

CAUSE NO. D-1-GN-21-003198*
(Consolidated with D-1-GN-21-003203)

CITY OF COPPELL, TEXAS,	§	IN THE DISTRICT COURT OF
CITY OF HUMBLE, TEXAS,	§	
CITY OF DESOTO, TEXAS,	§	
CITY OF CARROLLTON, TEXAS,	§	
CITY OF FARMERS BRANCH, TEXAS, and	§	
CITY OF ROUND ROCK, TEXAS,	§	
<i>Plaintiffs,</i>	§	
	§	TRAVIS COUNTY, TEXAS
v.	§	
	§	
GLENN HEGAR, in his official capacity	§	
as Comptroller of Public Accounts of	§	
the State of Texas,	§	
<i>Defendant.</i>	§	201ST JUDICIAL DISTRICT
	§	(*Assigned to the 250th District)

FINAL JUDGMENT

On October 14–16, 2024, the Court heard the merits of these consolidated causes. Attorneys James Harris and Reed Randel appeared for Plaintiffs City of Humble, Texas; City of Desoto, Texas; City of Carroll, Texas; City of Coppell, Texas; and City of Farmers Branch, Texas (the Coppell Plaintiffs). Attorneys Cindy Olsen Bourland and Bryan Dotson appeared for Plaintiff City of Round Rock, Texas (the Round Rock Plaintiff). Attorneys Kyle Counce and Ray Langenberg appeared for Defendant Comptroller of Public Accounts of the State of Texas (the Comptroller). The parties announced ready and proceeded to trial.

After careful consideration of the evidence and arguments of counsel, the Court renders judgment as follows:

The Court FINDS that Section 321.002(a)(3)(A) of the Tax Code requires a determination of whether at least three orders were received by the retailer during the calendar year. Therefore, the Court cannot prospectively declare Fulfillment Centers as places of business.

Accordingly, the Court FINDS that Coppel Plaintiffs' request to declare Fulfillment Centers receiving only Website Orders places of business under the 2016 version of 34 TAC § 3.334 should be and is DENIED.

The Court FINDS that 34 TAC § 3.334(a)(9) contravenes existing statutes by adding a definition at the agency level that the Legislature has not defined in Chapter 151 of the Texas Tax Code and for which Sections 321.203 and 323.203 already provide a detailed statutory scheme for determining where a sale of taxable item is "consummated."

The Court FINDS that 34 TAC § 3.334(a)(18), (b)(5), and (c) contravene specific statutory language set forth in Texas Tax Code sections 321.002(a)(3)(A), 321.203, and 323.203.

The Court FINDS that 34 TAC § 3.334(c) [(c)(1) and (c)(2) inclusive] contravenes the statutory schemes for determining where a sale is consummated, under Sections 321.203 and 323.203.

The Court FURTHER FINDS that the Comptroller did not substantially comply with the notice requirements under the APA.

The Court FURTHER FINDS that Defendant Comptroller did not substantially comply with the "reasoned justification" requirement under the APA.

IT IS JUDICIALLY DECLARED that 34 TAC § 3.334 or its threatened application interferes with or impairs, or threatens to interfere with or impair, a legal right or privilege of the Coppell Plaintiffs.

IT IS JUDICIALLY DECLARED that 34 TAC § 3.334 or its threatened application interferes with or impairs, or threatens to interfere with or impair, a legal right or privilege of the Round Rock Plaintiff.

IT IS THEREFORE ORDERED that Defendant Comptroller of Public Accounts of the State of Texas is hereby PERMANENTLY ENJOINED from enforcing 34 TAC § 3.334, subsections (a)(9), (a)(18), (b)(5), and (c), effective July 4, 2024, and those subsections are hereby REMANDED to the Comptroller of Public Accounts of the State of Texas for further consideration not inconsistent with Chapters 151, 321, and 323 of the Texas Tax Code.

All other relief not expressly granted herein is DENIED. This judgment finally disposes of all parties and all claims and is appealable.

Signed on this third day of December 2024,



KARIN CRUMP
JUDGE PRESIDING
250th DISTRICT COURT