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EMINENT DOMAIN - TEXAS

Lenox Barbeque and Catering, Inc. v. Metropolitan Transit Authority of Harris County

Court of Appeals of Texas, Houston (14th Dist.) - February 23, 2016 - S.W.3d - 2016 WL 720805

Landowner brought inverse condemnation claim against transit authority. The County Civil Court at Law granted summary judgment for transit authority. Landowner appealed.

The Court of Appeals held that landowner's settlement of transit authority's condemnation petition released any inverse condemnation claim for lost profits.

Landowner's conveyance of part of a tract of land used for a restaurant to transit authority, pursuant to a settlement of the authority's condemnation petition, operated as a release of any claim under the state constitution for lost profits based on the loss of the parcel taken by the transit authority, even though there was no express release, since the settlement agreement included an award of just compensation to the landowner for the taking, the alleged lost profits were damages that reasonably could have been foreseen and determined at the time of the settlement agreement, and neither the settlement agreement nor the warranty deed contained a reservation of a right to sue for lost profits.

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