

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

THE INCLUSIVE COMMUNITIES	§	
PROJECT, INC.,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 3:08-CV-0546-D
VS.	§	
	§	
THE TEXAS DEPARTMENT OF	§	
HOUSING AND COMMUNITY	§	
AFFAIRS, et al.,	§	
	§	
Defendants.	§	

**ORDER**


This case was tried to the court from August 29, 2011 until September 1, 2011, and the parties submitted post-trial briefs and arguments through December 21, 2011. On November 7, 2011, after the trial was completed, the Supreme Court granted certiorari in *Gallagher v. Magner*, 619 F.3d 823 (8th Cir. 2010), *cert. granted*, 132 S.Ct. 548 (U.S. Nov. 7, 2011) (No. 10-1032). *Magner* presents two questions: “Are disparate impact claims cognizable under the Fair Housing Act?” and “If such claims are cognizable, should they be analyzed under the burden shifting approach used by three circuits, under the balancing test used by four circuits, under a hybrid approach used by two circuits, or by some other test?” Petition for Writ of Certiorari at *i, Magner v. Gallagher*, No. 10-1032 (Feb. 14, 2011), 2011 WL 549171. Oral argument is set for February 29, 2012.

The court has concluded that it should defer its decision in this case until *Magner* is decided. After the Supreme Court’s opinion is filed, this court will decide whether to establish a supplemental

schedule for briefing in the present case.

**SO ORDERED.**

February 14, 2012.

  
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SIDNEY A. FITZWATER  
CHIEF JUDGE