

# **Bond Case Briefs**

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## **EMINENT DOMAIN - TEXAS**

### **Texas Municipal Power Agency v. Johnston**

**Court of Appeals of Texas, Houston (1st Dist.) - February 28, 2013 - S.W.3d - 2013 WL 744395**

*Landowner's petition for injunctive relief premature, as municipal power agency had initiated negotiations regarding easement but had taken no concrete steps to condemn his property.*

Landowner sought temporary and permanent injunctive relief against the Texas Municipal Power Agency (TMPA) to prohibit TMPA from entering onto his property to conduct surveys and inspections and attempting to condemn a portion of his property. TMPA contended that landowner's petition was premature and did not present a justiciable controversy.

TMPA is a municipal power agency created pursuant to Texas Utilities Code and is a political subdivision of the State. As a political subdivision, TMPA thus possesses eminent domain powers, but before TMPA can initiate condemnation proceedings, it must first authorize the initiation of such proceedings at a public meeting by a record vote.

Although TMPA had indicated its desire to use its eminent domain powers to obtain an easement on a portion of landowner's property, the board had not yet authorized the initiation of a condemnation proceeding. Until it authorized such a proceeding, TMPA could not file a petition initiating condemnation. Thus, until the Board authorized the condemnation of landowner's property and TMPA actually filed a condemnation proceeding, the landowner had not suffered a concrete injury. The court concluded that landowner's claim for injunctive relief, at that point, presented an "abstract, hypothetical, and remote dispute" that was not ripe for adjudication.