

NEW LAND-USE CASES

James L. Dougherty, Jr.
Houston, Texas

Land Use Conference
University of Texas CLE
April 2021



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- RIPENESS & EXHAUSTION
- PRIVATE PARTY ENFORCEMENT
- REGULATORY TAKINGS (Exactions)
- DEVELOPMENT-RELATED AGREEMENT'S
- FIRST AMENDMENT (Sign Regulations)
- FIRST AMENDMENT (Anti-SLAPP-Suits)
- OTHER CASES

Cross references to page numbers
in the paper appear in red: "Page 1" etc.

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● **RIPENESS & EXHAUSTION**

Tejas Motel v. City of Mesquite

City of Dickinson v. Stefan,

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RIPENESS & EXHAUSTION OF ADMIN. REMEDIES

Background *Page 1-2*

- Ripeness doctrine
 - must get a “final decision”
 - must pursue local approvals, including variance(s)
 - help the court determine “how far” the regulation goes
 - Exceptions: futility, facial challenges, etc.
 - See *Village of Tiki Island v. Premier Tierra Holdings* (two opinions)
- Similar doctrine: exhaustion of administrative remedies
- “Jurisdictional” = possible dismissal of suits

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Tejas Motel v. City of Mesquite Page 2

- Motel built ca. 1970
- Zoning OK until 1997 . . . made non-conforming . . .
. . . no internal hallways, no meeting room, etc.
- Two-step amortization, new in 2018 . . . BOA must decide:
 - Adverse effect on nearby properties?
 - If so, when to set “compliance date”
- City Council referred five properties to BOA
- At BOA: Agreed “Order and Decision” . . . eight mo. to comply
- No certiorari filed within 10-day period . . . LGC 211.011
- Owner filed >3 months later . . . certiorari, TOMA, takings etc.

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Tejas Motel v. City of Mesquite

- Court of Appeals:
 - Owner “failed to exhaust its administrative remedies”
 - dismissed all claims** including certiorari, TOMA, takings

Court dismissed federal takings claims too

“no vested property interest in . . . nonconforming use”

“no reasonable investment-backed expectations in
continuing that use”

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First appeared as part of the conference materials for the
25th Annual Land Use Conference session

"Case Law Updates: Part 1"