

# **Bond Case Briefs**

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**EMINENT DOMAIN - TEXAS**

## **Hidalgo County Water Improvement District No. 3 v. Hidalgo County Irrigation District No. 1**

**Supreme Court of Texas - May 19, 2023 - S.W.3d - 2023 WL 3556685**

Water improvement district brought action against county irrigation district for the condemnation of property to extend an underground irrigation pipeline.

Special commissioners were appointed and assessed damages to irrigation district. Irrigation district then filed plea to the jurisdiction, arguing it had governmental immunity from condemnation suit. The County Court at Law granted irrigation district's plea to the jurisdiction and dismissed for want of subject matter jurisdiction based on governmental immunity.

Water improvement district appealed. The Corpus Christi affirmed. Water improvement district petitioned for review.

The Supreme Court held that irrigation district did not have governmental immunity from condemnation suit.

Irrigation district did not have governmental immunity from water improvement district's eminent domain proceeding for the condemnation of property to extend underground irrigation pipeline, considering the purpose that governmental immunity served, its nature, and development of immunity and eminent domain precedent; condemnation proceeding, being in rem in nature, did not threaten the public treasury, separation-of-powers underlying immunity were not threatened, recognizing immunity in condemnation proceedings would be contrary to legislative scheme that preferred pre-taking adjudication and would require the taking to occur first and consequences be sorted out later, and wholly immunizing irrigation district would undermine condemnation power the Legislature chose to grant condemnors to fulfill an identified public need.