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EMINENT DOMAIN - TEXAS

Commons of Lake Houston, Ltd. v. City of Houston

Supreme Court of Texas - March 21, 2025 - S.W.3d - 2025 WL 876710 - 68 Tex. Sup. Ct. J. 539

Developer of master-planned community in floodplain brought inverse condemnation action against city, alleging that city's amendment of floodplain ordinance following historic hurricane, to require residences to be built at least two feet above the 500-year floodplain, was a regulatory taking under the State Constitution.

The County Civil Court at Law denied city's plea to the jurisdiction. City filed interlocutory appeal. The Houston Court of Appeals reversed. Developer petitioned for review.

The Supreme Court held that:

- Amendment of ordinance as exercise of police power did not preclude regulatory takings claim;
- Amendment of ordinance to ensure compliance with federal flood insurance program did not preclude regulatory takings claim;
- Regulatory takings claim was ripe for adjudication; and
- Developer had standing to assert a regulatory takings claim

City's amendment of floodplain ordinance to require residences to be built at least two feet above the 500-year floodplain, as an exercise of police power following historic hurricane with catastrophic flooding, did not preclude developer of master-planned community within 100- and 500-year floodplains from having a regulatory takings claim against city under the State Constitution; a regulation could cause a compensable taking even if it resulted from a valid exercise of the government's police power.

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