



June 27, 2023

The Honorable Arch "Beaver" Aplin, III
Chairman
Texas Parks and Wildlife Commission
327 FM 2004
Lake Jackson, TX 77566

To: Texas Parks and Wildlife Commission
Re: Fairfield Lake potential condemnation

The Real Estate Council (TREC) of Dallas requests that the Texas Parks and Wildlife Commission ("TPWC") immediately reverse its decision to proceed with the eminent domain/condemnation proceedings regarding the land and water rights in and around the state park in Freestone County known as Fairfield Lake State Park and Fairfield Lake.

TREC understands that over the course of many months, the TPWC declined multiple opportunities to purchase the property from the previous owner in both off-market transactions and during an openly marketed sales process. On June 10, the TPWC voted to exercise eminent domain on this property and its water rights through condemnation, setting a dangerous precedent for property rights and ownership in Texas that must be reversed.

The following points are compelling reasons for the vote's reversal:

1. Their action directly opposes the results of House Bill 2332, and Senate Bill 1656 put forward in the 88th Texas State Legislative session this year. Both bills were written to permit eminent domain over this property and were rejected and deemed to not be in the best interests of the citizens of the State of Texas. The Commission's vote sets a precedent that appointed officials can overrule the decisions of publicly elected legislators.
2. The State of Texas has countless leases with real estate owners across the state. Pursuing eminent domain at the expiration of a government lease creates a problematic precedent for property owners who lease to state agencies and for future real estate transactions related to these leases. Allowing state agencies the power to do so without oversight and support from the Legislature is extremely troubling, and the local government where the property is located, Freestone County, does not support or endorse this action. Further, allowing this precedent could lead to attempts at similar overreach with eminent domain by other state agencies in the future.
3. The state is authorizing not only a claim for 1,821 acres of land formerly leased to the State of Texas but also an additional 3,200 acres of land and surface water and water rights, which are and have been privately owned.
4. We also understand that the Commission instructed TPWD Executive Director David Yoskowitz to draft a policy for TPWD to restrict the agency's use of eminent domain to extraordinary and unusual situations. This transaction was neither extraordinary nor unusual but a matter of private property ownership and the right to conduct marketplace business.



6. We do not want to see our Texas State Parks, which we, along with millions of our fellow Texans, cherish and support, begin a second century of existence under a cloud that has wrongly infringed on one of our state's longest-held and most treasured principles, the protection of private property rights.
7. We respectfully request that the Commission rescind its directive for eminent domain and condemnation and swiftly proceed with drafting a policy that will guide future Commissioners on what constitutes appropriate use of the powers conferred upon them.

This issue is of grave concern to The Real Estate Council, the largest commercial real estate organization in Texas, representing over 2,000 members and 650-member companies throughout North Texas.

Respectfully,

A handwritten signature in blue ink, which appears to read "Linda McMahon", is written over a horizontal line.

Linda McMahon
President & CEO, The Real Estate Council

CC:

Honorable Greg Abbott
Governor, State of Texas

David Yoskowitz, Ph.D.
Executive Director, Texas Parks and Wildlife D