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INVERSE CONDEMNATION - TEXAS

City of El Paso v. Ramirez

Court of Appeals of Texas, El Paso - March 14, 2014 - S.W.3d - 2014 WL 996368

The City has owned and operated the Clint Landfill, a solid waste disposal site, since the early 1980's. Appellees own land within one mile of the landfill's southwestern boundary. In July 2006, after a series of rainstorms, the City and surrounding areas experienced extensive flooding. As a result of the heavy rainfall, the retention ponds at the Clint Landfill overflowed and caused significant damage to Appellees' property.

In June 2007, Appellees sued the City asserting claims for inverse condemnation, nuisance, trespass, Texas Water Code violations, and requesting a permanent injunction. The Court of Appeals dismissed, but granted Appellees leave to amend. They did so, the trial court denied the City's plea to the jurisdiction, and the City appealed that denial.

The City argued that the trial court erred by denying its plea to the jurisdiction because Appellees' pleadings failed to demonstrate the intent and public use elements of an inverse condemnation claim. The City also contended Appellees' pleadings failed to establish causation. The City maintains that because Appellees did not plead a valid takings claim those claims are barred by sovereign immunity. The City further argued that Appellees' nuisance and trespass claims which were asserted under Article I, Section 17 of the Texas Constitution are also barred by the City's governmental immunity. Appellees respond that they have pleaded sufficient facts to support their claims. The Court of Appeals agreed with Appellees, affirming the denial of City's plea to the jurisdiction.

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