

Bond Case Briefs

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EMINENT DOMAIN - TEXAS

City of Dallas v. Highway 205 Farms, Ltd.

Court of Appeals of Texas, Dallas - July 22, 2014 - Not Reported in S.W.3d - 2014 WL 3587403

In August 2011, the City of Dallas filed a statement in the county court at law seeking to condemn a portion of plaintiff's property in Kaufman County for a raw water pipeline project.

By early 2013, however, a special commissioners' hearing had still not been scheduled. On March 7, 2013, plaintiff filed a motion in the county court to dismiss the case for want of prosecution pursuant to rule 165(a) of the Texas Rules of Civil Procedure and the trial court's inherent authority. They argued they were entitled to dismissal because the matter had been pending for eighteen months with no activity and the City had failed to prosecute the case with due diligence. The City responded that because the case was still in the administrative stage of a condemnation proceeding, the trial court lacked subject matter jurisdiction to dismiss the case.

The trial court dismissed the City's condemnation action. The Court of Appeals reversed, holding that the trial court's action was not authorized by the condemnation statute. Because the trial court did not have jurisdiction in the administrative phase of a condemnation proceeding except for what was provided in the eminent domain statute, any judgment or order made outside of the statutory authority is void. Accordingly, the trial court abused its discretion when it dismissed this condemnation proceeding when there was no judicial case before it.