

Bond Case Briefs

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EMINENT DOMAIN - TEXAS

City of Dallas v. Trinity East Energy, LLC

Court of Appeals of Texas, Dallas - February 7, 2017 - Not Reported in S.W.3d - 2017 WL 491259

Energy company that submitted bid for city project brought action against city for breach of contract and, alternatively, declaratory relief, fraud, fraud by nondisclosure, promissory estoppel, negligent misrepresentation, and inverse condemnation alleging that city leased mineral rights to city-owned property to company but then refused to approve its applications for permits to drill.

The District Court granted city's plea to the jurisdiction in part. City appealed and company cross-appealed.

The Court of Appeals held that:

- City was engaged in proprietary function when it leased mineral rights and, thus, governmental immunity did not apply, and
- Company presented viable regulatory takings claim against city.

City was engaged in proprietary function when it leased mineral rights to energy company that submitted bid for city project and, thus, governmental immunity did not apply in company's action against city for breach of contract and, alternatively, declaratory relief, fraud, fraud by nondisclosure, promissory estoppel, negligent misrepresentation, and inverse condemnation alleging that city, after leasing rights, refused to approve company's applications for permits to drill; purpose of leases was developing city's minerals in safe and efficient manner that protected public safety and promoted maximum revenue for city, which were functions that would benefit residents within city's corporate limits but would not benefit public at large.

Regulatory takings claim alleged by energy company that submitted bid for city project was not moot in company's action against city for inverse condemnation alleging that city leased mineral rights to city-owned property to company but then refused to approve company's applications for permits to drill, despite claim that there were other drill sites for which company did not submit permit applications. There was factual dispute about whether drill site for which company sought permits were only viable drill sights for property subject to leases, and fact that leases expired and company no longer owned minerals, which had since reverted to city, did not foreclose possibility of taking during time in which company owned rights.

Energy company that submitted bid for city project presented viable regulatory takings claim against city in its action for inverse condemnation alleging that city leased mineral rights to city-owned property to company but then refused to approve company's applications for permits to drill. Company presented evidence that it paid city over \$19 million for opportunity to drill on leased property and spent considerable time and money analyzing and preparing property for drilling, that value of minerals on property was over \$62 million, that, after city's action, property was worthless because city had deprived it of any ability to drill for oil and gas, and that, during process of trying to obtain permits, leases expired and minerals reverted back to city, depriving it of any opportunity

to drill.