

LAND USE UPDATE

James L. Dougherty, Jr.

Attorney at Law, Houston, Texas

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I. CONFLICT & PREEMPTION (state and federal laws)



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City of Houston v. Southern Crushed Concrete

398 S.W.3d 676 (Tex. 2013)

- **City ordinance:** Restricted locations for concrete crushers



- **Ruling:** City *could not make unlawful* a condition or act approved or authorized under the Texas Clean Air Act or TCEQ rules

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- **Executive:** Governor calls for specific preemptions and even categorical preemption

Attorney General opinions

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- **Legislative:** 2015 bill preempted local regulation of oil and gas exploration, production, processing, transporting, etc., including, e.g. “fracking”

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2017 preemptive bills:

- Uber-Lyft regs
- “bathroom” bill
- tax levy bill
- vested-rights
- tree ordinances
- manufactured housing
- cellular facilities in public ROW
(etc.)

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