

Bond Case Briefs

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EMINENT DOMAIN - TEXAS

Harris County Flood Control District v. Edward A.

Supreme Court of Texas - June 17, 2016 - S.W.3d - 2016 WL 3418246

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 Houston Court of Appeals affirmed. District and county petitioned for review.

The Supreme Court of Texas held that government entities that engaged in flood-control efforts were not liable to homeowners who suffered flood damage on compensable taking theory.

County and county flood control district that engaged in flood-control efforts were not liable to homeowners who suffered flood damage, on theory that the county and district effected a compensable taking of the homeowners' property by approving private development without fully implementing a previously approved flood-control plan. County and district never desired to cause the flooding, but desired only the opposite, undertaking significant efforts to prevent flooding, spending tens of millions of dollars over many years, and never intended, as part of a flood-control plan, to use the homeowners' particular properties for detention ponds, drainage easements, or the like, the only affirmative conduct of county allegedly causing the flooding was approval of private development, and even by the homeowners' reckoning the flooding resulted from multiple causes, including Acts of God and activities of other defendants.