



Dugger Law

UPDATES-September 2017

Have You or Someone You Know Been a Victim of the Addicks and Barker Dam Releases?

If so, please contact our office if you would like to schedule a meeting to discuss the issue further.

ALSO: Please be aware that the Harris County Appraisal District has added a feature to its Apple and Android apps to allow homeowners to report flood damage to homes. You can also report damage to HCAD at: (713) 812 5805.

Hurricane Harvey

Hurricane Harvey has had a devastating impact on the Houston area. We offer our heartfelt condolences to all those impacted by the storm. Our office and our attorneys and staff have been blessed to avoid major loss, although we all know someone that has been seriously impacted.

Both the Barker and Addicks reservoirs in west Houston reached unprecedented water levels. The United States Army Corp of Engineers made the decision to institute a controlled release from the dams. These releases began after the most serious rainfall from the storm had already ceased. This release has resulted in flooding along Buffalo Bayou. Many homeowners were understandably surprised to see the water level in their neighborhood continue to rise without rainfall for several hours or days. The release has resulted in damage to thousands of homes and businesses in the affected areas.

The decision to institute a controlled release from the Addicks and Barker dams may have constituted inverse condemnation or government taking of property from those in the flooded areas. Accordingly, these individuals and businesses may have the right to compensation for homes, businesses and other property that have been lost or damaged due to the releases. Based on our discussions with some of the people affected in the area we have encountered some of the following questions regarding cases like this:

Can you even sue the government? Isn't there government immunity?

The government is immune from civil liability in numerous situations, but one thing the government can't do without repercussion is violate your constitutional rights. Your right to own and enjoy private property is protected by both the U.S. and Texas constitutions. The government can't commit a taking of your property without providing you just compensation.

What does "inverse condemnation" mean?

Usually when the government takes property it does so by filing suit against the landowner to obtain what it wants to do in the future (e.g., for a utility or other easement). In an inverse condemnation the property owner is the one suing the government for a taking that was previously committed by the government.

Didn't the government have to do this? Was this done to prevent a larger disaster?

Numerous public statements were made by government officials at the time of the releases stating that there was not a threat of breach, failure or overflow from the dams, and that they were increasing the rate of release to create more storage capacity in case of future rains. The validity of this decision is subject to debate, but what is certain is that the government decided to flood certain homes in order to accomplish its goals. If you believe your home or other property has been damaged or destroyed by the controlled release from the Addicks or Barker dams, please e-mail our office to discuss this issue further (our office phones are out until Sept. 18, 2017).

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