

Cause No. 04-15-00610-CV

IN THE COURT OF APPEALS FOR THE FOURTH DISTRICT OF TEXAS

LAREDO MERCHANTS ASSOCIATION,
Appellants,

v.

CITY OF LAREDO, TEXAS,
Appellee.

*On Appeal from the 341st Judicial District Court
Webb County, Texas*

*(Cause No. 2015-CVQ-00-1077-D3,
Honorable Rebecca Ramirez Palomo)*

BRIEF OF AMICUS CURIAE TEXAS PUBLIC POLICY FOUNDATION

ROBERT HENNEKE
Texas Bar No. 24046058
Texas Public Policy Foundation
901 Congress
Austin, Texas 78701
Phone: (512) 472-2700
Fax: (512) 472-2728
rhenneke@texaspolicy.com

ALLEGRA HILL
Texas Bar No. 24075965
Texas Public Policy Foundation
901 Congress
Austin, Texas 78701
Phone: (512) 472-2700
Fax: (512) 472-2728
ahill@texaspolicy.com

KATHLEEN HUNKER
New York Bar No. 5113907
Texas Public Policy Foundation
901 Congress
Austin, Texas 78701
Phone: (512) 472-2700
Fax: (512) 472-2728
khunker@texaspolicy.com
Policy Advisor

**ATTORNEYS FOR AMICUS CURIAE TEXAS PUBLIC
POLICY FOUNDATION**

TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	iii
STATEMENT OF INTEREST OF AMICUS.....	1
SUMMARY OF ARGUMENT.....	2
ARGUMENT.....	2
I. TEXAS LAW DEFINES AND LIMITS LOCAL CONTROL.....	2
A. Local Control is Defined and Checked by the State.	3
II. LAREDO’S ORDINANCE EXCEEDS THE SCOPE OF ITS AUTHORITY BY VIOLATING TEXAS HEALTH & SAFETY CODE SECTION 361.0961.	5
A. Texas Law Prohibits Home Rule Cities From Enacting Ordinances Inconsistent with Texas Statutes.	5
B. Laredo’s Ordinance Conflicts with Texas Health & Safety Code Section 361.0961.....	7
III. THE COURT MUST STRIKE DOWN LAREDO’S ORDINANCE TO PRESERVE THE RULE OF LAW.	9
A. The Rule of Law Means That Government Is Subject to Objective, Black-Letter Restrictions.	9
B. The Courts Must Intervene When the Local Government Violates the Law By Exceeding the Scope of Its Power.	11
C. The Scope of Local Control is the Province of the Legislature, Not the Courts.	12
CONCLUSION AND PRAYER.....	13

CERTIFICATE OF COMPLIANCE 15
CERTIFICATE OF SERVICE 15

TABLE OF AUTHORITIES

Cases

<i>Bennett v. Brown Cnty. Water Imp. Dist. No. 1</i> , 272 S.W.2d 498 (Tex. 1954)	2, 5
<i>City of Houston v. Bates</i> , 406 S.W.3d 539 (Tex. 2013)	5, 6, 7
<i>City of Navasota v. Pearce</i> , 46 Tex. 525 (1877)	3
<i>Dallas Merch.'s & Concessionaire's Ass'n v. City of Dallas</i> , 852 S.W.2d 489 (Tex. 1993)	6, 9
<i>Dupree v. State</i> , 433 S.W.3d 788 (Tex. App. 2014)	12
<i>Edgewood Indep. Sch. Dist. v. Meno</i> , 917 S.W.2d 717 (Tex. 1995), <i>as modified</i> (Feb. 16, 1995)	12
<i>FM Properties Operating Co. v. City of Austin</i> , 22 S.W.3d 868 (Tex. 2000) (Abbott, dissenting)	13
<i>Hunter v. City of Pittsburgh</i> , 207 U.S. 161 (1907), <i>overruled on other grounds by Kramer v. Union Free Sch. Dist. 2</i> , 395 U.S. 621 (1969)	3, 4
<i>Marbury v. Madison</i> , 5 U.S. 137 (1803)	11
<i>S. Crushed Concrete, LLC v. City of Houston</i> , 398 S.W.3d 676 (Tex. 2013)	6
<i>San Antonio Indep. Sch. Dist. v. Rodriguez</i> , 411 U.S. 1 (1973)	3
<i>Sw. Travis Cty. Water Dist. v. City of Austin</i> , 64 S.W.3d 25 (Tex. App. 2000, pet. withdrawn)	5
<i>Tex. Educ. Agency v. Leeper</i> , 893 S.W.2d 432 (Tex. 1994)	12

United States v. United Mine Workers of Am.,
 330 U.S. 258 (1947) 11

Constitutional Provisions

Tex. Const. art. XI § 4..... 12

Tex. Const. art. XI, § 5..... 5, 9 13

Statutes

Texas Health & Safety Code § 361.0961(a)..... 7, 9, 13

Texas Local Gov. Code § 51.001..... 6

Ordinances

Laredo, Tex., Code of Ordinances ch. 33, art. VIII, § 33-501 (2015) 8, 9

Laredo, Tex., Code of Ordinances ch. 33, art. VIII, § 33-505 (2015). 7

Laredo, Tex., Ordinance No. 2013-O-105 (Aug. 19, 2013), available at
<http://esd.cityoflaredo.com/ESDWeb/news/2013-O-105%20.pdf>..... 9

Other Authorities

Charles Louis de Secondat, Baron de Montesquieu, *Of Laws, in the Relation They
 Bear to a Defensive Force*, in 1 THE COMPLETE WORKS OF . M. DE MONTESQUIEU
 § 9, (London, T. Evans, 1777), available at
http://oll.libertyfund.org/titles/837#Montesquieu_0171-01_757 4

Claire Breay & Julian Harrison *Magna Carta*, BRITISH LIBRARY,
<http://www.bl.uk/magna-carta/articles/magna-carta-an-introduction>
 (last visited Nov. 30, 2015) 10

Dialogue on the Rule of Law, AMERICAN BAR ASSOCIATION DIVISION FOR
 PUBLIC EDUCATION (2008), available at
[http://www.americanbar.org/content/dam/aba/migrated/publiced/features/FinalDi
 alogueROLPDF.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/publiced/features/FinalDialogueROLPDF.authcheckdam.pdf)..... 9, 10

G.K. CHESTERTON, WHAT I SAW IN AMERICA 233 (New York, Dodd,
 Mead & Co. 1923)..... 3

Tex. Atty Gen. Op. FA-1078, Aug. 29, 2014 7

THE FEDERALIST NO. 10 (James Madison) 4

THE FEDERALIST NO. 51 (James Madison). 10

STATEMENT OF INTEREST OF AMICUS

The Texas Public Policy Foundation (Foundation) is a non-profit, non-partisan research organization dedicated to promoting liberty, personal responsibility, and free enterprise through academically-sound research and outreach.

Since its inception in 1989, the Foundation has emphasized the importance of the rule of law, which the Texas Constitution was established to protect. In accordance with its central mission, the Foundation has hosted policy discussions, prepared advisory papers, presented legislative testimony, and drafted proposed legislation to strengthen the rule of law in Texas. Historically, the Foundation has worked on policymaking related to the constitutional limitation on local government ordinances by requiring such laws to be in conformity with the state statute or rule on the same subject.

It is with this experience that the Foundation files this Brief in support of Appellants the Laredo Merchants' Association (Association). The Foundation's Brief supplements the Association's legal arguments to expand upon the larger policy framework. The Foundation requests this Court uphold state law by striking down the City of Laredo's (City) plastic bag ordinance.

TPPF has paid all of the costs and fees incurred in the preparation of this brief.

SUMMARY OF ARGUMENT

The City’s authority is defined, limited, and checked by the Texas Constitution and law. Nevertheless, the City enacted an ordinance that directly contradicts Texas law by prohibiting retailers from providing customers with plastic bags. This ordinance exceeds the City’s authority and constitutes an ultra vires action. While there is a valid policy preference for local control in Texas, such control cannot result from a usurpation of power by overreaching local entities. The City is subject to the rule of law and cannot infringe upon what the Legislature has expressly and definitively removed from the City’s authority. Laredo’s plastic bag ordinance must be struck down.

ARGUMENT

I. TEXAS LAW DEFINES AND LIMITS LOCAL CONTROL.

Local governments derive their authority from state law. “Political subdivisions of States—counties, cities, or whatever—never were and never have been considered as sovereign entities. Rather, they have been traditionally regarded as subordinate governmental instrumentalities created by the state to assist in the carrying out of state governmental functions.” *Bennett v. Brown Cnty. Water Imp. Dist. No. 1*, 272 S.W.2d 498, 506–07 (Tex. 1954) (“[A] city is a creature of the State and is defined by the State Constitution and the Legislature. . . . [it] is merely a department of the state, and the state may withhold, grant or withdraw powers and

privileges as it sees fit.”).¹ Cities thus operate as arms of the state authorized to carry out particular responsibilities to help protect the liberties of Texans under their jurisdiction.

A. Local Control is Defined and Checked by the State.

Local control is not unlimited or unchecked.² Like all government power, local control must be confined and monitored to avoid abuse. Such checks are particularly important at the local level, given local governments’ peculiar vulnerability to persuasive leaders and factions.

James Madison explains:

The influence of factious leaders may kindle a flame within their particular States, but will be unable to spread a general conflagration through the other States. A religious sect may degenerate into a political faction in a part of the Confederacy; but the variety of sects dispersed over the

¹ See also, *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178-79 (1907), *overruled on other grounds by Kramer v. Union Free Sch. Dist.* 2, 395 U.S. 621 (1969) (“Municipal corporations are political subdivisions of the state, created as convenient agencies for exercising such of the governmental powers of the state as may be intrusted to them. . . . The number, nature, and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the state.”).

² In Texas, “it has become a fundamental principle in our theory of government, to entrust probably the largest portion of the powers of the Government, to be exercised within their limits, to local control, under town and city charters.” *City of Navasota v. Pearce*, 46 Tex. 525 (1877); see also Tex. Const. art. I, § 1; *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 49-50 (1973) (noting that one of the benefits of local control “is the opportunity it offers for participation in the decision making process that determines how those local tax dollars will be spent. Each locality is free to tailor local programs to local needs. Pluralism also affords some opportunity for experimentation, innovation, and a healthy competition for educational excellence.”); G.K. CHESTERTON, *WHAT I SAW IN AMERICA* 233 (New York, Dodd, Mead & Co. 1923) (“The only purely popular government is local, and founded on local knowledge. The citizens can rule the city because they know the city; but it will always be an exceptional sort of citizen who has or claims the right to rule over ten cities, and these remote and altogether alien cities.”).

entire face of it must secure the national councils against any danger from that source. A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union than a particular member of it; in the same proportion as such a malady is more likely to taint a particular county or district, than an entire State.

THE FEDERALIST NO. 10 (James Madison). Madison's recognition of the need for a republican form of government was heavily influenced by the philosophical works of Montesquieu, who himself wrote:

Should a popular insurrection happen in one of the confederate states, the others are able to quell it. Should abuses creep into one part, they are reformed by those that remain sound. The state may be destroyed on one side and not on the other; the confederacy may be dissolved, and the confederates preserve their sovereignty.

Charles Louis de Secondat, Baron de Montesquieu, *Of Laws, in the Relation They Bear to a Defensive Force*, in 1 THE COMPLETE WORKS OF M. DE MONTESQUIEU § 9, ¶ 1 (London, T. Evans, 1777), available at http://oll.libertyfund.org/titles/837#Montesquieu_0171-01_757. From the nation's founding, our leaders recognized that local government is particularly susceptible to corruption and requires all the more supervision by the state.

Furthermore, consistent with the state's formational and supervisory role over local governments, the state maintains ultimate responsibility for the local government's actions. *Hunter*, 207 U.S. at 179 ("The power is in the state, and those

who legislate for the state are alone responsible for any unjust or oppressive exercise of it.”). The Legislature’s restrictions on local government power operate not only as checks for the citizens’ sake but also as safeguards for the entity which will have to answer for the local government's actions. It is thus the role of the state to operate as a check on local government overreach, due to its position as the enabling power and its ultimate responsibility for local government action. *See, e.g., City of Houston v. Bates*, 406 S.W.3d 539, 546 (Tex. 2013) (recognizing that “the Legislature may limit a home-rule city's broad powers,” and finding city ordinance preempted by state statute); *Bennett*, 272 S.W.2d at 506–07 (“However great or small its sphere of action, it remains the creature of the state exercising and holding powers and privileges subject to the sovereign will.”).

II. LAREDO’S ORDINANCE EXCEEDS THE SCOPE OF ITS AUTHORITY BY VIOLATING TEXAS HEALTH & SAFETY CODE SECTION 361.0961.

A. Texas Law Prohibits Home Rule Cities From Enacting Ordinances Inconsistent with Texas Statutes.

The most fundamental check the State has placed on home rule cities is to prohibit these municipalities from enacting charters or ordinances that are “inconsistent with the Texas Constitution or Texas statutes.” Tex. Const. art. XI, § 5 (“Neither a home-rule city nor a general-law city may adopt an ordinance that is inconsistent with the Texas Constitution or Texas statutes.”); *see Sw. Travis Cty. Water Dist. v. City of Austin*, 64 S.W.3d 25, 29 n.3 (Tex. App. 2000, pet. withdrawn)

(citing *Lower Colorado River Auth. v. City of San Marcos*, 523 S.W.2d 641, 643–44 (Tex.1975)); Tex. Loc. Gov't Code §§ 51.001–.079 (“The City, as a home-rule city, draws governing power from this provision of the constitution, and it is necessary to look to the acts of the legislature not for grants of power to such cities but only for limitations on their powers, whether substantive or procedural.”); *S. Crushed Concrete, LLC v. City of Houston*, 398 S.W.3d 676, 679 (Tex. 2013) (striking down Houston ordinance as preempted by Texas Clean Air Act).³

Thus, the Texas Constitution and law restrains local authority and defines the limits of municipal power. Any city ordinance or charter inconsistent with the Texas Constitution or Texas statutes is unenforceable and must be struck down. *See Dallas Merch.'s & Concessionaire's Ass'n v. City of Dallas*, 852 S.W.2d 489, 491 (Tex. 1993) (stating, “an ordinance of a home-rule city that attempts to regulate a subject matter preempted by a state statute is unenforceable to the extent it conflicts with the state statute,” and holding that the City of Dallas’s ordinance was preempted by the Texas Alcoholic Beverage Code); *City of Houston v. Bates*, 406 S.W.3d 539, 548

³ The legislature has exercised its power to limit home rule municipal authority via statute. For example, Texas Local Government Code Section 51.001 requires all ordinances to be “for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and . . . necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality.” There are also numerous constitutional considerations -- prohibiting protectionist policies, for example -- as well as realms of authority the Legislature has delegated to other governmental subdivisions. However, because Laredo violated the most fundamental limitation — i.e., the constitutional prohibition against enacting ordinances inconsistent with state law — the details and complexities of these other limitations are not relevant to this brief.

(Tex. 2013) (finding that the Texas statute regarding termination pay preempted the City of Houston’s ordinances redefining the term “salary”).

B. Laredo’s Ordinance Conflicts with Texas Health & Safety Code Section 361.0961.

Texas law prohibits local governments from restricting the use of specific types of bags, including single-use plastic bags.

A local government or other political subdivision may not adopt an ordinance, rule, or regulation to prohibit or restrict, for solid waste management purposes, the sale or use of a container or package in a manner not authorized by state law.

Texas Health and Safety Code Section 361.0961(a)(1). In 2014, the Texas Attorney General made this explicitly clear, stating:

[S]ection 361.0961 would likely prohibit a city ordinance adopted for solid waste management purposes that prohibited single-use plastic bags.

Tex. Atty Gen. Op. FA-1078, Aug. 29, 2014, at 4.

Nevertheless in 2015, the City passed an ordinance prohibiting the provision of single-use plastic bags:

“It shall be unlawful for any commercial establishment to provide checkout bags to customers except as outlined by this article.”

Laredo, Tex., Code of Ordinances ch. 33, art. VIII, § 33-505 (2015). Ordinance 33-505 directly and unabashedly contradicts Health & Safety Code Section 361.0961.

The City attempts to justify its actions by claiming that the ordinance is lawful because it was intended for “beautification” purposes rather than “solid waste management.” The City thus pretends that, by creatively labeling laws, it can dodge state oversight and operate free from limitations. Such logic would set a dangerous precedent by motivating cities to hide their intentions behind deceptively-worded ordinances. Furthermore, even Laredo’s attempt to creatively label its ordinance does not sufficiently hide its waste management purpose. The City did not adequately bury the aim of its ordinance so as to hide the solid waste management component of its motivation. In fact, the language of the ordinance reveals that the City’s desired “beautification” is achieved only through solid waste management, stating that the law is intended:

- (a) To promote the beautification of the city ***through prevention of litter*** generated from discarded checkout bags.
- (b) To reduce costs associated with ***floatable trash controls*** and the maintenance of the municipal separate stormwater sewer system.
- (c) To protect life and property from flooding that is a consequence of improper stormwater drainage attributed in part to ***obstruction by litter*** from checkout bags.

Laredo, Tex., Code of Ordinances ch. 33, art. VIII, § 33-501 (2015) (emphasis added).⁴

The City thus enacted an ordinance that prohibits for solid waste management purposes the sale of plastic bags in violation of Texas Health & Safety Code § 361.0961(a). Since the Texas Constitution limits the City’s power to ordinances that are *not* “inconsistent with the Texas Constitution or Texas statutes,” the City’s enactment of ordinance 33-505 is an unconstitutional, ultra vires act that must be struck down. *See* Tex. Const. art. XI, § 5 (“Neither a home-rule city nor a general-law city may adopt an ordinance that is inconsistent with the Texas Constitution or Texas statutes.”); *Dallas Merch.’s & Concessionaire’s Ass’n*, 852 S.W.2d at 491.

III. THE COURT MUST STRIKE DOWN LAREDO’S ORDINANCE TO PRESERVE THE RULE OF LAW.

A. The Rule of Law Means That Government Is Subject to Objective, Black-Letter Restrictions.

The rule of law is a concept fundamental to our nation. Put simply, the rule of law means that no one – in government or otherwise – can act above the law.

Dialogue on the Rule of Law, AMERICAN BAR ASSOCIATION DIVISION FOR PUBLIC EDUCATION (2008), available at

⁴ “[C]ouncil made motion on October 15, 2007 for Citizens’ Environmental Advisory Committee (CEAC) *to develop ordinance to deal with the litter problem from plastic checkout bags.*” City of Laredo, Tex., Ordinance No. 2013-O-105 (Aug. 19, 2013), available at <http://esd.cityoflaredo.com/ESDWeb/news/2013-O-105%20.pdf> (emphasis added). Solid waste management was thus the City’s intent from the start.

<http://www.americanbar.org/content/dam/aba/migrated/publiced/features/->

FinalDialogueROLPDF.authcheckdam.pdf. Texas is governed by objective, black-letter rules, rather than the fluctuating preferences of men.

This foundational concept is often traced to the Magna Carta and encapsulates the significance of the document. The Magna Carta established a defined set of rules, freeing the English people from the unpredictable preferences and whims of a bullet-proof tyrant. The document transitioned the nation away from tyranny and limited the power of the government by cementing a set of laws applicable to everyone in the nation — including the King. *See, e.g.,* Claire Brey & Julian Harrison *Magna Carta*, BRITISH LIBRARY, <http://www.bl.uk/magna-carta/articles/magna-carta-an-introduction> (last visited Nov. 30, 2015).

Yet, the existence of black-letter laws by itself is insufficient. Since laws are written by men acting in governmental capacities, the concept of the rule of law hinges on the *enforcement* of the black-letter limitations on government actors. James Madison captured the essence of this concept in Federalist Paper No. 51:

In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

THE FEDERALIST NO. 51 (James Madison). Thus, for the “rule of law” to be a reality in society, the government must be affirmatively checked and limited. In America, this is largely accomplished through the separation of powers into three branches of

government, and the system of checks and balances. For example, if the legislative branch overreaches by enacting an unconstitutional law — i.e., by attempting to evade the constitution — the judicial branch has the power and responsibility to strike down the law. *Marbury v. Madison*, 5 U.S. 137, 178 (1803) (“[I]f a law be in opposition to the constitution; if both the law and the constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the constitution; or conformably to the constitution, disregarding the law; the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.”). This judicial responsibility is implicated in the case at hand.

B. The Courts Must Intervene When the Local Government Violates the Law By Exceeding the Scope of Its Power.

To preserve the rule of law, courts must intervene and enforce the law when it is violated — particularly when the government is the transgressor. The Supreme Court has recognized a heightened duty for judicial intervention when the government is involved, explaining:

In a democracy, power implies responsibility. The greater the power that defies law the less tolerant can this Court be of defiance. As the Nation's ultimate judicial tribunal, this Court, beyond any other organ of society, is the trustee of law and charged with the duty of securing obedience to it.

United States v. United Mine Workers of Am., 330 U.S. 258, 312 (1947).

In the case of a Texas municipality, a city violates the law when it adopts a charter amendment or ordinance that is “inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State.” Tex. Const. art. XI §§ 4, 5(a). Here, Laredo has passed an ordinance that is inconsistent with a statute enacted by the Texas Legislature. Thus, it is incumbent upon this Court to intervene and uphold the rule of law by enforcing the Texas statute and checking the city’s power.

C. The Scope of Local Control is the Province of the Legislature, Not the Courts.

A policy of local control must be implemented by the Legislature; not the courts. Texas courts have long recognized that they are tasked with the interpretation and enforcement of the law and cannot change or fix a legislative enactment to align with a given set of policy preferences. *See, e.g., Tex. Educ. Agency v. Leeper*, 893 S.W.2d 432, 444 (Tex. 1994) (“The SBOE is not authorized, however, to change legislative policy; that is the sole province of the Legislature.”); *Dupree v. State*, 433 S.W.3d 788, 792 (Tex. App. 2014) (“such policy decisions are the sole province of the Legislature”); *Edgewood Indep. Sch. Dist. v. Meno*, 917 S.W.2d 717, 726 (Tex. 1995), *as modified* (Feb. 16, 1995) (“This Court's role under our Constitution's separation of powers provision should be one of restraint. We do not dictate to the Legislature how to discharge its duty. . . . Our responsibility is . . . not to judge the wisdom of the policy choices of the Legislature, or to impose a different policy of

our own choosing.”); *FM Properties Operating Co. v. City of Austin*, 22 S.W.3d 868, 898-99 (Tex. 2000) (Abbott, dissenting) (accusing the majority of “strip[ping] the Legislature of its legislative power to limit the regulatory authority it granted to local governments, and the Court improperly vests regulatory power in the hands of the City of Austin.”).

In the case at hand, the Texas Constitution and Texas Legislature conferred upon Laredo the power only to enact ordinances that do not conflict with state statute. *See id.* (“Neither a home-rule city nor a general-law city may adopt an ordinance that is inconsistent with the Texas Constitution or Texas statutes.”); Tex. Const. art. XI, § 5. The Texas Legislature, in turn, made a deliberate decision to deny Laredo and other Texas cities the authority to impose a ban on the sale of containers for waste management. Tex. Health & Safety Code § 361.0961(a)(1). Thus, this Court should enforce the black-letter Texas law that prohibits Laredo from enacting a plastic bag ban.

CONCLUSION AND PRAYER

THEREFORE, the Texas Public Policy Foundation respectfully requests this Court to uphold the rule of law by striking down the City of Laredo’s plastic bag ordinance as a violation of Texas Constitution Article XI, Section 5 and Texas Health and Safety Code Section 361. 0961.

Respectfully submitted,



ROBERT HENNEKE

Texas Bar No. 24046058

rhenneke@texaspolicy.com

ALLEGRA HILL

Texas Bar No. 24075965

ahill@texaspolicy.com

Texas Public Policy Foundation

901 Congress Avenue

Austin, Texas 78701

Phone: (512) 472-2700

Fax: (512) 472-2728

Counsel for Amicus Curiae

CERTIFICATE OF COMPLIANCE

The undersigned counsel certifies that this document complies with the typeface requirements of Tex. R. App. P. 9.4(e), because it has been prepared in a conventional typeface no smaller than 14-point for text and 12-point for footnotes. This document also complies with the word-count limitations of Tex. R. App. P. 9.4(i), because it contains 3,278 words, excluding any parts exempted by Tex. R. App. P. 9.4(i)(1).



ROBERT HENNEKE

CERTIFICATE OF SERVICE

On this 31st day of March, 2016, a true and correct copy of the foregoing brief has been served on the following counsel for Appellee via electronic service:

James B. Harris
Thompson & Knight LLP
One Arts Plaza
1722 Routh Street, Suite 1500
Dallas, Texas 75201
Laredo Merchants Assn. Counsel

Christopher C. Peterson
Gabriel C. Gonzalez
Lopez Peterson, PLLC
Colonnade Square 1
101 West Hillside, Suite 1
Laredo, Texas 78041
Laredo Merchants Assn. Counsel

Raul Casso, IV
Kristina Laurel-Hale
City of Laredo
1110 Houston St.
Laredo, TX 78040
Counsel for City of Laredo



ROBERT HENNEKE