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INVERSE CONDEMNATION - TEXAS

Cenizo Corp. v. City of Donna

Court of Appeals of Texas, Corpus Christi-Edinburg - April 25, 2013 - Not Reported in S.W.3d - 2013 WL 1800270

Commercial farm sued city for plugging drainage pipes directing water away from the farm's soybean crop, alleging that the city's actions constituted an unconstitutional taking under the Texas Constitution.

The trial court granted summary judgment to the city and the farm appealed, challenging the sufficiency of the evidence supporting the trial court's findings of fact regarding the intent element of its inverse condemnation claim.

To establish the intent element, farm was required to establish that the city: 1) knew that a specific act - plugging the drainage pipes - was causing identifiable harm; or 2) knew that the specific property damage - the reduction in the yield of the soybean crop - was substantially certain to result from its plugging of the drainage pipes.

The city's testimony established that it knew that the soybean crop would be damaged if it was under water for an extended period of time, but that he did not know, at the time the city blocked the drains, how long the field would be under water or whether any damage would result. The appeals court concluded that the evidence did not conclusively establish as a matter of law that the city knew that its blocking the drain pipes caused identifiable harm or that it knew damage to the soybean crop was substantially certain to result from its actions. Summary judgment affirmed.