

Bond Case Briefs

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EMINENT DOMAIN - TEXAS

Jim Olive Photography v. University of Houston System

Supreme Court of Texas - June 18, 2021 - S.W.3d - 2021 WL 2483766 - 64 Tex. Sup. Ct. J. 1411

Professional photographer brought action against public university, alleging unlawful taking based on university's unauthorized use of copyrighted aerial photograph of city on university's webpages.

The District Court denied university's plea to the jurisdiction. University filed interlocutory appeal. The Houston Court of Appeals vacated and dismissed. Photographer petitioned for review, which was granted.

The Supreme Court held that university's alleged copyright infringement was not a per se taking.

Alleged copyright infringement by public university, via unauthorized use of copyrighted aerial photograph of city on university's webpages, was not a "per se taking," despite argument that university deprived photographer of the most important stick in his bundle of rights, that being his exclusive right to control his work; university did not take possession or control of copyright, photographer retained key legal rights that constituted property, university did not assume physical control of copyright, photographer could seek injunctive relief to prevent or restrain infringement of a copyright, and university's infringement did not deprive photographer of right to dispose of copyrighted work.