



## Eminent Domain Jurisdiction in Texas

### *In Texas' Five Largest Counties, Eminent Domain Cases are Neither Filed nor Tried in District Court*

by Bill Peacock  
Vice President of  
Research and Director  
of the Center for  
Economic Freedom

Texas law is very clear about where eminent domain cases are to be tried. While Sec. 21.001, Property Code, gives concurrent jurisdiction in eminent domain cases to both county courts at law and district courts, Sec. 21.013(b) requires that the cases be filed and tried in a county court at law in any county which has a county court at law with eminent domain jurisdiction.

#### Key Points

- In Texas' five largest counties, eminent domain cases are neither filed nor tried in district court.
- Sec. 21.013(b), Property Code, requires that the cases be filed and tried in a county court at law in any county which has a county court at law with eminent domain jurisdiction.

There are some counties that don't have county courts at law; in these counties, district courts do hear eminent domain cases. In other counties, special exceptions are made where eminent domain cases are filed in other courts. When it comes to the five largest counties in Texas, in Harris, Dallas, and Tarrant counties, eminent domain cases are filed and tried in county courts at law. Harris County county courts at law are given exclusive jurisdiction over eminent domain cases, but the cases are handled the same there as in the rest of the counties with concurrent jurisdiction. In Travis and Bexar counties, special provisions give jurisdiction over eminent domain cases to probate courts, though in Travis County the cases are generally transferred for trial to county courts at law.

The bottom line is that eminent domain cases are not filed in district courts in the five largest counties. And this is also the case in most—if not all—other counties that have both courts.

#### Property Code Provisions Related to Eminent Domain Jurisdiction – Statewide

Sec. 21.001. **CONCURRENT JURISDICTION.** District courts and county courts at law have concurrent jurisdiction in eminent domain cases. A county court has no jurisdiction in eminent domain cases.

Sec. 21.012. **CONDEMNATION PETITION.** (a) If an entity with eminent domain authority wants to acquire real property for public use but is unable to agree with the owner of the property on the amount of damages, the entity may begin a condemnation proceeding by filing a petition in the proper court.

Sec. 21.013. **VENUE; FEES AND PROCESSING FOR SUIT FILED IN DISTRICT COURT.** (a) The venue of a condemnation proceeding is the county in which the owner of the property being condemned resides if the owner resides in a county in which part of the property is located. Otherwise, the venue of a condemnation proceeding is any county in which at least part of the property is located.

(b) Except where otherwise provided by law, a party initiating a condemnation proceeding in a county in which there is one or more county courts at law with jurisdiction shall file the petition with any clerk authorized to handle such filings for that court or courts.

(c) A party initiating a condemnation proceeding in a county in which there is not a county court at law must file the condemnation petition with the district clerk.

## **Government Code Special Provisions Related to Eminent Domain Jurisdiction – Five Largest Counties**

### ***Harris County – Eminent Domain Cases are tried in County Courts at Law, not District Courts***

Sec. 25.1032. **HARRIS COUNTY CIVIL COURT AT LAW PROVISIONS.**

(c) A county civil court at law has exclusive jurisdiction in Harris County of eminent domain proceedings, both statutory and inverse, regardless of the amount in controversy.

### ***Dallas County – Eminent Domain Cases are tried in County Courts at Law, not District Courts***

No special provisions.

### ***Tarrant County – Eminent Domain Cases are tried in County Courts at Law, not District Courts***

Sec. 25.2222. **TARRANT COUNTY COURT AT LAW PROVISIONS.** (b) A county court at law has concurrent jurisdiction with the district court in:

(4) eminent domain proceedings, both statutory and inverse, regardless of the amount in controversy;

### ***Travis County – Eminent Domain Cases are filed in Probate Courts but generally tried in County Courts at Law, not District Courts***

Sec. 25.2293. **TRAVIS COUNTY PROBATE COURT PROVISIONS.** (c) A statutory probate court has eminent domain jurisdiction. All actions, cases, matters, or proceedings of eminent domain arising under Chapter 21, Property Code, or under Section 251.101, Transportation Code, shall be filed and docketed in Probate Court No. 1 of Travis County. A statutory probate court may transfer an eminent domain proceeding to a county court at law in the county.

### ***Bexar County – Eminent Domain Cases are tried in Probate Courts, not District Courts***

Sec. 25.0173. **BEXAR COUNTY PROBATE COURTS.** (a) A statutory probate court in Bexar County has the general jurisdiction of a probate court as provided by Section 25.0021. Probate Courts Nos. 1 and 2 have eminent domain jurisdiction and jurisdiction to decide the issue of title to real or personal property. Notwithstanding the local rules adopted under Section 74.093, the county clerk shall docket all eminent domain cases equally in Probate Court No. 1 and Probate Court No. 2. ★

## **About the Texas Public Policy Foundation**

The Texas Public Policy Foundation is a 501(c)3 non-profit, non-partisan research institute. The Foundation's mission is to promote and defend liberty, personal responsibility, and free enterprise in Texas and the nation by educating and affecting policymakers and the Texas public policy debate with academically sound research and outreach.

Funded by thousands of individuals, foundations, and corporations, the Foundation does not accept government funds or contributions to influence the outcomes of its research.

