

# Methods and Challenges in the Credible Valuation of Water Rights in Texas

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**George Washington Brackenridge, 1879**  
*“Water renders the land its value.”*

What is our purpose today?

*... to discuss the challenges and our suggested methodology to determine the practical, credible, and defensible “fair market value” of a water right in Texas.*

### “Fair Market Value” Historical Definition

**The price the property would bring when offered for sale by a seller desiring to sell, but not obliged to do so, and bought by a purchaser desiring to buy, but under no necessity of doing so.**

*– or shorter version -*

**The price a willing buyer and willing seller, neither being under any duress, will agree to in order to transfer title.**

***Fair Market Value*** in Texas now adds ...

**... as modified by evidence § 51.003(b) authorizes the trial court to consider in its discretion, to the extent such evidence is not subsumed\* in the historical definition.**

\*Included or absorbed (something) in something else

*Plains Capital Bank v. William Martin*. No. 13-0337, \_\_ S.W.3d \_\_ (Tex. March 27, 2015) [emphasis added]; *see* Tex. Prop. Code §51.003.

*From Hirsch Westheimer, Michael D. Conner, April 9, 2015.*

<http://www.hirschwest.com/fair-market-value-under-texas-property-code-section-51-003/>

**Best Fair Market Value Definition for Water – by  
Bruggeman and Fisher – direct quote below.**

“Market value is a key consideration when ***financing or investing*** [emphasis added] in income-producing properties. It is defined as follows:

The ***most probable price*** [emphasis added] which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller acting prudently and knowledgably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:...

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