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INVERSE CONDEMNATION - LOUISIANA

Welborn v. St. Bernard Parish Government

United States District Court, E.D. Louisiana - November 25, 2013 - Slip Copy - 2013 WL 6184983

Plaintiff's home in St. Bernard Parish had been damaged in Hurricane Katrina and subsequently demolished by the defendant. Plaintiff sought damages for the alleged denial of his due process under the Fifth and Fourteenth Amendment and for the wrongful taking of property.

Defendant argued that the federal claim for wrongful taking under the Fifth Amendment was not ripe because the plaintiff has not used available state procedures for inverse condemnation and had not been denied just compensation. In opposition to the motion to dismiss, the plaintiff argued that the defense argument is "generally correct," but that the state remedies are insufficient because any judgment by a state court "may not be paid for many years or even decades."

"The plaintiff here admits that he did not use the state procedures for redress and has not been denied compensation as a result of that process. Instead, he argues futility in opposition to this motion based on the anticipated delay in being paid on any judgment against the defendant. Assuming that this fact is accurate, the Court finds that it is insufficient to constitute the required futility as a matter of law."