

# **Bond Case Briefs**

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## **OPEN MEETINGS - TEXAS**

### **Schmitz v. Denton County Cowboy Church**

**Court of Appeals of Texas, Fort Worth - May 10, 2018 - S.W.3d - 2018 WL 2144141**

Neighboring landowners brought action against church and town for violation of Texas Open Meetings Act (TOMA), declaratory judgment, nuisance, and sought a temporary injunction prohibiting church from continuing construction of rodeo arena on its property.

The District Court denied request for temporary injunction and granted pleas to the jurisdiction. Landowners appealed.

On rehearing, Court of Appeals held that:

- Limited waiver of governmental immunity under TOMA applied in connection with claim that town failed to comply with open-meeting ordinances;
- Allegations were sufficiently adequate to plead waiver of town's governmental immunity under TOMA;
- Landowners did not have standing to bring claim seeking declaration that church's actions violated town's zoning ordinances;
- Landowner raised a material fact issue regarding standing and the ripeness of his injury on his private nuisance claim; and
- Denial of request for temporary injunction was not an abuse of discretion.

Allegations by neighboring landowners were sufficiently adequate to plead waiver of town's governmental immunity under Texas Open Meetings Act (TOMA), in action challenging validity of church's construction activities for rodeo arena on its property; landowners alleged in their petition that town's meeting notices were highly prejudicial, designed to convince impacted residents not to oppose zoning change, were not in compliance with town ordinances, and that town council approved zoning change after a closed meeting with no public discussion, and landowners requested a declaration that town approved change and issued a specific-use permit in violation of TOMA and that town's failure to follow ordinances and government code notices for meetings rendered its actions void.