



Case Summaries March 21, 2025

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DECIDED CASES

The Commons of Lake Hous., Ltd. v. City of Houston, ___ S.W.3d ___, 2025 WL ___ (Tex. March 21, 2025) [[23-0474](#)]

This case concerns when an inverse-condemnation or takings claim becomes ripe.

The Commons is the developer of a master-planned community, parts of which are located within the City's 100-year or 500-year floodplains. In 2018, the City passed a Floodplain Ordinance, which raised the required elevation for new residential structures within the floodplains. The Commons sued the City for inverse condemnation and takings. The City filed a plea to the jurisdiction arguing that the claims were unripe because the City had not made a final decision on a permit or application. The Commons argued that the City unreasonably withheld a decision, so its claims were ripe under the futility doctrine.

The trial court denied the City's plea, and the court of appeals reversed. The court of appeals held that The Commons's claims were barred by governmental immunity because the Floodplain Ordinance was a valid exercise of the City's police power and made pursuant to the National Flood Insurance Program and could not, therefore, constitute a taking.

The Supreme Court reversed. It rejected the notion that the City's exercise of police power excuses it from paying for taking property, stating that whether a regulation constitutes a valid exercise of the police power is irrelevant to whether the regulation causes a compensable taking. It then rejected the argument that a takings claim must fail as a matter of law if it is based on a local ordinance adopted to comply with the National Flood Insurance Program. The cases relied upon by the court of appeals were inapposite because they concerned facial challenges to the NFIP, whereas this case concerned an as-applied challenge. The Court did not address whether The Commons can prevail on its as-applied challenge on remand.

Finally, the Court held that The Commons's claims were ripe, and it had standing to pursue them. The City's assertions that The Commons could never obtain a permit indicate the finality of the City's decision. The Commons had standing because it possessed a vested interest in the property at issue and its claim is redressable. The Court remanded the case to the trial court.