

COURT OF APPEALS OF OHIO, EIGHTH APPELLATE DISTRICT,
CUYAHOGA COUNTY

State ex rel. Boggs v. Cleveland

2026-Ohio-1450 · No. 112111 · Decided April 23, 2026

SUMMARY

The Eighth District Court of Appeals of Ohio reviewed the case on remand from the Ohio Supreme Court and considered whether the statute of limitations barred a mandamus action seeking appropriation proceedings for an alleged taking caused by Cleveland Hopkins International Airport operations. The court held that the four-year limitation period under R.C. 2305.09(E) began when the runway expansion was completed in August 2004, making the action filed on August 1, 2008 timely. The court affirmed the trial court's ruling and remanded for further proceedings consistent with the opinion and the Ohio Supreme Court's decision.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
WRITING FOR THE COURT	Mary J. Boyle; Michelle J. Sheehan; Lisa B. Forbes
JURISDICTION	Ohio Court of Appeals, Eighth Appellate District, Cuyahoga County
DECIDED	April 23, 2026
DOCKET	112111
DISPOSITION	affirmed
PROCEDURAL POSTURE	On remand from the Ohio Supreme Court, the court of appeals considered Cleveland's cross-assignment of error asserting that the statute of limitations barred relators' mandamus action seeking appropriation proceedings for an alleged taking of real property. The court reviewed the parties' summary-judgment arguments de novo.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The appellate court independently determines whether there is no genuine issue of material fact and whether the moving party is entitled to judgment as a matter of law, construing the evidence most strongly in favor of the nonmoving party.
PRECEDENTIAL VALUE	Published
PARTIES	Susan Boggs, Fouad Rachid, Fouad, Inc. v. City of Cleveland

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QUESTIONS PRESENTED

1. Whether relators' mandamus action seeking appropriation proceedings for an alleged physical taking was barred by Ohio's four-year statute of limitations for claims based on a physical or regulatory taking of real property.
2. When the cause of action accrued for purposes of the four-year limitations period.
3. Whether the trial court properly denied Cleveland summary judgment on the statute-of-limitations defense.

HOLDINGS

1. A cause of action for mandamus relief to compel appropriation proceedings for an alleged taking accrues when all events fixing the government's alleged liability have occurred and the injury or taking was discovered, or through reasonable diligence should have been discovered.
2. Relators' August 1, 2008 mandamus action was timely because the first runway expansion was completed in August 2004, less than four years before the action was filed.
3. The trial court correctly denied Cleveland summary judgment on the statute-of-limitations defense because the action was filed within the applicable four-year period.

KEY QUOTATIONS

"We find that the completion of runway one is when all the events that fix the government's alleged liability occurred."

"Therefore, the filing of Boggs's writ of mandamus on August 1, 2008, was within the four-year-statute of limitations."

FACTUAL BACKGROUND

Fouad, Inc. has owned the property where Susan Boggs and Fouad Rachid reside since 1995, near Cleveland-Hopkins International Airport in Olmsted Township. Cleveland expanded two airport runways, with construction on the first runway beginning in January 2001, an initial opening in December 2002, and final completion at 9,000 feet in August 2004. Boggs alleged that low flights and airport operations caused noise, vibrations, fuel, and debris that interfered with residential use and constituted a taking. She filed the mandamus action on August 1, 2008, seeking to compel Cleveland to institute appropriation proceedings.

PROCEDURAL HISTORY

Relators filed a mandamus action in 2008 against Cleveland seeking to compel appropriation proceedings based on alleged airport-related interference with their property. After removal to federal court, the federal takings claim was resolved against relators, and the state-law claims were remanded to the Cuyahoga County Court of Common Pleas. The trial court granted Cleveland summary judgment, rejecting the statute-of-limitations defense but finding that relators lacked standing. In *Boggs I*, the court of appeals affirmed on standing grounds without reaching limitations. The Ohio Supreme Court reversed that decision in *Boggs II*, held that relators had standing, and remanded for consideration of the limitations issue. On this remand, the court of appeals affirmed the trial court's rejection of the limitations defense and remanded for further proceedings.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The cause is remanded to the trial court for proceedings consistent with this opinion and the Ohio Supreme Court's decision in *State ex rel. Boggs v. Cleveland*, 2025-Ohio-5094. Relators must still establish that Cleveland's actions amounted to a cognizable taking.

CASES CITED

- *State ex rel. Boggs v. Cleveland*, 2025-Ohio-5094
- *State ex rel. Boggs v. Cleveland*, 2023-Ohio-3871 (8th Dist.)
- *Boggs v. Cleveland*, FAA-2016-9337, 2017 FAA LEXIS 253, 2017 WL 11438604
- *Boggs v. Fed. Aviation Admin.*, 764 Fed.Appx. 480 (6th Cir. 2019)
- *Clifton v. Blanchester*, 2012-Ohio-780, 131 Ohio St. 3d 287, 964 N.E.2d 414
- *Moore v. Middletown*, 133 Ohio St. 3d 55, 2012-Ohio-3897, ¶ 22, 975 N.E.2d 977
- *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992)
- *Grafton v. Ohio Edison Co.*, 77 Ohio St.3d 102, 105 (1996)
- *Hollins v. Shaffer*, 2009-Ohio-2136, ¶ 12 (8th Dist.)
- *Smathers v. Glass*, 2022-Ohio-4595, ¶ 30
- *Dresher v. Burt*, 75 Ohio St.3d 280, 292-293 (1996)
- *Am. Dental Ctr. v. Wunderle*, 1993 Ohio App. LEXIS 4437, *4 (8th Dist. Sept. 16, 1993)
- *Corradi v. Soclof*, 1995 Ohio App. LEXIS 2162, *6 (8th Dist. May 25, 1995)
- *Toensing v. MK-Ferguson Co.*, 76 Ohio App.3d 826, 830 (8th Dist. 1992)
- *Celotex Corp. v. Catrett*, 477 U.S. 317, 323-324 (1986)
- *State ex rel. Nickoli v. Erie MetroParks*, 2010-Ohio-920
- *State ex rel. Doner v. Zody*, 2011-Ohio-6117, ¶ 34
- *State ex rel. Stamper v. Richmond Hts.*, 2010-Ohio-3884, ¶ 25 (8th Dist.)

