

Bond Case Briefs

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EMINENT DOMAIN - TEXAS

State v. Clear Channel Outdoor, Inc.

Supreme Court of Texas - April 24, 2015 - S.W.3d - 2015 WL 1870306

State brought action to condemn two parcels of land containing billboards, and billboard owner filed claims for inverse condemnation of billboards. After state settled with billboard owner and landowners for compensation due for leasehold and fee interests, the Civil Court granted partial summary judgment for billboard owner, and, following a jury trial, entered judgment awarding damages for taken billboards. State appealed, and the Court of Appeals affirmed. The Supreme Court granted the State's petition for review.

The Supreme Court of Texas held that:

- Billboards were "fixtures" such that compensation for their loss was part of compensation for taken property, and
- Measure of compensation for billboards was based on the structures themselves, rather than based on the profits generated by their use in advertising.

Billboards on leased land taken by State were "fixtures" such that compensation for their loss was part of compensation for taken property, where billboards were firmly embedded in the earth and their removal required that the poles be cut and the signs dismantled, and billboards were perfectly suited to the use of the realty, which was outdoor advertising alongside a busy freeway, such that an owner would have intended the structures become part of the real estate.

Compensation due billboard owner for billboards taken when state condemned underlying land was to be based on the structures themselves, rather than based on the profits the structures generated by their use in advertising. State did not take billboard operations or business, but only took the land and the billboards, billboard owner was free to continue to operate its business on new site, and business income potentially was indication of the value of the land, rather than the billboards.