

Regulatory Takings

9TH ANNUAL ADVANCED TEXAS
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The Takings Clause

- Fifth Amendment: “nor shall private property be taken for public use without just compensation”
- Article I, Section 17 of the Texas Constitution: “No person’s property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made.”


Elements of inverse condemnation claim:

- Government intentionally performs an act in exercise of its lawful authority
- That resulted in the taking, damaging or destruction of property
- For public use



Types of governmental takings:

- Direct appropriation
- Regulatory takings



Regulatory taking: If a regulation goes “too far” it will be a taking.

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