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EMINENT DOMAIN - TEXAS

Capps v. City of Bryan

Court of Appeals of Texas, Waco - January 11, 2024 - S.W.3d - 2024 WL 118470

Landowner brought action against city for inverse condemnation, alleging that city committed a new taking when it constructed a new electric transmission line outside of the areas of right-of-way easement previously granted to city and across landowner's property in which he owned full interest at the time and that city abandoned original easement when old transmission line was removed.

The 361st District Court granted city's plea to the jurisdiction in part. Landowner filed interlocutory appeal.

The Court of Appeals held that landowner had standing to bring action.

Landowner had standing to bring inverse-condemnation action against city regarding city's construction of a new electric transmission line to replace prior transmission line, which was built within original easement on land, including standing for merits determination of whether city abandoned original easement and, if not, whether current use of new transmission line exceeded scope of permitted use under original easement, although landowner did not own land when original easement was granted; landowner alleged that taking occurred when city constructed new transmission line, entirety of dispute was about scope and damages to land for taking arising from new transmission line, and landowner owned land when new transmission line was built.

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