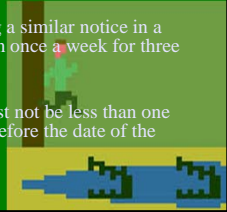


Tex. Parks & Wild. Code Ch. 26

- Notice
 - 30 days before a public hearing:
 - **Notify the owner/agency** in writing by stating clearly the proposed program or project and the date and place for the public hearing;
 - **Notify the public** by publishing a similar notice in a newspaper of general circulation once a week for three consecutive weeks; and
 - The last days of publication must not be less than one week or more than two weeks before the date of the hearing.



Tex. Parks & Wild. Code Ch. 26

- Necessary Findings
 - (1) there is no feasible and prudent alternative to the use or taking of such land; and
 - (2) the program or project includes all reasonable planning to minimize harm to the land, as a park, recreation area, scientific area, wildlife refuge, or historic site, resulting from the use or taking.




Tex. Parks & Wild. Code Ch. 26

- Exceptions
 - Land originally obtained and designated for another public use and is temporarily used as a park, recreation area, or wildlife refuge pending its use for the originally designated purpose...




Change in Use or Taking

- Changes in Use
 - Persons v. City of Fort Worth, 790 S.W.2d 865 (1990)
 - Walker v. City of Georgetown, 86 S.W.3d 249 (2002)
 - City of Heath v. Duncan, 152 S.W.3d 147 (2004)



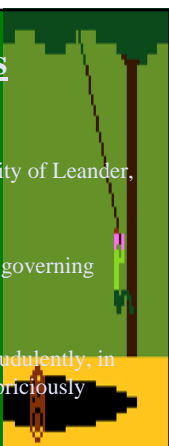
Change in Use or Taking

- Condemnation
 - Block House Mun. Utility Dist. v. City of Leander, 291 S.W.3d 537 (2009)




Legal Challenges

- Judicial Review
 - Block House Mun. Utility Dist. v. City of Leander, 291 S.W.3d 537 (2009)
 - City's burden?
 - conclusively establish that the governing body made a determination
 - Challenger's burden?
 - establish that the city acted fraudulently, in bad faith, or arbitrarily and capriciously



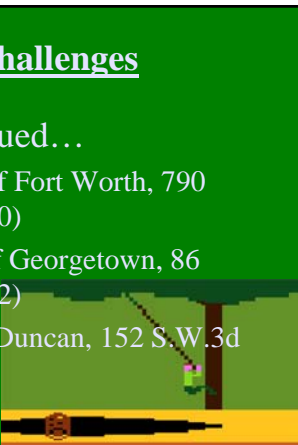
Legal Challenges

- Standing
 - Chapter 26 does not specifically confer standing, so...plaintiff must allege particularized injury.



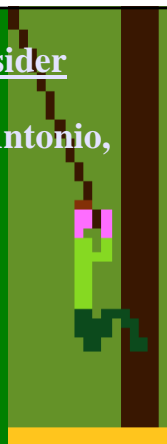
Legal Challenges

- Standing continued...
 - Persons v. City of Fort Worth, 790 S.W.2d 865 (1990)
 - Walker v. City of Georgetown, 86 S.W.3d 249 (2002)
 - City of Heath v. Duncan, 152 S.W.3d 147 (2004)




Other Issues to Consider

- **Zachry v. City of San Antonio, 305 S.W.2d 558 (1957)**
 - Not expressly overruled by Texas Courts



Other Issues to Consider

- **Sale or Lease of Park Land**
 - Tex. Loc. Gov't Code § 253.001
 - Tex. Loc. Gov't Code § 272.001
 - Is the lease or change in use actually a sale?
 - Lease Agreements
 - Friendly Condemnations
 - Development Agreements



Questions?



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