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### **Greater Edwards Aquifer Alliance and AGUA file brief in support of the City of San Antonio in "Grandfathering" Case**

On Monday, January 9, 2007 an *amici curiae* brief was presented to the Fourth Court of Appeals on behalf of Aquifer Guardians in Urban Areas ("AGUA") and the Greater Edwards Aquifer Alliance ("GEAA") in support of the City of San Antonio's position in *The City of San Antonio, Texas v. En Seguido, Ltd.* (Case No. 04-06-00206-CV) Oral argument between the developer and the City of San Antonio is scheduled for January 16, 2007.

In this case En Seguido, Ltd. claimed that a tract it plans to develop as Windcrest Heights Subdivision has vested rights inherited from a prior owner dating back to 1971, and thus it has only to comply with those City ordinances in place at that time. En Seguido, Ltd. argues that the property itself should be entitled to these vested rights. Specifically, the current owner of this property, John Schaefer, wishes to be exempted from ordinances governing drainage. The City of San Antonio argues that the project "should not be exempt from application of the City's Drainage Ordinances under any circumstances..."

The brief filed by GEAA and local member group AGUA on January 9<sup>th</sup> states "The application of Texas Local Government Code chapter 245 has critical impacts on community planning and resource conservation." "The industry portrays the statute as protection for the little guy from overbearing government...In reality, the law almost always is used by large development companies, which have invoked it hundreds of times to trump efforts by citizens to tame explosive growth..." (Quoting the San Antonio Express News, "Losing Ground" Series.) These efforts include ordinances to limit vegetation clearing, protect large trees, preserve water quality, prevent erosion, protect caves and sinkholes, assure aquifer recharge, and manage traffic. "These regulations are developed by the community, and improved over time in order to avoid undesired and disastrous consequences to public health and safety, municipal infrastructure, the Edwards Aquifer and other natural resources –and, consequently, to public coffers."

The brief continues: "An overly broad interpretation of the statute, as adopted by the trial court in this case, has the effect of severely undermining local, community control. It also has the effect of allowing developers to pollute public trust waters, endanger human health by increasing flooding, and shifting costs that should be born by developers onto the shoulders of citizens and taxpayers." Annalisa Peace, Executive Director of GEAA adds that this organization applauds the efforts of the City of San Antonio and hopes that this filing with the 4<sup>th</sup> Court of Appeals will aid the City in its efforts to enforce ordinances needed to protect the citizens and property owners of San Antonio.

AGUA is an organization of concerned individuals and citizen groups working together to preserve the environmentally sensitive Edwards Aquifer in San Antonio. AGUA is a member organization of the Greater Edwards Aquifer Alliance (GEAA), a coalition of thirty-six organizations from Austin to Del Rio, all dedicated to maintaining the health of the aquatic ecosystem of Central Texas and the rivers and streams flowing across it through the Edwards Aquifer and toward the Gulf of Mexico.