

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

Enrique Lara and Graciela Tena De Lara v. Brian Carney and
Tammy Carney

Lara v. Carney · No. 24-cv-00509-JFJ · Decided December 3, 2025

SUMMARY

The United States District Court for the Northern District of Oklahoma partially grants and partially denies the defendants’ motion for summary judgment in a dispute arising from the sale of residential property. Applying Oklahoma’s Residential Property Condition Disclosure Act, the court grants summary judgment on claims concerning Fry Ditch erosion and an alleged undisclosed easement, but allows claims involving stormwater runoff and a roof leak to proceed. The court holds that the erosion located on homeowner-association property was not shown to be a statutory defect in the property sold and that related remediation costs were not recoverable under the Act.

CASE DETAILS

COURT	United States District Court for the Northern District of Oklahoma
WRITING FOR THE COURT	Jodi F. Jayne
JURISDICTION	United States District Court for the Northern District of Oklahoma
DECIDED	December 3, 2025
DOCKET	24-cv-00509-JFJ
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for summary judgment in Plaintiffs' diversity action alleging that residential-property sellers failed to disclose defects under the Oklahoma Residential Property Condition Disclosure Act. The motion was granted in part and denied in part.
STANDARD OF REVIEW	Summary judgment is proper when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court views the evidence in favor of the nonmovant, believes the nonmovant's evidence, and draws all justifiable inferences in that party's favor; it may not weigh evidence or resolve witness credibility.
PRECEDENTIAL VALUE	unpublished
PARTIES	Enrique Lara, Graciela Tena De Lara v. Brian Carney, Tammy Carney

TOPICS

summary judgment

real estate

damages

statutory interpretation

civil procedure

PRACTICE AREAS

real estate

civil procedure

remedies

statutory interpretation

QUESTIONS PRESENTED

1. Whether Plaintiffs presented sufficient evidence that Fry Ditch Erosion constituted a statutory defect affecting the property under the Oklahoma Residential Property Condition Disclosure Act.
2. Whether Fry Ditch Erosion was a physical condition of the property requiring disclosure under the Act.
3. Whether Plaintiffs could recover repair or remediation costs for erosion located on homeowners-association property under the Act's actual-damages remedy.
4. Whether Plaintiffs presented sufficient evidence to create a genuine dispute regarding the materially adverse effect and actual knowledge elements for Stormwater Runoff and Roof Leak.
5. Whether Plaintiffs identified any undisclosed easement or right-of-way affecting the property.

HOLDINGS

1. Fry Ditch Erosion did not qualify as a defect under the Oklahoma Residential Property Condition Disclosure Act because the erosion and associated hole were wholly outside the property's boundaries, had not reached or affected the property by the time of sale, and Plaintiffs presented no sufficient evidence of a materially adverse effect on the property's monetary value or the health or safety of future occupants.
2. Defendants were not required to disclose Fry Ditch Erosion because it was not a physical condition of the property and had not damaged or affected the property when the disclosure was made.
3. Plaintiffs could not recover under the Act for repair or remediation costs relating to erosion or a fence located on property owned by the homeowners association rather than on the property sold.
4. Summary judgment was inappropriate on the Stormwater Runoff and Roof Leak claims because Plaintiffs presented evidence sufficient to create genuine disputes over whether those conditions materially adversely affected the property's value and whether Defendants had actual knowledge of them before sale.
5. Defendants were entitled to summary judgment on the easement and right-of-way nondisclosure claim because Plaintiffs identified no undisclosed easement or right-of-way affecting the property.

KEY QUOTATIONS

"The 'sole and exclusive civil remedy' under the RPCDA is 'an action for actual damages, including the cost of repairing the defect, suffered by the purchaser as a result of a defect existing in the property as of the date of acceptance.'"

“The motion is GRANTED as to all claims that Defendants failed to disclose certain easements or rights of way and failed to disclose the alleged defect of Fry Ditch Erosion. The motion is DENIED as to all claims that Defendants failed to disclose the alleged defects of Stormwater Runoff and Roof Leak.”

FACTUAL BACKGROUND

Plaintiffs purchased a Bixby, Oklahoma residence from Defendants after receiving and countersigning an Oklahoma Real Estate Commission property-condition disclosure statement. After moving in, Plaintiffs discovered erosion and drainage problems, including Stormwater Runoff on the property, and a Roof Leak; they also complained about erosion along Fry Ditch and a fence located on neighboring reserve property owned by the homeowners association. Plaintiffs incurred repair expenses and alleged that Defendants had actual knowledge of the defects before the sale. The Fry Ditch Erosion was located outside the property's boundaries and had not reached or affected the property by the time of sale.

PROCEDURAL HISTORY

Plaintiffs purchased residential property from Defendants in March 2024 and later asserted claims based on alleged nondisclosure of Fry Ditch Erosion, Stormwater Runoff, Roof Leak, and easements or rights-of-way. Defendants moved for summary judgment. After a hearing on October 14, 2025, and a prior order addressing evidentiary issues, the court granted judgment on the easement and Fry Ditch Erosion claims but denied judgment on claims involving Stormwater Runoff and Roof Leak.

DISPOSITION

other

CASES CITED

- Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986)
- Cone v. Longmont United Hosp. Ass’n, 14 F.3d 526 (10th Cir. 1994)
- Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
- Conaway v. Smith, 853 F.2d 789 (10th Cir. 1988)
- Yaffe Cos., Inc. v. Great Am. Ins. Co., 499 F.3d 1182 (10th Cir. 2007)
- Barrett v. Tallon, 30 F.3d 1296 (10th Cir. 1994)
- Rickard v. Coulimore, 505 P.3d 920 (Okla. 2022)
- Stauff v. Bartnick, 387 P.3d 356 (Okla. Civ. App. 2016)
- White v. Lim, 224 P.3d 679 (Okla. Civ. App. 2009)
- Marcantel v. Michael & Sonja Saltman Family Trust, 993 F.3d 1212 (10th Cir. 2021)
- Lopez v. Rollins, 303 P.3d 911 (Okla. Civ. App. 2013)
- Carbajal v. Safary, 216 P.3d 289 (Okla. 2009)
- Kipp v. Myers, 753 F. Supp. 2d 1102 (D. Kan. 2010)
- Horejs v. Kitchin, No. 1:19-cv-855, 2022 WL 16856035, at *8-9 (S.D. Ohio Nov. 10, 2022)

- **Cummings v. Carroll**, 866 S.E.2d 690 (N.C. 2021)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-northern-district-of-ok/2025/enrique-lara-and-graciela-tena-de-lara-v-brian-carney-and-x9j3339t>