LEGAL UPDATES

PUBLISHED: JULY 9, 2021

Dismissal of Takings Claims Against Water Authority

Service

Public Law

Key Point:

The San Antonio Court of Appeals held property owners lacked standing to sue over lowering dam gates because the damages they alleged were not specific to them but suffered by the public at large.

On July 7, 2021, a three-justice panel of the Fourth Court of Appeals in San Antonio held that a group of 300 lakefront property owners lacked standing in a constitutional takings suit. Jimmy and Cheryl Williams et al. v. Guadalupe-Blanco River Authority et al., No. 04-20-00445-CV19-0605 (Tex. App.-San Antonio, 2021). The property owners aimed to stop the Guadalupe-Blanco River Authority (GBRA) from lowering spill gates at four dams near San Antonio.

The property owners filed suit against GBRA in 2019 after it announced it would lower spill gates at four lake dams to avoid "imminent" failures. The property owners claim the announcement caused their property value to fall sharply. While GBRA predicted lowering the spill gates would only cause water levels to decrease by 12 feet, the property owners still argued the result would be an "aesthetic and recreational loss.". The court however reasoned that lower water levels and recreational loss do not qualify as specific damages to the property owners and therefore do not establish the property owners' standing to sue.

Deteriorating Dams Problem

While the lawsuit is recent, the landowners alleged that the problem with the dams is decades old. The six hydroelectric dams in question were built between 1928 and 1932 by private parties. The six dams resulted in the formation of six lakes: Meadow Lake and Lakes Placid, McQueeny, Dunlap,

© 2026 HUSCH BLACKWELL LLP. ALL RIGHTS RESERVED

Wood and Gonzalez. In 1963, GBRA acquired the six dams and the 15 spill gates they contain.

In 2016, one of the spill gates at Lake Wood dam failed, draining the lake which remains empty today. Similarly, in 2019, one of the spill gates at Lake Dunlap dam failed, draining it to its original river channel. As a result of these failures, GBRA developed a plan for a "systematic drawdown" of the remaining four lakes. GBRA said its decision to lower the spill gates was made to "safeguard human life and property."

In their lawsuit, the property owners claim they invested hundreds of millions of dollars into their lakefront properties based on GBRA's promise to maintain the six dams. They claimed the authority's failure to maintain, repair or replace the dams has led to the current situation, and that the authority's plan caused their property values to fall between 28% and 33%.

The GBRA, meanwhile, claimed it never promised to maintain the dams in perpetuity and that it lacked authority to raise the more than $180 million needed to repair and replace the old dams.

Appellate Court's Decision

The Appellate Court did not reach the issue of dam maintenance and repair. Instead its decision rested on the property owners' lack of standing to file suit. Establishing standing requires a particularized injury suffered by the property owner. The Court determined that aesthetic and recreational loss were suffered by "the public at large," not just the property owners, and consequently the property owners lacked standing. *Id; see also Texas Dept. of Transp. v. City of Sunset Valley*, 146 S.W.3d 637, 647 (Tex. 2004).

The Court went on to explain that the property owners did not plead that GBRA's decision resulted in a *physical* invasion of their lake-adjacent properties such as flooding. In fact, the opposite is true—the property owners brought suit because of the waterline *receding* from their property. Ultimately, the Court relied on precedent that forecloses standing based on diminished property value. *See City of West Lake Hills v. State ex rel. City of Austin*, 466 S.W. 2d 722, 726 (Tex. 1971).

What this means to you

For water authorities it is still important to follow proper condemning protocols when taking land or making decisions that may impact adjacent property owners. However, where the harm is one that is suffered by the community at large, and not just the property owner, it is likely the property owner will lack standing to sue.

Contact us

If you have questions about this update or how it might affect your business, contact Kate David, Mike Stafford, Ben Stephens, Logan Leal or Anthony Franklyn.

© 2026 HUSCH BLACKWELL LLP. ALL RIGHTS RESERVED