

File

CITATION

THE STATE OF TEXAS

To School Land Board of the State of Texas by serving The Commissioner
of the General Land Office of the State of Texas
Austin, Travis County, Texas (Engin) 836

Defendant _____, in the hereinafter styled and numbered cause:

You are hereby commanded to appear before the 126th District Court of Travis County, Texas, to be held at the courthouse of said County in the City of Austin, Travis County, Texas, by filing a written answer to the petition of plaintiff _____ at or before 10 o'clock a. m. of the Monday next after the expiration of 20 days after the date of service hereof, a copy of which accompanies this citation, in cause number

278,722 _____, styled

Bruce Anderson, et al _____, Plaintiff _____,

vs. School Land Board of The State of Texas _____, Defendant _____,

filed in said court on the 11th day of August, 19 78.

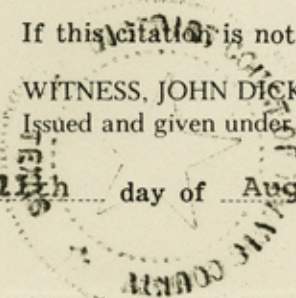
DELIVERED THIS 15 DAY OF Aug 1978
JOHN L. MILLOY
CONSTABLE, P.R.E. 5, TRAVIS COUNTY, TEXAS
BY Lawrence C. Fabela DEPUTY

If this citation is not served within 90 days after date of its issuance, it shall be returned unserved.

WITNESS, JOHN DICKSON, Clerk of the District Courts of Travis County, Texas.

Issued and given under my hand and seal of said Court at office in the City of Austin, this the

11th day of August, 1978.



JOHN DICKSON

Clerk of the District Courts of Travis County, Texas

By Laurinda A. Youngblood Deputy

OFFICER'S RETURN

Came to hand on the _____ day of _____, 19____, at _____ o'clock _____ M.

Executed at _____, within the County of _____, at _____ o'clock _____ M.

on the _____ day of _____, 19____, by delivering to the within named _____

_____ each, in person, a true copy of this citation together with the accompanying copy of the petition, having first attached such copy of such petition to such copy of citation and indorsed on such copy of citation the date of delivery.

Sheriff's Fee _____ \$8.00

Sheriff Account
No. _____

To certify which witness my hand officially. _____

CONSTABLE _____ Sheriff of _____ County, Texas

By _____ Deputy.

For Clerk's Use

Taxed _____
Return recorded _____

NO. 278,722

BRUCE ANDERSON, ET AL I IN THE DISTRICT COURT
V. I TRAVIS COUNTY, TEXAS
SCHOOL LAND BOARD OF I 126thJUDICIAL DISTRICT
THE STATE OF TEXAS

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Bruce Anderson and Cecil R. Payne, hereinafter called plaintiffs, complaining of the School Land Board of the State of Texas, hereinafter called defendant, seeking a declaratory judgment against the State of Texas, and in support thereof would show the following:

I

Service of citation on the defendant may be had by serving the Commissioner of the General Land Office of the State of Texas.

II

This suit has been authorized by the Legislature of the State of Texas and by its Governor pursuant to House Concurrent Resolution No. 4, adopted by the House of Representatives on July 20, 1978, and by the Senate on July 27, 1978, to which resolution reference is here made for all purposes.

III

This suit is brought under the authority of Section 33.171 of the Natural Resources Code by plaintiffs who are littoral property owners as defined by said Code and whose rights as littoral property owners are being affected by actions of the defendant. Section 33.171 of said Code reads as follows:

"(a) A littoral owner whose rights may be affected by any action of the board under this Chapter may bring suit for a declaratory judgment against the State of Texas in a District Court in Travis County, Texas, to try the issues.

"(b) Service of citation may be obtained by serving the commissioner."

IV

Plaintiffs are the owners of the fee title to the following described property to which they hold a warranty deed that was duly recorded in the Deed Records of the County Clerk of Nueces County, Texas, on August 24, 1977, and found in Volume 1624, page 32, et seq., of the Deed Records of said County, to-wit:

Lots Nos. One (1) through Twelve (12), both inclusive, Block No. Eighteen (18), BROOKLYN, an addition to the City of Corpus Christi, Texas, as shown by the map or plat thereof recorded in Volume "A", page 32, Map Records of Nueces County, Texas, and more particularly described by metes and bounds as follows, to-wit:

BEGINNING at the North corner of Lot No. Twelve (12) of said Block No. Eighteen (18), BROOKLYN ADDITION;

THENCE South 58° East a distance of 280 feet to the East corner of this tract;
THENCE South 32° West a distance of 300 feet to the South corner of this tract;
THENCE North 58° West a distance of 280 feet to the West corner of this tract;
THENCE North 32° East a distance of 300 feet to the North corner of this tract and the POINT OF BEGINNING;

TOGETHER with all riparian and littoral rights of grantors herein appurtenant to said property.

The following described portion of said property, herein called "the land in dispute", is claimed by the Commissioner of the General Land Office of Texas on behalf of the School Land Board, to-wit:

BEGINNING at a point in the north property line of the above described tract which bears S 58° E, 261.74 feet from the north corner of said tract;
THENCE S 58° E, a distance of 18.26 feet to the east corner of this tract;
THENCE S 32° W, a distance of 300 feet to the south corner of this tract;
THENCE N 58° W, a distance of 30.41 feet to the west corner of this tract;
THENCE N 34° 19' 9" E, a distance of 300.25 feet to the PLACE OF BEGINNING and the north corner of this tract, and containing approximately 7500 square feet.

V

All of the land described in paragraph IV is located on Corpus Christi Beach and was originally part of the Levi Jones

patent issued by the State of Texas in 1838 and which has consistently been claimed and deeded as private property since being patented. Since the granting of the Levi Jones Patent there have been several catastrophic and unnatural changes which have caused a portion of the Levi Jones land to be covered by the waters of Corpus Christi Bay. Until 1919 the natural currents of Corpus Christi Bay caused neither accretion nor erosion to any measurable extent on the property within the Levi Jones Patent; then in 1919, severe avulsion, resulting from a violent hurricane, caused the sudden and immediate removal of approximately three hundred (300) feet of the land from Corpus Christi Beach and the Levi Jones Patent. The Corpus Christi Beach Area has also been subjected to subsequent avulsive hurricanes such as Hurricane Carla which occurred in the early 1960, Hurricane Beulah in 1967, and Hurricane Celia in 1970.

VI

In 1973 the land in dispute was not covered by the waters of Corpus Christi Bay but was in fact situated to the west of the low water mark for Corpus Christi Bay. During that year the landowners to the south of the lands owned and claimed by plaintiffs constructed four groins extending from their property line east into Corpus Christi Bay. Subsequently in 1975 and 1976 winter storms bringing sudden strong winds and currents caused the sudden and immediate removal of the land in dispute. Thereafter this area was prevented by the groins referred to above from receiving shore-building materials that would have ordinarily restored such losses.

VII

Plaintiffs and prior owners have paid ad valorem taxes on the property described in paragraph IV to the State of Texas and the County of Nueces all during their ownership, and the State of Texas has never refused to accept the ad valorem taxes nor ever questioned the title and ownership of

plaintiffs and their predecessors in said property.

VIII

Plaintiffs have been advised that the land in dispute described in paragraph IV is claimed by the Commissioner of the General Land Office of Texas on behalf of the School Land Board, and this suit is brought by plaintiffs, the littoral owners, whose rights and ownership may be affected by such claim.

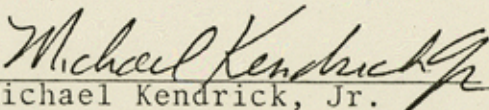
IX

Plaintiffs would show that they are entitled to a declaratory judgment that they are the fee title owners of the land in dispute.

WHEREFORE, premises considered, plaintiffs pray that defendant be cited to appear and answer herein, and that upon final hearing this Court enter a declaratory judgment vesting in plaintiffs fee simple ownership to the land in dispute, and for such other relief to which they may be entitled.

Respectfully submitted,

HEAD, KENDRICK & HEAD
1020 Bank & Trust Tower
Corpus Christi, Texas 78477

By 
Michael Kendrick, Jr.

ATTORNEYS FOR PLAINTIFFS

BRUCE ANDERSON, ET AL § IN THE DISTRICT COURT

V. § TRAVIS COUNTY, TEXAS

SCHOOL LAND BOARD OF § 126TH JUDICIAL DISTRICT
THE STATE OF TEXAS

JUDGMENT

On this the 26 day of SEPT, 1978, came on to be heard the above-entitled and numbered cause, and came the Plaintiffs by and through their attorney of record, and came the Defendant, School Land Board of the State of Texas, through the Attorney General of Texas, and the Court, after considering the pleadings and the evidence, finds that service of citation on the Defendant has been properly made by serving the Commissioner of the General Land Office of the State of Texas; that said Defendant has answered and appeared herein; that this suit has been authorized by the Legislature of the State of Texas and by its Governor pursuant to House Concurrent Resolution No. 4, adopted by the House of Representatives on July 20, 1978, by the Senate on July 27, 1978, and signed by the Governor of the State of Texas on August 14, 1978; that this suit is brought under the authority of the Natural Resources Code of the State of Texas by Plaintiffs, who are the littoral property owners as defined by said Code and whose rights as littoral property owners are being affected by actions of the Defendant; that Plaintiffs are the owners of the fee title to the following described property, to which they hold a warranty deed that was recorded in the Deed Records of the County Clerk of Nueces County, Texas, on August 24, 1977, and is recorded in Volume 1624, page 32, of the Deed Records of said County, to-wit:

Lots Nos. One (1) through Twelve (12), both inclusive, Block No. Eighteen (18), BROOKLYN, an addition to the City of Corpus Christi, Texas, as shown by the map or plat thereof recorded in

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FILED

SEP 26 4 22 PM '78

John Dickson
DISTRICT CLERK
TRAVIS COUNTY, TEXAS

NOTED

counter 32668

Volume "A", page 32, Map Records of Nueces County, Texas, and more particularly described by metes and bounds as follows, to-wit:

BEGINNING at the North corner of Lot No. Twelve (12) of said Block No. Eighteen (18), BROOKLYN ADDITION;

THENCE South 58° East a distance of 280 feet to the East corner of this tract;
THENCE South 32° West a distance of 300 feet to the South corner of this tract;
THENCE North 58° West a distance of 280 feet to the West corner of this tract;
THENCE North 32° East a distance of 300 feet to the North corner of this tract and the POINT OF BEGINNING;

That the following described portion of the above-described land, herein called "the land in dispute", has been claimed by the Commissioner of the General Land Office of Texas on behalf of the School Land Board, to-wit:

BEGINNING at a point in the north property line of the above described tract which bears S 58° E, 261.74 feet from the north corner of said tract;
THENCE S 58° E, a distance of 18.26 feet to the east corner of this tract;
THENCE S 32° W, a distance of 300 feet to the south corner of this tract;
THENCE N 58° W, a distance of 30.41 feet to the west corner of this tract;
THENCE N 34° 19' 9" E, a distance of 300.25 feet to the PLACE OF BEGINNING and the north corner of this tract, and containing approximately 7500 square feet;

That all of the land described above is located on Corpus Christi Beach and was originally part of the Levi Jones Patent issued by the State of Texas in 1838, and which has been consistently claimed and deeded as private property since it was patented; that when originally surveyed and patented by the State of Texas, the land in dispute was above and west of the shoreline and the line of both mean high tide and mean higher high tide for Corpus Christi Bay in the area of the land in dispute; and the Court further finds, based on these facts and the other evidence offered, that Plaintiffs are entitled to recover judgment against the Defendant for title to and possession of the land in dispute;

It is, accordingly, ORDERED, ADJUDGED and DECREED

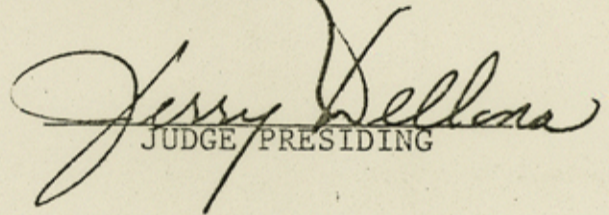
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Counter 32669

Plaintiffs have and recover of Defendant fee simple title to and possession of the land described above as "the land in dispute", which title and possession is by this judgment vested in Plaintiffs; and

It appearing to the Court that all costs have been paid by Plaintiffs in this cause and that Plaintiffs do not seek recovery of costs, it is ORDERED that all costs in this proceeding shall be assessed against the Plaintiffs, for which let execution issue if not paid forthwith.

ORDERED, ENTERED and SIGNED this the 26 day of Sept, 1978.


JERRY BELLERA
JUDGE PRESIDING

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THE STATE OF TEXAS

COUNTY OF TRAVIS

I, JOHN DICKSON, Clerk of the District Courts, within and for the State and County aforesaid, do hereby certify that the within and foregoing is a true and correct copy of

JUDGMENT

in Cause No. 278,722, wherein

BRUCE ANDERSON, ET AL

Plaintiff _____,

V.

~~xxxx~~

SCHOOL LAND BOARD OF THE STATE OF TEXAS

Defendant _____,

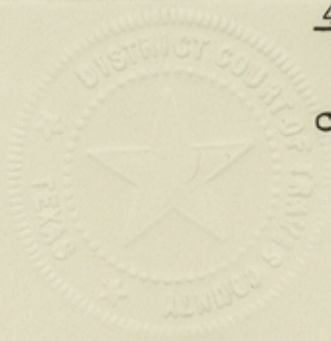
as the same appears on file and of record in this office.

Given under my hand and seal of office at Austin, Texas, this the

4th day of October, 19 78

JOHN DICKSON
Clerk, District Courts, Travis County, Texas

By Laurenda A. Youngblood
Deputy



Sketch

File No. 4B

Nueces County

Block 18 - Brooklyn Add. to Corpus Chr.

Filed October 19 78

BOB ARMSTRONG, Com'r

By James E. McCarty

Final Judgement

Cause No. 278,722

District Court, Travis County

Bruce Anderson vs

School Land Board.