

NO. 05-0126

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IN THE SUPREME COURT OF TEXAS

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CITY OF ROCKWALL, TEXAS,

Petitioner,

v.

VESTER T. HUGHES, JR., AS SOLE INDEPENDENT EXECUTOR OF THE  
ESTATE OF W.W. CARUTH, JR., DECEASED,

Respondent.

On petition for Review  
From the Fifth Court of Appeals, at Dallas

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BRIEF OF *AMICUS CURIAE*  
TEXAS ASSOCIATION OF BUILDERS  
IN SUPPORT OF RESPONDENT'S BRIEF ON THE MERITS

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TO THE HONORABLE SUPREME COURT OF TEXAS:

Pursuant to Rule 11 of the Texas Rules of Appellate Procedure, the Texas Association of Builders ("TAB") submits this Brief as *Amicus Curiae* in support of Respondent's Brief on the Merits.

## **I. STATEMENT OF INTEREST**

TAB is a non-profit trade association that was established over 50 years ago to help promote the dream of home ownership and to serve the common interests of those involved in the residential construction industry in the State of Texas. TAB's membership base of over 10,700 members is primarily made up of home

builders, remodelers, developers, and other companies and individuals who have an interest and a stake in a healthy and vibrant homebuilding industry in the State of Texas. TAB is affiliated with the National Association of Homebuilders (“NAHB”) and over 30 local associations that are located throughout the State of Texas. TAB’s membership represents approximately 500,000 jobs and \$9 billion of the Texas economy.

TAB, as amicus, has an interest in this case in that TAB and its members are extremely concerned about the applicability of the statute in question to landowners who are seeking arbitration to challenge municipal annexation conducted under the Texas Local Government Code when the municipality denies the landowner’s request to be included in the municipality’s three-year annexation plan. More specifically, TAB and its members have an interest in seeing that the Court affirm the Court of Appeals’ decision.

That being said, TAB is not a party to this action and has no direct financial interest in its outcome. This brief was drafted by TAB, acting through the undersigned counsel. This individual is an employee of TAB and was not paid a fee by TAB for the preparation of this brief (other than his usual and customary salary received from TAB).

## **II. ARGUMENT AND AUTHORITIES**

TAB has reviewed the Respondent’s Brief on the Merits in this case. TAB agrees with both the content and the arguments that are set forth in the Respondent’s brief. Therefore, in an effort to save this Court and the other parties to this proceeding the time and effort of re-stating those arguments, TAB would like to take this opportunity to incorporate the arguments that are set forth in the Respondent’s brief, and to adopt them as if they were TAB’s own.

### **III. CONCLUSION AND PRAYER**

*Amicus Curiae* TAB respectfully requests that this Court affirm the Court of Appeal's decision, render judgment ordering the Petitioner to arbitrate the merits of the Respondent's dispute and grant any additional relief to which the Respondent is entitled.

Respectfully submitted,

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ATTORNEY FOR THE  
TEXAS ASSOCIATION OF BUILDERS,  
*AMICUS CURIAE*

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing **Brief of *Amicus Curiae* Texas Association of Builders in Support of Respondent's Brief on the Merits** has been served on counsel of record for Petitioner and Respondent as listed below, by certified mail, return receipt requested on December 20, 2005:

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