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City of New Braunfels v. Carowest Land, Ltd.

Court of Appeals of Texas, Austin - April 30, 2014 - S.W.3d - 2014 WL 1774535

City undertook the “South Tributary Regional Flood Control Project,” which entailed the construction of a large drainage channel to divert run-off waters into the Guadalupe River. To provide a portion of the drainage channel’s route, Carowest voluntarily conveyed to the City a strip of land that traversed a tract of approximately 240 acres Carowest owned in the area. But there followed a succession of disputes between Carowest and the City, leading to the underlying litigation.

Carowest filed an application for temporary restraining order (TRO) seeking to halt all work on the related North Tributary Project. Around the same time, the City filed a plea to the jurisdiction. Both sides presented evidence to the district court. The District Court denied both the plea to the jurisdiction and the TRO request by written order. The City appealed the District Court’s order denying its plea to the jurisdiction.

The Court of Appeals:

- Reversed the District Court’s order denying the City’s plea to the jurisdiction as to Carowest’s takings claim and rendered judgment dismissing that claim for want of subject-matter jurisdiction;
- Reversed the District Court’s order as to Carowest’s claims under Section 1983, and remanded the claims so that Carowest could have a reasonable opportunity to amend its pleadings, if possible, to assert a Section 1983 claim that is not subsumed within its takings claim;
- Affirmed the district court’s order denying the City’s plea as to Carowest’s common-law tort claims, contract claims, and related attorney’s-fees claims to the extent the court has jurisdiction (1) to adjudicate Carowest’s breach-of-contract and related attorney’s fees claims by virtue of the waiver of immunity in chapter 252 of the Local Government Code; and (2) alternatively and independently, to adjudicate Carowest’s entitlement to an offset against any recovery obtained by the City on its monetary counterclaim.
- Affirmed the district court’s order denying the City’s plea to the jurisdiction as to Carowest’s declaratory claims.