

Bond Case Briefs

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Owens v. City of Tyler

Supreme Court of Texas - December 21, 2018 - S.W.3d - 2018 WL 6711522 - 62 Tex. Sup. Ct. J. 294

Lessee of lot owned by city filed suit against neighbor lessee and city, seeking to enjoin neighbor lessee's construction of boathouse, along with actual and exemplary damages, a declaratory judgment, injunctive relief, and attorney's fees. Other neighbor of defendant lessee, who was also a lessee of land owned by city, intervened.

The County Court at Law denied city's plea to the jurisdiction. City appealed, and the Court of Appeals reversed and remanded. Lessee petitioned for review.

The Supreme Court of Texas held that Court of Appeals was required to determine whether city was engaged in a governmental or proprietary function when it entered contract, not when it allegedly breached contract.

Court of Appeals, in dispute between lessee of lot owned by city and city over construction of a boathouse, was required to conduct inquiry pursuant to *Wasson Interests, Ltd. v City of Jacksonville*, 489 S.W.3d 427, to determine whether city was engaged in a governmental or proprietary function when it entered the contract, not when it allegedly breached that contract; by no fault of its own, Court of Appeals did not conduct the inquiry under which the city's immunity from a breach of contract claim depended on the nature of the contract, not the nature of the breach.