

Bond Case Briefs

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INVERSE CONDEMNATION - TEXAS

Harris County Flood Control District v. Kerr

Supreme Court of Texas - June 12, 2015 - S.W.3d - 2015 WL 3641517

Landowners and former landowners whose properties were damaged by flooding brought action against flood control district and county for inverse condemnation and nuisance. The County Court at Law denied district and county's plea to the jurisdiction. District and county appealed.

The Supreme Court of Texas held that:

- Fact issue existed as to intent element of landowners' inverse condemnation claims;
- Fact issue existed as to causation element of landowners' inverse condemnation claims; and
- Fact issue existed as to "public use" element of landowners' inverse condemnation claims.

Genuine issue of material fact existed as to whether flood control district and county were substantially certain their alleged actions in approving development of homes without appropriately mitigating the development would cause flood damage to homes in the flood plain, thus precluding summary judgment for district and county as to the intent element of landowners' inverse condemnation claims.

Genuine issue of material fact existed as to whether flood control district's and county's alleged actions in approving development of homes without appropriately mitigating the development resulted in flood damage to homes in flood plain, thus precluding summary judgment for district and county as to the causation element of landowners' inverse condemnation claims.

Genuine issue of material fact existed as to whether flood control district and county acted for a public use in allegedly approving new development and drainage plans causing flood damage to homes in flood plain, thus precluding summary judgment for district and county as to the "public use" element of landowners' inverse condemnation claims.