

Bond Case Briefs

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EMINENT DOMAIN - TEXAS

State v. YS & LS & LS Partnership, Ltd.

Court of Appeals of Texas, Corpus Christi-Edinburg - July 28, 2016 - Not Reported in S.W.3d - 2016 WL 4040320

In October 2013, the State filed a petition for condemnation seeking to condemn a strip of land consisting of 0.034 of an acre fronting a state highway.

Landowner counterclaimed for inverse condemnation, alleging that the State noticed its intent to take the property in November 2007, requiring Landowner to disclose the impending condemnation to prospective tenants and therefore preventing Landowner from leasing the property. Landowner alleged that the State's acts constituted a taking of its property.

The State filed a plea to the jurisdiction in which it argued that it was entitled to sovereign immunity because Landowner had not alleged a valid inverse condemnation claim. The trial court denied the State's plea to the jurisdiction. The State appealed.

The Court of Appeals reversed, holding that "publicly targeting a property for condemnation, resulting in economic damage to the owner, generally does not give rise to an inverse condemnation cause of action unless there is some direct restriction on use of the property."

The court found that, in order to allege a valid inverse condemnation claim, there must be a "current, direct restriction" on the use of the land, referring to a physical act or legal restriction on the property's use, "such as a blocking of access or denial of a permit for development." Here, Landowner alleged that the State's announcement of its intent to take the property prevented Landowner from leasing the property to prospective tenants, thereby causing it damages. Landowner had not alleged a "current direct restriction" on the use of its land such as an "actual physical or legal restriction on the property's use, such as a blocking of access or denial of a permit for development." Accordingly, Landowner had failed to state a valid inverse condemnation claim, and the State's sovereign immunity was not waived.