

CAUSE NO. 09-002877-CV-85

JOHN HEMRICK, GARY IVES;
Plaintiffs

IN THE DISTRICT COURT OF

v.

**THE CITY OF COLLEGE STATION,
BEN WHITE, in his official capacity
as Presiding Officer for the City Council
of the City of College Station;**
Defendants

BRAZOS COUNTY, TEXAS

85th JUDICIAL DISTRICT

JUDGMENT

On the 20th day of November, 2009, this Cause came to be heard. John Hemrick and Gary Ives, the Contestants, appeared in person and by their attorneys of record and announced ready for trial. The City of College Station and Ben White, in his official capacity as the presiding officer for the City Council of the City of College Station, the Contestees, appeared through their attorneys of record and announced ready for trial.

The Court, after hearing the evidence and considering the Agreed Statement of Facts, arguments and briefs of counsel, is of the opinion that the outcome of the contested election for the approval of Proposition Number 1, related to the adoption of an ordinance declaring City of College Station Ordinance No. 3017 unenforceable, as previously determined and certified by the City Council of the City of College Station, is not the true outcome. The Court is of the opinion that the effect of the proposed ordinance would operate to repeal a previously enacted and enforced City Ordinance, and thus should have been classified as a referendum petition. Inasmuch as Section 84 of the College Station City Charter imposed an obligation upon the citizens to submit a referendum petition within twenty (20) days of enactment of City Ordinance

3017, the citizens of the City of College Station submitted the petition outside of the statutorily-required time frame.


IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the results of the contested election for the approval of Proposition Number 1, related to the adoption of an ordinance declaring City of College Station Ordinance No. 3017 unenforceable, are hereby declared VOID and without any legal effect for all purposes. Therefore, it is ORDERED that all relief should be, and the same is hereby GRANTED, to Plaintiffs John Hemrick and Gary Ives.

All costs of court are taxed against the party incurring the same.

All other relief not expressly granted herein is denied.

This is a Final Judgment.

Signed on this the 3 day of December, 2009.



Judge Presiding

