The Court in *Stewart*[2] adopts the constitutional fact doctrine, based on a line of cases issued by the United States Supreme Court. The Court cites *Ohio Water Valley Authority v. Ben Avon Borough*,[3] as "an especially relevant case" because "[c]entral to the dispute . . . was the question of the value of the utility's property."[4] As such, a review of the case and subsequent holdings further defining the constitutional fact doctrine is set forth. *Ben Avon* established the "independent judgment rule" version of the constitutional fact doctrine limited to legislative rate-setting by a state agency.[5] Although the utility company claimed the valuations set by the state agency for certain property were so low as to be "confiscatory" and alleged a taking without due process, the state supreme court did not allow the company to raise a takings challenge, as it was not provided in state statute. The Supreme Court determined that a state agency acting in a legislative capacity "must provide a fair opportunity for submitting that issue to a judicial tribunal for determination upon its own independent judgment as to both law and facts;

---

[2] *See City of Dallas v. Stewart,* --- S.W.3d ----, 2011 WL 2586882, 54 Tex. Sup. Ct. J. 1348 (Tex. 2011).
[3] 253 U.S. 287, 40 S.Ct. 527 (1920).
[4] *See City of Dallas v. Stewart*, --- S.W.3d ----, 2011 WL 2586882, 54 Tex. Sup. Ct. J. 1348 (Tex. 2011).
[5] *See Ben Avon,* 253 U.S. at 289, 40 S.Ct. at 528 (rate order issued by the state agency "prescribed a complete schedule of maximum future rates and was legislative in character").

otherwise the [Commission's rate] order is void because in conflict with the due process clause, Fourteenth Amendment."[6]

Although the Court acknowledges that *Ben Avon* has not been recently cited for its original ruling or been overruled, the Court relies on this decision as the foundation for a new area of law in Texas,[7] expanding the application of the rule to both to takings of property outside of the rate-setting context and to nuisance, areas not yet reached by the United States Supreme Court. It is clear from prior decisions that the constitutional fact doctrine has not previously been extended in civil cases outside the realm of the First and Fourteenth Amendments.[8]

---

[6] *See id.*

[7] The Court of Criminal Appeals has previously applied this doctrine, limiting application of *de novo* review only when the resolution of a mixed question of law and fact does not rest on the credibility and demeanor of witnesses which would best have been judged by the trier of fact. *See Guzman v. State*, 955 S.W.2d 85, 89 (Tex.Crim.App. 1997).

[8] See, e.g., Ohio Water Valley Authority v. Ben Avon Borough,253 U.S. 287, 40 S.Ct. 527 (1920); Ng Fung Ho v. White, 259 U.S. 276, 284-85, 42 S.Ct. 492, 494 (1922) (extended the constitutional fact doctrine to "adjudicative action" by an administrative agency - claim of citizenship in deportation proceeding before Commissioner of Department Labor is a liberty interest under the Fifth Amendment and due process requires a judicial determination, because if citizenship is proven, there is no jurisdiction of Dept. of Labor over individual); Crowell v. Benson, 285 U.S. 22, 52, 52 S.Ct.285, 295 (1932) (established judicial record requirement for decision of administrative agency related to power of Congress to enact legislation, fearing "that the Congress could completely oust the courts of all determinations of fact by vesting the authority to make them with finality in its own instrumentalities"); St. Joseph Stock Yards Co. V. United States, 298 U.S. 38, 56 S.Ct. 720 (1936) (retreated from the judicial record requirement established in Crowell, stating "this judicial duty to exercise an independent judgment does not require or justify disregard of the weight which may properly attach to findings upon hearing and evidence"; affirmed finding on substantial evidence review by federal district court of decision of Secretary of Agriculture concerning rate-setting by packers and stockyard, again involving allegations of a confiscatory taking as in Ben Avon); Northern Pipeline Construction Co. v. Marathon Pipe Line Co., 458 U.S. 50, 102 S.Ct. 2858 (1982) (plurality) ("article III courts, not legislative courts or administrative agencies, must find the underlying facts in common law disputes governed by state law", only "public rights" created by statute could be decided by administrative agencies). *See also* Jaffe, Louis L., *Judicial Review: Constitutional and Jurisdictional Fact*, 70 Harv. L. Rev. 953, 976, n. 78 (1957); Monagan, Henry P. *Constitutional Fact Review*, 85 Columbia L. Rev. 229 (1985); Hoffman, Adam *Corralling Constitutional Fact: De Novo Fact Review In The Federal Appellate Courts*, 50 Duke L.J. 1427 (2001).

The Court cites *Bose Corp. v. Consumers Union of the U.S., Inc.*[9] to support the requirement of de novo review of the decision of a quasi-judicial board. The Supreme Court in *Bose* restated the rule set forth in *New York Times v. Sullivan* requiring "independent review" of the evidence on the constitutional issue concerning "actual malice" under state defamation statutes.[10] In *Bose*, the Court extended the rule to cases brought in federal court, determining that review of "actual malice" under the "clearly-erroneous standard" of the federal rules of evidence was insufficient, and such review must be made by appellate judges exercising "independent judgment" to "determine whether the record establishes actual malice with convincing clarity".[11] The Court did clarify that independent review does not mean the entire record, "rather, only those portions of the record which relate to the actual-malice determination, and specifically that [t]he independent review function is not equivalent to a 'de novo' review of the ultimate judgment itself."[12]

The Court here determined that the URSB of Petitioner is unqualified to render a final determination on a mixed question of law and "constitutionally relevant fact",[13] under the constitutional fact doctrine, and accordingly such determinations must be subject to *de novo* review by the Trial Court. From a

[9] *See Bose Corp. v. Consumers Union of the U.S., Inc*., 466 U.S. 485, 104 S.Ct. 1949 (1984).
[10] *See Bose*, 466 U.S. at 510-11, 104 S.Ct. at 1965.
[11] *See Bose,* 466 U.S. at 514, 104 S.Ct. at 1967.
[12] *See Bose,* 466 U.S. at 514, 104 S.Ct. at 1967, n. 31.
[13] *City of Dallas v. Stewart,* --- S.W.3d ----, 2011 WL 2586882, 54 Tex. Sup. Ct. J. 1348 (Tex. 2011).

federal constitutional perspective, such a decision may be consistent with the application of administrative decisions by Article III courts, and State courts which have constitutional limitations on fact-finding reserved to them. However, to require *de novo* review of decisions rendered by quasi-judicial boards conflicts with the authority for administrative adjudication approved by the United States Supreme Court.[14] The authority for final determinations of administrative matters by quasi-judicial bodies is a concept well-grounded in decisions of the United States Supreme Court.[15] The Supreme Court has found the decisions of such quasi-judicial bodies to withstand constitutional scrutiny when sufficient due process protections are provided to balance the exercise of the police power.[16] The Texas Legislature in adopting the provisions of the Local Government Code[17] defined the terms by which cities could utilize the powers granted by the statute, which the Court acknowledges that Petitioner did.

Furthermore, the existence of a mixed question of law and fact, if one does exist here, does not mandate *de novo* review.[18] Justice Brandeis, in clarifying the

[14] *See Mathews v. Eldredge*, 424 U.S. 319, 96 S.Ct. 893 (1976). What is required by the *Mathews* Court is an opportunity for "meaningful relief through formal procedures" that are "available in a timely fashion after government action". *See Layton v. Swapp*, 484 F.Supp. 958, 962 (DC Utah, 1979)(finding insufficient due process). For a recent discussion on the constitutional validity of administrative law, *see* Merrill, Thomas W., *Article III, Agency Adjudication, and the Origins of the Appellate Review Model of Administrative Law,* 111 Colum. L. Rev. 939 (2011). In the instant cause, Respondent could have appealed the first administrative decision but chose not to, instead waiting a year, requesting and being granted a rehearing by the board, the decision reaffirmed, and waiting until after the building was actually demolished to notify the board of the filing of her appeal.

[15] *See id.*

[16] *See Mathews*, 424 U.S. at 335, 96 S.Ct. at 903.

[17] *See* TEX. LOC. GOVT. CODE §§54.032-54.044 (Tex. 2011).

[18] A split currently exists among two Federal Circuit Courts of Appeal concerning the standard of review to be applied when there is a mixed question of law and fact in the criminal context: one requiring review de novo and

constitutional fact doctrine, stated that "due process is not necessarily judicial process."[19] The critical distinction in determining the proper standard of review is whether the nature of the right affected is a common law right or a public right created by statute.[20] To determine whether a mixed question of law and fact exists here rests on whether the facts involved a "public nuisance" at common law, or a statutory public nuisance defined by the Texas Legislature.

II. Public Nuisance Regulation

The Court decides that the determination of nuisance is analogous to the exercise of the power of eminent domain under the Texas Constitution.[21] The Court views a nuisance the same as a taking, as the determination of nuisance is essentially a determination of no value. As a result, the Court determined the same requirement for judicial oversight contemplated by the Texas Constitution in reviewing value determinations in eminent domain proceedings should apply to nuisance proceedings, that being a trial *de novo*.

Nuisance proceedings are distinct from determinations on takings of property through eminent domain, as the United States Supreme Court has long held that the determination of the existence of a nuisance is not a taking:

---

the other only for "clear error". *See Mahaffey v. Page*, 162 F.3d 481, 484 (7th Cir. 1998) (required de novo review of potentially racially motivated use of peremptory challenges to jurors); *Tolbert v. Page,* 182 F.3d 677, 684-85 (9th Cir. *en banc* 1999) (required only review for clear error).

[19] *St. Joseph Stock Yards Co.,* 298 U.S. at 77, 56 S.Ct. at 737 (Brandeis concurrence). *See* Jaffe, Louis L., *Judicial Review: Constitutional and Jurisdictional Fact*, 70 Harv. L. Rev. 953, 976, n. 78 (1957) ("Courts may distinguish between actions based on informal, summary, or ex parte procedure and those based on a fair hearing").

[20] *See id.*

[21] *See* TEX. CONST. art. I, § 17.

> [t]he present case must be governed by principles that do not involve the power of eminent domain, in the exercise of which property may not be taken for public use without compensation. A prohibition simply upon the use of property for purposes that are declared, by valid legislation, to be injurious to the health, moral, or safety of the community, cannot, in any just sense, be deemed a taking or an appropriation of property for the public benefit . . . Nor can legislation of that character come within the Fourteenth Amendment, in any case, unless it is apparent that its real object is not to protect the community, or to promote the general well-being, but under the guise of police regulation, to deprive the owner of his liberty and property, without due process of law . . . *The exercise of the police power by the destruction of property which is itself a public nuisance, or the prohibition of its use in a particular way, whereby its value becomes depreciated, is very different from taking property for public use*, or from depriving a person of his property without due process of law. In the one case, a nuisance only is abated; in the other unoffending property is taken away from an innocent owner.[22]

The Supreme Court in *Lucas v. California Coastal Comm'n,*[23] confirmed that the "nuisance exception exists as a categorical rule, applicable even in cases where regulation results in total diminution in value of property."[24] Once determined to be prohibited as a nuisance, no payment is required for the loss of value.[25]

Although the Court's determination in the present case is based on the

---

[22] *Samuels v. McCurdy,* 267 U.S. 188, 196, 45 S.Ct. 264, 265-66 (1925), *quoting Mugler v. Kansas,* 123 U.S. 623, 8 S.Ct. 273 (1887) (emphasis added); and *see Reinman v. City of Little Rock*, 237 U.S. 171 (1915); *Hadacheck v. Sebastian*, 239 U.S. 394 (1915); *Miller v. Schoene*, 276 U.S. 272 (1928); and *Goldblatt v. Town of Hempstead*, 369 U.S. 590 (1962). *See also* Ferguson, Scott R. *The Evolution of the 'Nuisance Exception' To The Just Compensation Clause: From Myth to Reality,* 45 Hastings L.J. 1539, 1541 (1994).

[23] 505 U.S. 1003, 112 S.Ct. 2886,

[24] Ferguson, Scott R. *The Evolution of the 'Nuisance Exception' To The Just Compensation Clause: From Myth to Reality,* 45 Hastings L.J. 1539, 1541 (1994), summarizing *Lucas v. California Coastal Comm'n,* 505 U.S. 1003, 112 S.Ct. 2886.

[25] *See Samuels v. McCurdy,* 267 U.S. at 267, 45 S.Ct. at 198.

constitutional guarantees of the Texas Constitution[26], such rights are analogous to those granted by the United States Constitution, as acknowledged by the Court.[27]

Over the last twenty-five years, the United States Supreme Court has addressed the taking of property without just compensation on a number of occasions, including the development of the body of law involving regulatory takings.[28] None of these decisions involve a discussion of the application of the constitutional fact doctrine[29] to takings jurisprudence, prior to the Court's decision in this case, which makes this case one of significant importance to municipalities.

The Court is divided over the issue of whether a quasi-judicial board can make a determination on what constitutes a nuisance, citing to prior case law defining a public nuisance in the early 1900's.[30] Since that time, the Texas Legislature adopted Sections 54.032 – 54.044 of the Local Government Code, defining certain conditions to be public nuisances,[31] which are distinguishable from public nuisances at common law.[32] In this case, the Legislature has defined the nuisance regulated by Petitioner by statute, Petitioner adopted a valid local

[26] *See* TEX. CONST. art. I, § 17.
[27] *See City of Dallas v. Stewart, --- S.W.3d ----, 2011 WL 2586882, 54 Tex. Sup. Ct. J. 1348 (Tex. 2011), n.22.*
[28] If a taking occurred in the present case, it is in the nature of a physical invasion of the property as opposed to a regulatory taking.
[29] *See discussion in Section I of this brief, supra, regarding the application of facts to a constitutional legal principle or to mixed questions of law and fact.*
[30] *See City of Dallas v. Stewart,* --- S.W.3d ----, 2011 WL 2586882, 54 Tex. Sup. Ct. J. 1348 (Tex. 2011).
[31] *See* TEX. LOC. GOVT. CODE §§54.032-54.044 (Tex. 2011).
[32] *See Jamail v. Stoneledge Condominium Owners Ass'n,* 970 S.W.2d 673, 676 (Tex.App. – Austin 1998, no pet.), *quoting* RESTATEMENT (SECOND) OF TORTS §821B(1) (1979).

ordinance, and implemented a procedure conforming to due process standards for administrative proceedings set forth by the United States Supreme Court.[33]

III. Municipal Separation of Powers.

Some confusion apparently exists as to Separation of Powers under the Texas Constitution[34] and whether it applies to municipalities. The Texas Supreme Court has previously held that Separation of Powers only applies at the State level of government.[35] The Texas Attorney General has previously stated that

> The application of article II, section 1 to offices of political subdivisions requires the classification of each such office as legislative, judicial or executive. All local offices cannot be so neatly categorized. For example, Letter Advisory No. 112 (1975) characterized city councils as legislative bodies because they exercise legislative powers. City councils, however, are also responsible for enforcing the laws and for hiring and firing city employees.[36]

In this case, the particular concern of the Court appears to be that "[t]he protection of property rights . . . should not . . . be charged to the same people who seek to take those rights away"[37], as the Court views the URSB the same as the governing body of the municipality. The URSB[38] does not have the same duties or powers as the governing body or chief executive officer for the City. The URSB, as a quasi-judicial body, is a separate entity, whose decisions are not recommendations to the

---

[33] *See Mathews v. Eldredge*, 424 U.S. 319, 96 S.Ct. 893 (1976).
[34] *See* TEX. CONST. art. II, § 1.
[35] *See City of Fort Worth v. Zimlich*, 29 S.W.3d 62, 71 (Tex. 2000); *see also A.H.D. Houston, Inc. v. City of Houston*, 316 S.W.3d 212, 222 (Tex.App.-Houston [14th Dist] 2010, no writ).
[36] Tex. Atty. Gen. Op. JM-213 (1984).
[37] *See City of Dallas v. Stewart,* --- S.W.3d ----, 2011 WL 2586882, 54 Tex. Sup. Ct. J. 1348 (Tex. 2011).
[38] *Amicus* acknowledges that the URSB ordinance has been repealed and the Board is not operating at the present time.

governing body, but final decisions with appeal to district court. The URSB is charged with the duty of making nuisance determinations, in accordance with the standards of city ordinance, and does not have the same role as the governing body, who has authority to enact legislation. The URSB has no power of eminent domain, as such is reserved to the governing body.

The Court asserts that application of the nuisance ordinance is effecting a taking - a constitutional issue - outside the authority of the URSB, although the United States Supreme Court has long held that a nuisance by definition is not a taking.[39] The members of the URSB do not perform the same function as commissioners appointed to determine value in eminent domain proceedings.[40] The URSB has a duty to enforce the nuisance ordinance as written as a quasi-judicial body, with all due process provided therein, as a valid exercise of municipal police power.

Respondent makes no challenge to the hearing process, alleges no violations of due process at the hearing level, and asserts no alleged abuse of discretion on the part of the URSB. Additionally, Respondent did not appeal the nuisance determination affirmed by the trial judge. The URSB provided ample due process to Respondent, allowing multiple notices, hearings, as well as a significant amount of time for Respondent to correct the nuisance herself. The evidence does not

[39] *See Samuels v. McCurdy,* 267 U.S. at 267, 45 S.Ct. at 198.
[40] *See id. at fn.21.*

support the statements by the Court that "unelected municipal agencies cannot be effective bulwarks against constitutional violations". First, there is no allegation or proof in the record that the URSB acted outside its authority or that the URSB abused its discretion in entering its order concerning Respondent's property. Second, no constitutional violation defined by the United States Supreme Court exists when the property is a nuisance,[41] as the evidence in the record and final judgment of the trial judge support. Further, no Separation of Powers concern exists when municipal police powers are applied by a quasi-judicial body in a constitutionally valid process, allowing for due process, an opportunity for a meaningful hearing, and appeal of the determination to a court.[42]

IV. Conclusion

In summary, the decision of the Court severely restricts the ability of municipalities to exercise their police power to control and regulate nuisances negatively impacting the health, safety and welfare of their communities. If the Court determines this far-reaching decision should stand, further clarification of the intent of the decision and extent of its application would be beneficial to both the municipalities in Texas, as well as to other courts which may look to this decision as guidance in the development of municipal law in their respective states.

---

[41] *See Samuels v. McCurdy,* 267 U.S. 188, 196, 45 S.Ct. 264, 266 (1925); *Reinman v. City of Little Rock*, 237 U.S. 171 (1915); *Hadacheck v. Sebastian*, 239 U.S. 394 (1915); *Miller v. Schoene*, 276 U.S. 272 (1928); and *Goldblatt v. Town of Hempstead*, 369 U.S. 590 (1962). *See also* Ferguson, Scott R. *The Evolution of the 'Nuisance Exception' To The Just Compensation Clause: From Myth to Reality,* 45 Hastings L.J. 1539, 1541 (1994).

[42] *See Mathews v. Eldredge*, 424 U.S. 319, 96 S.Ct. 893 (1976).

PRAYER

The International Municipal Lawyers Association, *amicus curiae,* respectfully requests that this Court grant the Motion for Rehearing and Petition for Review requested by the City of Dallas, Petitioner, reverse the judgment of the court of appeals, and affirm the judgment of the trial court.

Respectfully submitted,

/s/ Marianne Landers Banks
Marianne Landers Banks
Texas Bar No. 01684400
Member of the Board of Directors for IMLA and
Assistant City Attorney
City of Springfield Law Department
840 Boonville Ave.
Springfield, MO 65802
Telephone: 417-864-1123
Fax: 417-864-1705
Counsel for Amicus Curiae
International Municipal Lawyers Association

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of August 2011, a true and correct copy of the **Brief Amicus Curiae of the International Municipal Lawyers Association in Support of Petitioner's Motion for Rehearing** was sent by e-mail to all parties of record as follows:

Barbara Rosenburg
Assistant City Attorney
Office of the City Attorney
1500 Marilla Street, Room 7B North
Dallas, Texas 75201
Barbara.Rosenberg@dallascityhall.com
COUNSEL FOR PETITIONER

Julius S. Staev
The Law Offices of Julius Staev
8144 Walnut Hill Lane, Suite 1080
Dallas, Texas 75231
info@staevlaw.com
COUNSEL FOR RESPONDENT

Wayne K. Olson
Taylor, Olson, Adkins, Sralla & Elam, LLP
6000 Western Place, Suite 200
Fort Worth, Texas 76107
wolson@toase.com
COUNSEL FOR AMICI CURIAE CITY OF ALEDO, TEXAS, ET AL.

Janet M. Spugnardi
Messer, Campbell & Brady, LLP
6351 Preston Road, Suite 350
Frisco, Texas 75034
COUNSEL FOR CITY OF IRVING
jspugnarti@mcblawfirm.net

Jose I. Nino
Deputy City Attorney
City of San Antonio City Attorney
401 S. Frio
San Antonio, Texas 78207
jose.nino@sanantonio.gov

Donna L. Edmundson
Deputy City Attorney
City of Houston City Attorney
900 Bagby, 3rD Floor
Houston, Texas 77002
donna.edmundson@cityofhouston.net
COUNSEL FOR AMICI CURIAE CITIES OF SAN ANTONIO AND HOUSTON, TEXAS

Office of the Attorney General
ATTN: Rance Craft
P. O. Box 12548 (MC059)
Austin, Texas 78711-2548
rance.craft@oag.state.tx.us
COUNSEL FOR THE STATE OF TEXAS

/s/Marianne Landers Banks
Marianne Landers Banks