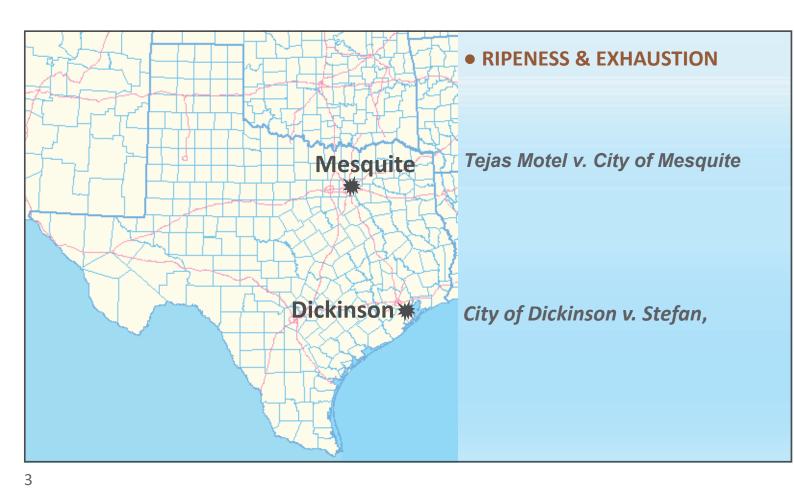


 RIPENESS & EXHAUSTION PRIVATE PARTY ENFORCEMENT McKinney REGULATORY TAKINGS (Exactions) Carrollton Plano DEVELOPMENT-RELATED AGREEMT'S Ft. Worth Mesquite ***Waco FIRST AMENDMENT (Sign Regulations)** Georgetown Austin * **FIRST AMENDMENT (Anti-SLAPP-Suits)** League City Dickinson • OTHER CASES Cross references to page numbers in the paper appear in red: "Page 1" etc. **Brownsville**



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

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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RIPENESS & EXHAUSTION OF ADMIN. REMEDIES

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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