

Bond Case Briefs

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Consolidated Towne East Holdings, LLC v. City of Laredo

Court of Appeals of Texas, San Antonio - July 12, 2023 - S.W.3d ----2023 WL 4482391

Developer brought declaratory judgment and mandamus action against city, seeking declaration that city's refusal to issue living unit equivalences unless developer voluntarily annexed its land constituted a regulatory taking and that denial of services by city officials was an ultra vires act.

City and developer filed cross-motions for summary judgment, which the 406th District Court granted in favor of city and dismissed developer's claims with prejudice. Developer appealed.

The Court of Appeals held that:

- Developer's regulatory-takings claim was not ripe;
- Developer was not entitled to mandamus relief against city officials; and
- Dismissal without prejudice, rather than with prejudice, was appropriate disposition of developer's premature claims.

Developer's regulatory-takings claim against city, alleging that city's refusal to issue living unit equivalences unless developer voluntarily annexed its land as a precondition for water and sewer services amounted to an unconstitutional exaction, was not ripe, and thus trial court lacked subject matter jurisdiction over developer's declaratory judgment action, where city and developer had not even entered into discussions regarding cost of annexation, and without an authoritative determination of annexation costs, court could not assess whether costs assessed pursuant to annexation were roughly proportional to interests that city asserted.

Dismissal without prejudice, rather than with prejudice, was appropriate disposition of developer's premature, or unripe, claims against city, seeking declarations that city's refusal to issue living unit equivalences unless developer voluntarily annexed its land constituted a regulatory taking, and that city ordinance requiring annexation before issuance of permit for a sewer connection resulted in an unconstitutional taking as well.

Developer was not entitled to mandamus relief against city officials, seeking to compel them to sell living unit equivalences to developer without imposing requirement to annex its land to city as precondition for water and sewer services and alleging their denial to sell was an ultra vires act and amounted to an unconstitutional regulatory taking; developer failed to establish there was an unconstitutional exaction, city officials' actions were not contrary to statute or city ordinance, so as to allow for prospective relief, and developer failed to argue that an exception was met to ordinances requiring annexation before city could issue sewer and plumbing permits.