

COURT OF APPEALS FOR THE SECOND APPELLATE DISTRICT OF TEXAS
AT FORT WORTH

City of Arlington v. Cerkezi Enterprises, L.L.C., D/B/A Euro Car
Tech, and Elio Cerkezi

No. 02-25-00406-CV · No. No. 02-25-00406-CV · Decided January 8, 2026

SUMMARY

The Texas Court of Appeals, Second District, Fort Worth, considered an interlocutory appeal from the denial of the City of Arlington’s plea to the jurisdiction and combined traditional and no-evidence motion for summary judgment. The court held that Cerkezi Enterprises and Elio Cerkezi failed to state claims waiving the City’s governmental immunity, including inverse condemnation, estoppel, and alleged violations of Texas Local Government Code Section 211.019, and therefore reversed and rendered judgment.

CASE DETAILS

COURT	Court of Appeals for the Second Appellate District of Texas at Fort Worth
WRITING FOR THE COURT	Dana Womack; Bassel, J.; Womack, J.; Wallach, J.
JURISDICTION	Court of Appeals, Second Appellate District of Texas at Fort Worth
DECIDED	January 8, 2026
DOCKET	No. 02-25-00406-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Interlocutory appeal from the denial of the City of Arlington's combined traditional and no-evidence motion for summary judgment and plea to the jurisdiction.
STANDARD OF REVIEW	De novo review of the denial of a plea to the jurisdiction, including challenges to jurisdictional facts; the court considers evidence when jurisdictional facts are challenged and construes pleadings in the plaintiff's favor.
PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	City of Arlington v. Cerkezi Enterprises, L.L.C., d/b/a Euro Car Tech, Elio Cerkezi

TOPICS

zoning municipal law interlocutory appeal subject matter jurisdiction summary judgment

PRACTICE AREAS

municipal law land use and zoning governmental immunity constitutional takings civil procedure

QUESTIONS PRESENTED

1. Whether Euro Car Tech stated an inverse-condemnation claim when it consented, without objection, to the fence requirement imposed as a condition of rezoning.
2. Whether Euro Car Tech stated equitable or quasi-estoppel claims against the City based on reliance on erroneously issued certificates of occupancy and the City's enforcement of its zoning requirements.
3. Whether Euro Car Tech's business constituted a statutory nonconforming use under Texas Local Government Code section 211.019.

HOLDINGS

1. Euro Car Tech's consent to the fence requirement as a condition of obtaining rezoning defeated its inverse-condemnation claim because a person who consents to governmental action cannot validly assert a takings claim based on that action.
2. Euro Car Tech failed to state a valid equitable or quasi-estoppel claim against the City because the erroneous certificates of occupancy were void and created no protected property rights or estoppel.
3. Euro Car Tech's major auto-repair and used-car activities were not a statutory nonconforming use because those uses were illegal when Arlington Ordinance 96-111 became effective; section 211.019 therefore did not waive the City's immunity or support the claim.

KEY QUOTATIONS

"Article I, Section 17 itself recognizes the owner's 'consent' as a defense" (10)

"By seeking the rezoning of its property and failing to raise an objection about the fence before either the Planning and Zoning Commission or the City Council, we conclude that Euro Car Tech consented to the construction of the fence around its property as a condition to the City's rezoning of the property for use as 'major auto repair.'" (15)

"Therefore, the use was not a 'nonconforming use,' and Texas Local Government Code Section 211.019 is inapplicable and will not support a claim." (22)

"Having sustained the City's three issues, we reverse the trial court's order denying the City's motion and render judgment dismissing Euro Car Tech's claims against the City." (23)

FACTUAL BACKGROUND

Euro Car Tech operated a major auto-repair and used-car business at property governed by Arlington Ordinance 96-111, although that zoning ordinance authorized only minor auto repair and certain Community Services uses.

The City had issued certificates of occupancy erroneously stating that major auto repair was authorized, later corrected the certificates, and required an eight-foot fence as a condition of rezoning the property to permit major auto repair. Euro Car Tech and its counsel did not object to the fence condition during the zoning proceedings, and Euro Car Tech subsequently sued the City for inverse condemnation, estoppel, and damages under Texas Local Government Code section 211.019.

PROCEDURAL HISTORY

Euro Car Tech sued the City in state court for inverse condemnation, equitable and quasi-estoppel, and alleged violations of Texas Local Government Code section 211.019. After discovery, the City filed a combined motion for summary judgment and plea to the jurisdiction, which the trial court denied. The court of appeals sustained all three appellate issues, reversed the order denying the City's motion, and rendered judgment dismissing Euro Car Tech's claims.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The opinion states that the court reversed the trial court's order and rendered judgment dismissing Euro Car Tech's claims against the City. No remand instructions were given; the disposition is treated as reversal with rendition rather than a remand.

CASES CITED

- Harris Cnty. v. Sykes, 136 S.W.3d 635, 638 (Tex. 2004)
- Cerkezi v. City of Arlington, No. 4:23-cv-00991-P, 2024 WL 265873, at *1, *3, *5-6 (N.D. Tex. Jan. 24, 2024)
- Cerkezi v. City of Arlington, No. 24-10084, 2024 WL 4023769, at *1 (5th Cir. Sept. 3, 2024) (per curiam) (unpublished)
- Tex. Dep't of Parks & Wildlife v. Miranda, 133 S.W.3d 217, 224, 227, 232 (Tex. 2004)
- Reata Constr. Corp. v. City of Dallas, 197 S.W.3d 371, 374 (Tex. 2006)
- Carroll v. Carroll, 304 S.W.3d 366, 367 (Tex. 2010)
- Alamo Heights Independent School District v. Catherine Clark, Alamo Heights Indep. Sch. Dist. v. Clark, 544 S.W.3d 755, 770 (Tex. 2018)
- City of Austin v. Powell, 704 S.W.3d 437, 447-48 (Tex. 2024)
- Oscar Renda Contracting, Inc. v. Bruce, 689 S.W.3d 305, 311 (Tex. 2024)
- Tex. Ass'n of Bus. v. Tex. Air Control Bd., 852 S.W.2d 440, 446 (Tex. 1993)
- Hearts Bluff Game Ranch, Inc. v. State, 381 S.W.3d 468, 476 (Tex. 2012)
- Tex. Dep't of Transp. v. Self, 690 S.W.3d 12, 26-27 (Tex. 2024)
- Kirby Lake Dev., Ltd. v. Clear Lake City Water Auth., 320 S.W.3d 829, 844 (Tex. 2010)

- *Bauer v. City of Waco*, No. 10-19-00020-CV, 2020 WL 7253430, at *4 (Tex. App.—Waco Dec. 9, 2020, no pet.) (mem. op.)
- *Commons of Lake Hous., Ltd. v. City of Houston*, 711 S.W.3d 666, 676 (Tex. 2025)
- *Rischon Dev. Corp. v. City of Keller*, 242 S.W.3d 161, 169 (Tex. App.—Fort Worth 2007, pet. denied)
- *Midtown Edge, L.P. v. City of Houston*, No. 01-12-00730-CV, 2014 WL 586232, at *10 (Tex. App.—Houston [1st Dist.] Feb. 13, 2014, no pet.) (mem. op.)
- *Town of Flower Mound v. Stafford Ests. L.P.*, 71 S.W.3d 18, 28 (Tex. App.—Fort Worth 2002), *aff'd*, 135 S.W.3d 620 (Tex. 2004)
- *Sefzik v. City of McKinney*, 198 S.W.3d 884, 895 (Tex. App.—Dallas 2006, no pet.)
- *PDT Holdings, Inc. v. City of Dallas*, 712 S.W.3d 597, 600, 603, 607-08 (Tex. 2025)
- *City of White Settlement v. Super Wash, Inc.*, 198 S.W.3d 770, 774 (Tex. 2006)
- *City of Hutchins v. Prasifka*, 450 S.W.2d 829, 835 (Tex. 1970)
- *Saunders v. Hartley*, No. 14-24-00575-CV, 2025 WL 2355814, at *7 (Tex. App.—Houston [14th Dist.] Aug. 14, 2025, no pet.) (mem. op.)
- *Forney 921 Lot Dev. Partners I, L.P. v. Paul Taylor Homes, Ltd.*, 349 S.W.3d 258, 268 (Tex. App.—Dallas 2011, pet. denied)
- *Lopez v. Munoz, Hockema & Reed, L.L.P.*, 22 S.W.3d 857, 864 (Tex. 2000)
- *Bd. of Adjustment for City of San Antonio v. E. Cent. Indep. Sch. Dist.*, No. 04-14-00341-CV, 2015 WL 1244665, at *5 (Tex. App.—San Antonio Mar. 18, 2015, pet. denied) (mem. op.)
- *Swain v. Bd. of Adjustment of City of Univ. Park*, 433 S.W.2d 727, 733 (Tex. App.—Dallas 1968, writ *ref'd n.r.e.*)
- *City of Amarillo v. Stapf*, 101 S.W.2d 229, 232 (Tex. Comm'n App. 1937)
- *Anderton v. City of Cedar Hill*, 447 S.W.3d 84, 89 (Tex. App.—Dallas 2014, pet. denied)
- *City of Univ. Park v. Benners*, 485 S.W.2d 773, 777 (Tex. 1972)
- *City of El Paso v. Fox*, 458 S.W.3d 66, 72 (Tex. App.—El Paso 2014, no pet.)
- *Lazarides v. Farris*, 367 S.W.3d 788, 799 (Tex. App.—Houston [14th Dist.] 2012, no pet.)
- *Quorum Intern. v. Tarrant Appraisal Dist.*, 114 S.W.3d 568, 572 (Tex. App.—Fort Worth 2003, pet. denied)
- *Wichita Falls State Hosp. v. Taylor*, 106 S.W.3d 692, 694 & n.3 (Tex. 2003)
- *Arlington v. City of Arlington*, No. 2-23-00288-CV, 2024 WL 2760415, at *1 n.1 (Tex. App.—Fort Worth May 30, 2024, no pet.) (mem. op.)

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