

Bond Case Briefs

Municipal Finance Law Since 1971

TAKINGS - TEXAS

Edwards Aquifer Authority v. Bragg

Court of Appeals of Texas, San Antonio - August 28, 2013 - S.W.3d - 2013 WL 4535935

This appeal presented numerous issues regarding the regulation and permitting of the limited water resources within the Edwards Aquifer region of South Texas. Appellants Glenn and JoLynn Bragg are commercial pecan growers who were denied a water permit for one of their pecan orchards and granted a limited permit for another of their pecan orchards. The Braggs successfully sued Edwards Aquifer Authority (the "Authority") and Roland Ruiz in his official capacity as General Manager of the Authority for an alleged taking of their property and obtained a judgment awarding them damages.

The Authority and Ruiz then appealed asserting: (1) the Braggs sued the wrong party because the State's mandate of the Authority's actions precludes a takings claim against the Authority; (2) the Braggs' claims are barred by the statute of limitations; (3) no compensation is owed for any taking of the Braggs' Home Place Orchard; (4) the trial court incorrectly determined the amount of compensation owed for any taking of the Braggs' D'Hanis Orchard; (5) the Authority's permitting decision did not cause a taking of the Home Place Orchard or the D'Hanis Orchard; and (6) if it prevails, it is entitled to attorney's fees. In their cross-appeal, the Braggs contend the trial court erred (1) in calculating the compensation owed to them on both takings claims and (2) by concluding the Authority's denial of their permit applications did not amount to per se or categorical taking.

The Court of Appeals concluded that the trial court properly determined the implementation of the Edwards Aquifer Act resulted in a takings of the Braggs' property. However, because the trial court erred in quantifying the compensation owed to the Braggs, it reversed and remanded.