

Bond Case Briefs

Municipal Finance Law Since 1971

IMMUNITY - TEXAS

Midtown Edge, L.P. v. City of Houston

Court of Appeals of Texas, Houston (1st Dist.) - February 13, 2014 - Not Reported in S.W.3d - 2014 WL 586232

Condo developer (“Edge”) began construction of a condominium development project in the Midtown area of Houston. After Edge applied to the City for use of its wastewater line, the City responded by letter, stating that a new wastewater line would need to be constructed. In its letter, the City listed various methods of financing the new line, noting that it could pay for all or some of the costs of design and construction, or Edge could choose to pay the costs on its own.

Edge responded via letter, stating that it was not requesting cost sharing participation. Subsequently, the City issued a construction permit, and Edge constructed the new line at a cost of \$224,991.02. Upon completion, Edge dedicated the new line to the City for its ownership and maintenance.

Edge later sued the City for, inter alia, breach of contract when after the City declined to reimburse it for a pro rata portion of its pipeline construction costs after a new developer requested access to the pipeline. Edge alleged that the City’s letter concerning financing of the new line constituted “a letter agreement,” a “valid, enforceable agreement” between the City and Edge and that the Texas Legislature had waived the City’s governmental immunity for purposes of such a breach-of-contract claim.

The City argued that the letter was not a contract, was immune from suit, and filed a plea to the jurisdiction.

The Court of Appeals agreed with the City, concluding that the requirements of section 271.151 were not met and the waiver of governmental immunity under section 271.152 did not apply. Accordingly, it held that the trial court did not err in granting the City’s plea to the jurisdiction on Edge’s claim for breach of contract.