

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-08-00618-CV

**Appellants, A-L Creekside Town Center, L.P.// Cross-Appellant,
City of New Braunfels, Texas,**

v.

**Appellees, New Braunfels IH-35 Retail Associates, L.P., and City of New Braunfels, Texas//
Cross-Appellee, A-L Creekside Town Center, L.P.**

**FROM THE DISTRICT COURT OF COMAL COUNTY, 22ND JUDICIAL DISTRICT
NO. C2008-0805A, HONORABLE DIB WALDRIP, JUDGE PRESIDING**

ORDER

PER CURIAM

The November 10, 2008, emergency motions for “Temporary Order Staying Mandatory Injunction” filed by appellants A-L Creekside Town Center, L.P. and the City of New Braunfels are granted in part, pending further orders of the Court. To preserve the parties’ rights and this Court’s jurisdiction over the subject matter of the pending appeals, the Court stays the following portions of the district court’s October 10, 2008, Amended and Clarified Order Granting Application for Temporary Injunction:

. . . prior to approval and acceptance of Cold Springs Drive as a public street where it is located today in cold hard concrete. Notwithstanding the absence of a corrected or amended plat showing the challenged portions of Cold Springs Drive and all of its appurtenant infrastructure, including but not limited to underground storm drains, gas lines, water lines, sewer lines and other infrastructure, to be a public street and/or public right-of-way, the City shall immediately inspect said Cold Springs Drive and

said infrastructure and accept Cold Springs Drive and said infrastructure as public improvements without delay unless the street or infrastructure is not in substantial conformance with City ordinances regarding construction and traffic safety standards. If the street or infrastructure is not in substantial conformance with City ordinances regarding such standards, then either the City, Intervenor, or Plaintiff may bring the street or infrastructure up to such construction and traffic safety standards. Thereafter, the City shall immediately open Cold Springs Drive, in its entirety, and its appurtenant infrastructure for public use by removing any and all barricades, obstacles or other devices therefrom. Following acceptance, the Cold Springs Drive western right-of-way line shall be deemed to be coterminous with the eastern property line of Plaintiff's Tract, and Plaintiff may directly access Cold Springs Drive, a New Braunfels, Texas city street. All of the land between the eastern boundary of the Cold Springs Drive right-of-way as shown on the recorded plat and the eastern property line of Plaintiff's Tract shall be deemed City right-of-way.

Appellee Retail Associates, L.P., is ordered to file a response to the motions not later than Wednesday, November 19, 2008.

This stay remains in effect pending further orders of this Court.

It is ordered November 13, 2008.

Before Chief Justice Law, Justices Puryear and Pemberton