

Appellate Docket Number 03-13-00580-CV

Texas Third Court of Appeals

FILED
December 10, 2013
Third Court of Appeals
Jeffrey D. Kyle
Clerk

Motion for Sanctions

Marc T. Sewell Petition for Judicial Review
under Local Government Code Sec 211

Vs.

Llano Board of Adjustment (Chairman Mikel Virdell)

(a) Identity of Parties and Counsel

Appellant and Filer of this document:

Marc T. Sewell
108 Summit
Llano, TX 78643
Pro Se

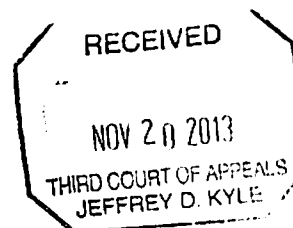
Appellee:

City of Llano
Mikel Virdell Chairman & Mayor
301 West Main
Llano, TX 78643

Appellee Attorney:

Carey L. Bovey
2251 Double Creek Drive
Round Rock, TX 78664

Oral Argument Not Required



TO THE HONORABLE THIRD COURT OF APPEALS:

I respectfully present this motion for sanctions against City Manager Brenton Lewis and City Attorney Carey Bovey for false representation of facts in the Affidavit¹ of Brenton Lewis presented to the Court in the Appellee Motion for Involuntary Dismissal.

The False Representation of Fact

The law in question is Section 110-53² of the City of Llano Zoning Ordinance which differentiates between text changes to an ordinance and regulation changes. This distinction determines whether property owners must be notified of a proposed ordinance change. In four statements within two paragraphs in Brenton Lewis' Affidavit, he emphasizes "proposed text amendments." The proposed and actual amendments to the ordinance were actually "regulation changes" and not "text changes." This is significant in the execution of the zoning ordinance.

The usage amendments to Ordinance 1247³ were *regulation* changes as demonstrated by:

1. State Statute 211.003(5)⁴ which states that a municipality may *regulate* the use of buildings and thus changes to the usage of a property are regulations.
2. State Statute 211.005⁴ which states that the governing body may *regulate* the use of buildings and thus changes to the usage of a property are regulations.

¹ Appendix A – Affidavit of Llano City manager Brenton Lewis on page 7

² Appendix B - Municode Section 110-53 of City Zoning Ordinance on page 9

³ Appendix E – Changes Made to Zoning Ordinance 1247 on page 13

⁴ Appendix C - Text vs. Regulation Statute References on page 10

Thus, usage changes are “regulation changes” and not “text changes and the statements in the affidavit that the amendments to the ordinance were *text*, are false representations of fact and are groundless.

Contrary to Evidence

The Brenton Lewis Affidavit false statements are antithetical to the official documents in the Affidavit’s Exhibits:

1. Brenton Lewis’ Affidavit Exhibit A⁵ Meeting Minutes mentions *uses* 6 times and even the Mayor spoke in favor of new *uses*.
2. The topic of the Public Hearing in Affidavit Exhibit A⁵ was “regarding amending the text and defining uses” yet Lewis drops the “defining uses” in his affidavit.
3. Brenton Lewis’ own Agenda Item # E1⁵ stated “amending text and defining uses” yet Lewis drops the “defining uses” in his affidavit.
4. The actual changes to Zoning Ordinance 1247, Brenton Lewis’ exhibit B⁶, show:
 - a. The preamble to Ordinance 1247 states “defining Additional Specific Uses”
 - b. Zoning Ordinance 1247 Section 4 Specific Uses shows the added uses.
 - c. The Use Chart shows the additional special uses and changes.
5. Brenton Lewis’ own Affidavit Exhibit C⁷ Meeting Minutes mentions *uses* 3 times.

⁵ Exhibit A from Brenton Lewis’ Affidavit on page 11

⁶ Appendix E – Changes Made to Zoning ordinance 1247 on page 11

⁷ Appendix F - Exhibit C from Brenton Lewis’ Affidavit on page 14

6. Brenton Lewis' own Agenda Item # H1⁸ stated "amending text and defining uses" yet he drops the "defining uses" in his affidavit.

Brenton Lewis' false statements are overt because:

- a. He attended all the meetings he describes in his Exhibits and has heard my arguments on text vs. regulation as shown in the minutes in Affidavit Exhibit C.
- b. He is aware of and has a copy of the Request for Judicial Review Petition which in the number one complaint describes the issue of the text vs. regulation issue.
- c. In his Affidavit, he states that he has 20 years experience working as a zoning administrator. Surely he would understand a basic concept of text vs. regulation.
- d. The yellow highlighting⁹ of the salient *text vs. regulation* statement in the zoning ordinance⁹ was done by the City of Llano.

So even from his own exhibits, Brenton Lewis knew his statements regarding text change were a false representation of the facts. Thus his false statements were overt and intended to deceive.

Improper Purpose

1. The Appellee Motion on page 5 item 4 states that the purpose of the Brenton Lewis' Affidavit is "in support of this motion" and yet there is no claim or reference in the Motion that is supported by the false statements.

⁸ Appendix F - Exhibit C from Brenton Lewis' Affidavit on page 14

⁹ Appendix B - Municode Section 110-53 of City Zoning Ordinance on page 9

2. The false statements do not in any way inform about the purpose for the appeal – a question of process. There is no mention in my Brief of the content of my District Court petition.

Thus I believe the false statements had no valid purpose, were prejudicial, and in bad faith with the possible intent of obfuscation, getting false statements into the Court record, or impugning my original petition and me.

Conclusion

Thus the City Manager, Brenton Lewis, and City Attorney, Carey Bovey, are in violation of:

1. Texas Civil Practices and Remedies Code Sec 10.001¹⁰ Signing of Pleadings and Motions
2. TRCP Rule 13¹¹ Effect of Signing Pleadings, Motions and Other Papers – Sanctions
3. Texas Penal Code Chapter 37 Section 37.03¹² - Aggravated Perjury.

¹⁰ Appendix G – Texas Civil Practices and Remedies Code Chapter 10 on page 15

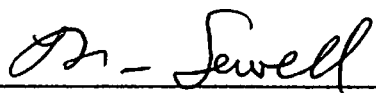
¹¹ Appendix H – Texas Rules of Civil Procedure: Rule 13 on page 16

¹² Appendix I – Texas Penal Code Chapter 37 on page 17

Prayer

Thus, I respectfully request that:

1. The Court imposes sanctions on the City Attorney and the City Manager.
2. The City Attorney withdraws the Affidavit of Brenton Lewis.
3. The Affidavit of Brenton Lewis be removed from the Court record and online file.
4. Any other penalties the Court deems appropriate.



Marc Sewell

108 Summit

Llano, TX 78643

MARC T. SEWELL,
APPELLANT

V.

CITY OF LLANO, MIKEL VIRDELL,
BRENTON LEWIS, DIANNE FIRESTONE,
LETITIA McCASLAND, MARCY
METHVIN, TODD KELLER, JEANNE
PURYEAR, AND TONI MILAM,
APPELLEES

§
§
§
§
§
§
§
§
§
§

IN THE COURT OF APPEALS

THIRD SUPREME JUDICIAL

DISTRICT OF TEXAS

AT AUSTIN, TEXAS

AFFIDAVIT OF BRENTON B. LEWIS

STATE OF TEXAS

§
§
§

COUNTY OF LLANO

Before me the undersigned authority, on this day personally appeared Brenton Lewis, Affiant, who by me first duly sworn upon his oath swears the following statements are true and are within the personal knowledge of Affiant:

“My name is Brenton B. Lewis. I am the City Manager of the City of Llano, Texas and have held that position since April 1, 2013. I hold a Bachelor of Business Administration degree in Management and have also completed 27 hours of coursework toward a Master of Public Administration degree. I have 29 years of professional experience working for local governments in Texas and other states, including 20 years of experience working as a zoning administrator.”

As the City Manager, I am the City of Llano employee designated to provide staff support to the City of Llano Board of Adjustment, Planning and Zoning Commission, and City Council. My duties related to these afore-mentioned municipal governing boards include, but are not limited to: 1) coordinating the preparation of public meeting agendas; 2) preparing the agenda item reports, documents and other written materials for review and consideration by the members of said governing bodies; 3) attending the meetings of the said boards to provide City staff recommendations and other resources as requested; 4) presenting various agenda items and reports for review and consideration by the board members; 5) supervising other City employees to ensure that the meeting agendas, minutes, public notices, and similar items are properly prepared and published as required; and 6) other duties as requested by said governing boards.

As a result of the duties I perform as City Manager, as outlined hereinabove, I am personally familiar with the activities, operations, practices and decisions of the City of Llano Board of Adjustment, Planning and Zoning Commission, and City Council. The Planning and Zoning Commission held a regular meeting on June 13, 2013 at which meeting, after proper notice was published, a Public Hearing was held on proposed text amendments to Ordinance Nos. 735 and 1231 regarding an Overlay District in the Single Family I Zoning District. Further,

after said Public Hearing, the Planning and Zoning Commission voted to recommend to City Council that the proposed text amendments to Ordinance Nos. 735 and 1231 be approved by the City Council. A copy of the minutes (approved, but unsigned) of the June 13, 2013 Planning and Zoning Commission meeting is attached to this Affidavit as Exhibit "A" and incorporated herein for all purposes.

On June 17, 2013, the Llano City Council held a regular meeting at which meeting, after proper notice was published, a Public Hearing was held on proposed text amendments to Ordinance Nos. 735 and 1231 regarding an Overlay District in the Single Family 1 Zoning District. Further, after said Public Hearing, the City Council voted to approve the proposed text amendments to Ordinance Nos. 735 and 1231 by the enactment of Ordinance No. 1247. A copy of Ordinance No. 1247 and the minutes of the June 17, 2013 Llano City Council meeting are attached to this Affidavit as Exhibits "B" and "C" respectively, and incorporated herein for all purposes.

At no time did the Llano Board of Adjustment take any action, hold any meeting, or make any decision regarding the enactment of Ordinance No. 1247 by the Llano City Council. The Llano Board of Adjustment was not involved at all in the actions, hearings and decisions of the Llano Planning and Zoning Commission or the Llano City Council culminating in the enactment of Ordinance No. 1247 by the Llano City Council on June 17, 2013.

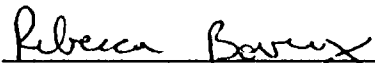
Further, I am aware that Marc T. Sewell filed a Petition for Judicial Review in Cause No. 18504, in the District of Llano County, 33rd/424th Judicial District, the Honorable J. Allan Garrett being the Presiding Judge ("District Court"). The City of Llano, Mikel Virdell (Mayor), Brenton Lewis (City Manager), Dianne Firestone (Planning & Zoning Commission Chairman), Letitia McCasland (Planning & Zoning Commission Member), Marcy Methvin (Planning & Zoning Commission Member), Todd Keller (City Councilmember), Jeanne Puryear (City Councilmember) and Toni Milam (City Secretary), listed as Appellees in No. 03-13-00580-CV, in the Court of Appeals, Third Supreme Judicial District of Texas, at Austin, Texas, as of the date of this Affidavit, have not been served with proper citation issued by the District Court in Cause No. 18504, nor have any of the Appellees made an appearance or waived service in Cause No. 18504."

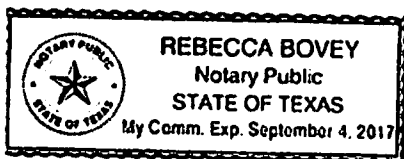
Further Affiant sayeth not.

Signed this 9th day of October, 2013.


Brenton B. Lewis

Subscribed and sworn to before me by the said Brenton B. Lewis on this 9th day of October, 2013.


Notary Public of the State of Texas
My commission expires: 9/4/2017



Appendix B - Municode Section 110-53 of City Zoning Ordinance

Sec. 110-53. Public hearing and notice.

Prior to making its report to the city council, the planning and zoning commission shall hold at least one public hearing on each application. Before the tenth day before the hearing date before the planning and zoning commission, written notice of each public hearing before the planning and zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of property within 300 feet of the property in which the change in classification is proposed. The notice shall be served by its deposit in the municipality, properly addressed with certified postage paid, return receipt requested in the United States Mail. Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality. Before the 20th day before the date of the hearing, property subject to zoning action will be posted with notice of the time and place of the planning/zoning hearing and the time and place of the city council hearing. Sign shall be a minimum of 18 inches × 18 inches and posted to be visible from frontage street. Sign shall state in a minimum of two-inch letters, CITY OF LLANO NOTICE OF PUBLIC HEARING. Specifics regarding time, place and content of the public hearing shall be in at least 16 point type below. Notice shall include city staff contact and phone number if additional information is required. Changes in the ordinance text which do not change zoning regulations and/or zoning district boundaries do not require written notification to individual property owners. Notices for the public hearing for changes to the ordinance text before the city council will also be published at the same time notice of the planning and zoning commission meeting is published but before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the municipality.

(Ord. No. 735, § 1(30.3), 7-21-1997; Ord. No. 1037, § 1, 5-1-2006; Ord. No. 1152, 12-21-2009)

State law reference— Hearing and notice, V.T.C.A., Local Government Code §§ 211.006, 211.007

Appendix C - Text vs. Regulation Statute References

These two statute sections demonstrate that usage is a regulation.

Sec. 211.003. ZONING REGULATIONS GENERALLY. (a) The governing body of a municipality may regulate:

- (1) the height, number of stories, and size of buildings and other structures;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards, courts, and other open spaces;
- (4) population density;
- (5) the location and use of buildings, other structures, and land for business, industrial, residential,

Sec. 211.004. COMPLIANCE WITH COMPREHENSIVE PLAN. (a) Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

- (1) lessen congestion in the streets;
- (2) secure safety from fire, panic, and other dangers;
- (3) promote health and the general welfare;
- (4) provide adequate light and air;
- (5) prevent the overcrowding of land;
- (6) avoid undue concentration of population; or
- (7) facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

Sec. 211.005. DISTRICTS. (a) The governing body of a municipality may divide the municipality into districts of a number, shape, and size the governing body considers best for carrying out this subchapter. Within each district, the governing body may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.



EXHIBIT "A"

City of Llano
Regular Called Planning/Zoning Meeting Minutes
June 13, 2013 – 5:30 p.m.

A. CALL TO ORDER Chairman Diana Firestone called the meeting to order at 5:32 with the following present: Marcy Methvin, Sam Oatman, Leticia McCasland and Stacey Mangum-Oliver was absent.

B. PUBLIC COMMENTS-Non-Agenda Items
No public comments on non-agenda items.

C. CONSENT AGENDA ITEMS All consent agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

1. Approval of the Planning and Zoning minutes as written, dated February 26, 2013.

Toni Milam, City Secretary

Motion by Commissioner Methvin, with a second by Commissioner Oatman to approve the minutes of February 26, 2013. With there being no discussion, motion approved.

D. PUBLIC HEARING

1. The City of Llano Planning and Zoning Commission will hold a public hearing on Thursday, June 13, 2013 at 5:30 p.m. in City Hall Council Chambers located at 301 W. Main Street to receive written and/or oral comments from the public regarding amending the text and defining uses of the Zoning Ordinance No. 735; specifically in the SF-1 overlay district.

Chairman Firestone opened the public hearing at 5:32. Public Comments were heard:

Marc Sewell spoke objecting to the process to get to this point. Mr. Sewell stated property owners were not properly notified and that this meeting should have been held as a workshop since there were substantive changes.

Vivian Koerner is looking to put a beauty salon in the overlay district and asked about the process of obtaining a specific use permit.

Mayor Mike Virdell spoke in favor of opening up the SF-1 Overlay District to more uses; adding more value to the homes by adding more uses with expanded zoning. He stated it would be unlikely that a residence will sell without adding more uses. With there being no further comments, Chairman Firestone closed the public hearing at 5:40 p.m.

E. REGULAR AGENDA ITEMS

1. Discuss and consider possible action regarding amending the text and defining uses of the Zoning Ordinance No. 735; specifically in the SF-1 Overlay District. and making recommendations to the City Council.

Brenton Lewis, City Manager

After a brief discussion, motion by Commissioner McCasland, with a second by Commissioner Methvin to add the following uses of home occupation, accounting/book-keeping office, architect office, engineering office, insurance office, office general, barber/beauty salon, florist, gunsmith, palm reading and soil testing laboratory to the SF-1 Overlay District and to make the recommendation to the City Council. These additional uses would require a Specific Use Permit. Motion approved with Sam Oatman abstaining.

2. Discuss and consider action specifying meeting dates and times for future meetings.

Brenton Lewis, City Manager

By-law: currently state the Commission will meet the third Thursday of each month. No formal action taken.

3. Discussion only regarding the Planning and Zoning Commission's future projects.

Brenton Lewis, City Manager

After a brief discussion, it was discussed to take one section at a time in reviewing and coming up with ideas for suggestions on changing the zoning ordinance.

Appendix E – Changes Made to Zoning Ordinance 1247

Ordinance 1247 Preamble

ORDINANCE NO. 1247

AN ORDINANCE OF THE CITY OF LLANO, TEXAS AMENDING ORDINANCE NO. 1231; DEFINING **ADDITIONAL SPECIFIC USES**; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

Original Ordinance

Section 4. Specific Uses

The following uses shall be allowed in the SF-1 Overlay District by Specific Use Permit, in addition to Specific Uses defined in Section 8B, City of Llano Zoning Regulations, and Ordinance 735, as amended:

Attorney Office
Medical Office
Dental Office

These specific uses must satisfy all other conditions for approval as required by Section 20, City of Llano Zoning Regulations, and Ordinance 735, as amended.

Changed Ordinance

Section 4. Specific Uses

In the SF-1 Overlay District the following Permitted Specific Uses shall be allowed, in addition to Specific Uses defined in Section 8B, City of Llano Zoning Regulations, Ordinance 735, and Ordinance 1231:

Home Occupation	Accountant or Bookkeeping Office	Architect's Office
Engineering Office	Insurance Office	Office, General, Professional
Barber Shop or Beauty Salon	Florist	Gunsmith
Palm Reading	Soil Testing Laboratory	

All other conditions for approval are outlined in Section 20, City of Llano Zoning Regulations, Ordinance 735, and Ordinance 1231.



EXHIBIT "C"

City of Llano
Regular Called City Council Minutes
June 17, 2013 – 5:30 p.m.

G. PUBLIC HEARING

Mayor Videll opened the public hearing at 5:58 p.m.

1. The City of Llano City Council will hold a public hearing on Monday, June 17, 2013 at 5:30 p.m. in City Hall Council Chambers located at 301 W. Main Street to receive written and/or oral comments from the public, regarding amending the text and defining uses of the Zoning Ordinance No. 735; specifically in the SF-1 overlay district.

Marc Sewell, resident of Llano spoke during the public hearing portion of the meeting. Mr. Sewell stated there were four issues: technical errors, legal violations, no respect for property owners, and concerns regarding zoning overhaul. He recommended not approving these changes except for the beauty salon. Suggested finishing the comprehensive plan. Sherry Simpson, resident of Llano also spoke stating she isn't ready to see a palm reading use in the overlay district. With there being no further public comments, Mayor Virdell closed the public hearing at 6:15 p.m.

H. REGULAR AGENDA ITEMS

1. Discuss and consider action on the approval of Ordinance 1247 regarding amending the text and defining uses of the Zoning Ordinance No. 735; specifically in the SF-1 Overlay District, and making recommendations to the City Council.

Mayor Mike Virdell/Brenton Lewis, City Manager

Motion by Alderman Bryan Miiller, with a second by Mayor Pro-Tem Hazel to approve Ordinance 1247 amending the text and defining the following uses specifically in the SF-1 Overlay District: Barber/beauty salon, home occupation, accountant or bookkeeping office, architect office, engineering office, insurance office, office general professional, palm reading florist, gunsmith, and soil testing laboratory. With there being no further discussion, motion was approved.

Appendix G – Texas Civil Practices and Remedies Code Chapter 10

Sec. 10.001. SIGNING OF PLEADINGS AND MOTIONS. The signing of a pleading or motion as required by the Texas Rules of Civil Procedure constitutes a certificate by the signatory that to the signatory's best knowledge, information, and belief, formed after reasonable inquiry:

(1) the pleading or motion is not being presented for any improper purpose, including to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) each claim, defense, or other legal contention in the pleading or motion is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) each allegation or other factual contention in the pleading or motion has evidentiary support or, for a specifically identified allegation or factual contention, is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) each denial in the pleading or motion of a factual contention is warranted on the evidence or, for a specifically identified denial, is reasonably based on a lack of information or belief.

Added by Acts 1995, 74th Leg., ch. 137, Sec. 1, eff. Sept. 1, 1995.

Sec. 10.002. MOTION FOR SANCTIONS. (a) A party may make a motion for sanctions, describing the specific conduct violating Section 10.001.

(b) The court on its own initiative may enter an order describing the specific conduct that appears to violate Section 10.001 and direct the alleged violator to show cause why the conduct has not violated that section.

(c) The court may award to a party prevailing on a motion under this section the reasonable expenses and attorney's fees incurred in presenting or opposing the motion, and if no due diligence is shown the court may award to the prevailing party all costs for inconvenience, harassment, and out-of-pocket expenses incurred or caused by the subject litigation.

Added by Acts 1995, 74th Leg., ch. 137, Sec. 1, eff. Sept. 1, 1995.

Sec. 10.003. NOTICE AND OPPORTUNITY TO RESPOND. The court shall provide a party who is the subject of a motion for sanctions under Section 10.002 notice of the allegations and a reasonable opportunity to respond to the allegations.

Added by Acts 1995, 74th Leg., ch. 137, Sec. 1, eff. Sept. 1, 1995.

Appendix H – Texas Rules of Civil Procedure: Rule 13

RULE 13. EFFECT OF SIGNING PLEADINGS, MOTIONS AND OTHER PAPERS; SANCTIONS

The signatures of attorneys or parties constitute a certificate by them that they have read the pleading, motion, or other paper; that to the best of their knowledge, information, and belief formed after reasonable inquiry the instrument is not groundless and brought in bad faith or groundless and brought for the purpose of harassment. Attorneys or parties who shall bring a fictitious suit as an experiment to get an opinion of the court, or who shall file any fictitious pleading in a cause for such a purpose, or shall make statements in pleading which they know to be groundless and false, for the purpose of securing a delay of the trial of the cause, shall be held guilty of a contempt. If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, after notice and hearing, shall impose an appropriate sanction available under Rule 215-2b, upon the person who signed it, a represented party, or both.

Courts shall presume that pleadings, motions, and other papers are filed in good faith. No sanctions under this rule may be imposed except for good cause, the particulars of which must be stated in the sanction order. "Groundless" for purposes of this rule means no basis in law or fact and not warranted by good faith argument for the extension, modification, or reversal of existing law. A general denial does not constitute a violation of this rule. The amount requested for damages does not constitute a violation of this rule.

Appendix I - Texas Penal Code Chapter 37

CHAPTER 37. PERJURY AND OTHER FALSIFICATION

Sec. 37.02. PERJURY. (a) A person commits an offense if, with intent to deceive and with knowledge of the statement's meaning:

(1) he makes a false statement under oath or swears to the truth of a false statement previously made and the statement is required or authorized by law to be made under oath; or

(2) he makes a false unsworn declaration under Chapter 132, Civil Practice and Remedies Code.

(b) An offense under this section is a Class A misdemeanor.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 37.03. AGGRAVATED PERJURY. (a) A person commits an offense if he commits perjury as defined in Section 37.02, and the false statement:

(1) is made during or in connection with an official proceeding; and

(2) is material.

(b) An offense under this section is a felony of the third degree.

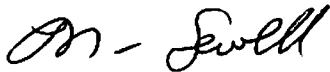
Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Appendix J- Certificate of Service

Certificate of Service

I certify that I have served the Motion for Sanctions for Docket Number 03-13-00580-CV on all other parties—which are listed below—on 11/19/13 as follows:

1. Llano City Attorney Carey Bovey **via email**
Law office of Cary L. Bovey, PLLC
2251 Double Creek Drive, Suite 204
Round Rock, TX 78664
(512) 904-9441
cary@boveylaaw.com
2. Llano City Secretary Toni Milam **in person** for distribution to: Board of Adjustment
Chairman/Mayor Mikel Virdell, City Attorney Carey Bovey, City Manager Brenton
Lewis
City of Llano
301 West Main
Llano, TX 78643
(325) 247-4158
tmilam@cityofllano.com



Marc T. Sewell
108 Summit
Llano, TX 78643-1127
325-247-2508
marcs@simonlabs.com

Appendix K - Certificate of Compliance

I certify that this motion was prepared with Microsoft Office Word 2007, and that, according to that program's word-count function, the sections covered by TRAP 9.4(i)(1) contain 851 words.

M. Sewell

Marc Sewell

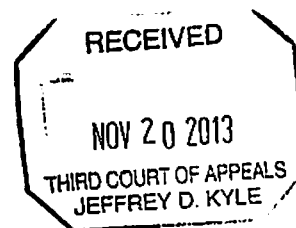
108 Summit

Llano, TX 78643

This mailing to the Third Court of Appeals contains:

- 1. Certificate of Service for Response to Appellee's Response Brief.**
- 2. Certificate of Compliance for the Response to Appellee's Response Brief.**
- 3. Check for \$20.00 for Motion to Fix Case Information and Motion for Sanctions**
- 4. Motion for Sanctions**

Marc Sewell



FILED
December 10, 2013
Third Court of Appeals
Jeffrey D. Kyle
Clerk

Appellate Docket Number 03-13-00580-CV

Texas Third Court of Appeals

Certificate of Conference

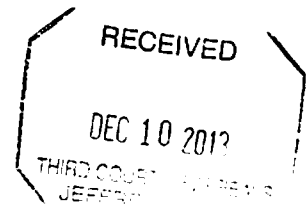
As required by Texas Rule of Appellate Procedure 10.1(a)(5), I certify that, on December 6, 2013, I have conferred with Carey Bovey regarding my Motion for Sanctions. He opposes the motion.

M. Sewell

Marc Sewell

108 Summit

Llano, TX 78643



108 SUMMIT

LLANO, TX 78643

THIRD COURT of APPEALS

P.O. BOX 12547

AUSTIN, TX 78711-2547



UNITED STATES
POSTAL SERVICE

1000



78711

U.S. POSTAGE
PAID
LLANO, TX
NOV 19, 13
AMOUNT

\$1.92
0045631-