

**MARCH 1, 2023  
TXOGA AD VALOREM TAX COMMITTEE ANNUAL  
CONFERENCE**

**What Have the Courts Done to Us Now? 2022-2023 Case Law Review**



John Brusniak  
Brusniak Turner Fine LLP  
17480 Dallas Parkway, Suite 210  
Dallas, Texas 75287  
214.506-1073

[John@TexasPropertyTaxAttorneys.com](mailto:John@TexasPropertyTaxAttorneys.com)  
[www.TexasPropertyTaxAttorneys.com](http://www.TexasPropertyTaxAttorneys.com)



## KINDER MORGAN WARS! THE FERRET STRIKES BACK

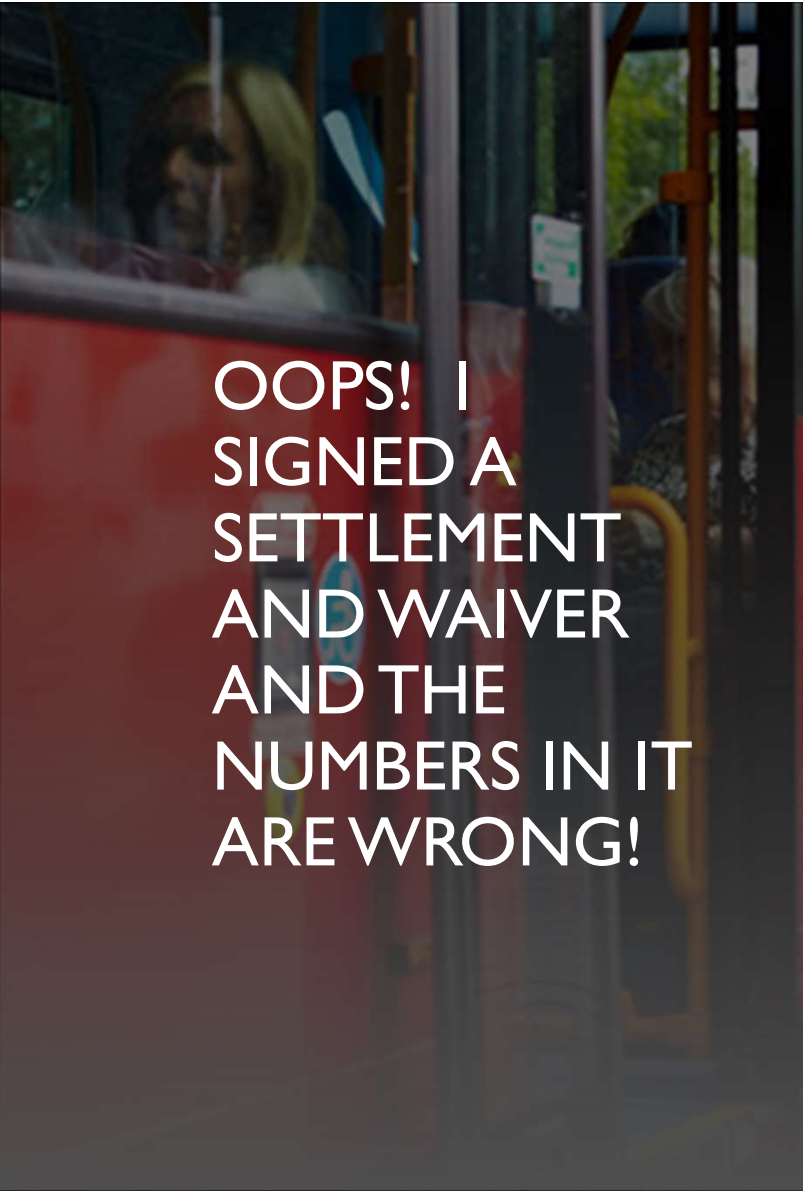
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*Iraan-Sheffield Indep. Sch. Dist. v. Kinder Morgan Prod. Co. LLC, 657 S.W.3d 525 (Tex. App.—El Paso 2022, pet. filed.)*

*Kinder Morgan SACROC, LP v. Scurry Cnty., No. 11-21-00205-CV, 2022 WL 120803 (Tex. App.—Eastland Jan. 13, 2022, no pet.)*

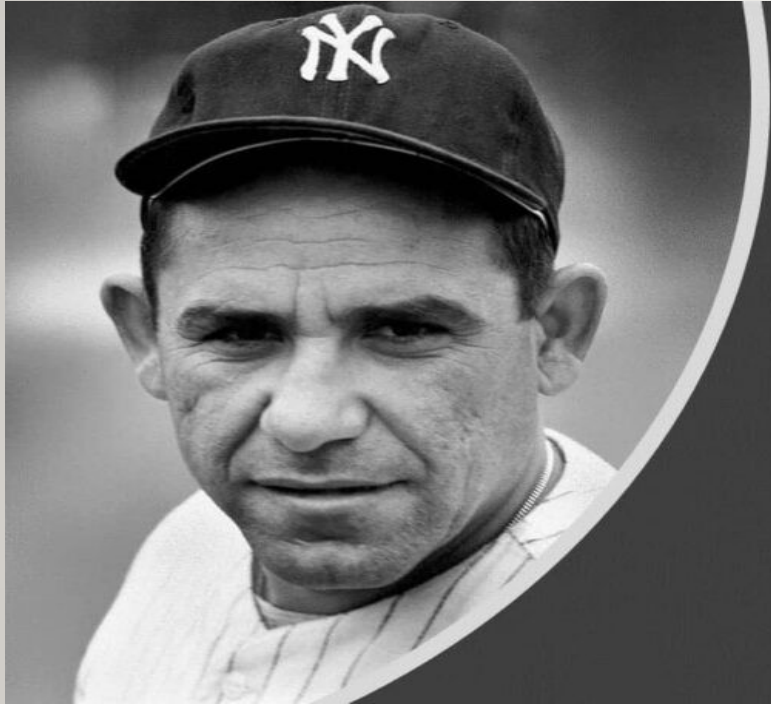
**Section 6.30: (c) The governing body of a taxing unit may contract with any competent attorney to represent the unit to enforce the collection of delinquent taxes.**

**The attorney's compensation is set in the contract, but the total amount of compensation provided may not exceed 20 percent of the amount of delinquent tax, penalty, and interest collected.**



# OOPS! I SIGNED A SETTLEMENT AND WAIVER AND THE NUMBERS IN IT ARE WRONG!

- *Zeon Chemicals, L.P. v. Harris Cnty. Appraisal Dist.*, No. 14-20-00798-CV, 2022 WL 619681 (Tex. App.—Houston [14th Dist.] Mar. 3, 2022, no pet.) (mem. op.)
- *Oncor Elec. Delivery Co. NTU LLC v. Mills Cent. Appraisal Dist.*, No. 03-21-00027-CV, 2022 WL 17419577 (Tex. App.—Austin Dec. 6, 2022, no pet. h.)
- *Wilbarger Cnty. Appraisal Dist. v. Oncor Elec. Delivery Co. NTU, LLC*, No. 07-21-00264-CV, 2022 WL 14504688 (Tex. App.—Amarillo Oct. 25, 2022, pet. filed)
- Section 1.111 (e) An agreement between a property owner or the owner's agent and the chief appraiser is final if the agreement relates to a matter:
  - (1) which may be protested to the appraisal review board or on which a protest has been filed but not determined by the board; or
  - (2) which may be corrected under Section 25.25 or on which a motion for correction under that section has been filed but not determined by the board.
- Section 25.25(d-1) The roll may not be changed under Subsection (d) if:
  - (1) the property was the subject of a protest brought by the property owner under Chapter 41, a hearing on the protest was conducted in which the property owner offered evidence or argument, and the appraisal review board made a determination of the protest on the merits; or
  - (2) the appraised value of the property was established as a result of a written agreement between the property owner or the owner's agent and the appraisal district.



It's like déjà  
vu, all over  
again.

~Yogi Berra

*J-W Power Co. v. Jack Cnty. Appraisal Dist., No. 02-22-00082-CV, 2023 WL 415517 (Tex. App.—Fort Worth Jan. 26, 2023, no pet. h.)*

*J-W Power Co. v. Sterling Cnty. Appraisal Dist., No. 03-21-00069-CV, 2022 WL 2836807 (Tex. App.—Austin July 21, 2022, pet. filed) (mem. op.)*

*J-W Power Co. v. Irion Cnty. Appraisal Dist., No. 03-21-00005-CV, 2022 WL 2836812 (Tex. App.—Austin July 21, 2022, pet. filed) (mem. op.)*

*J-W Power Co. v. Duval Cnty. Appraisal Dist., No. 04-21-00172-CV, 2022 WL 789345 (Tex. App.—San Antonio Mar. 16, 2022, no pet.) (mem. op.)*

**SECTION 25.25(D-1): THE ROLL MAY NOT BE CHANGED UNDER SUBSECTION (D) IF:**

- (1) the property was the subject of a protest brought by the property owner under Chapter 41, a hearing on the protest was conducted in which the property owner offered evidence or argument, and the appraisal review board made a determination of the protest on the merits; or**
- (2) the appraised value of the property was established as a result of a written agreement between the property owner or the owner's agent and the appraisal district.**

**Section 25.25 (c) The appraisal review board, on motion of the chief appraiser or of a property owner, may direct by written order changes in the appraisal roll for any of the five preceding years to correct:**

- (1) clerical errors that affect a property owner's liability for a tax imposed in that tax year;**
- (2) multiple appraisals of a property in that tax year;**
- (3) the inclusion of property that does not exist in the form or at the location described in the appraisal roll; or**
- (4) an error in which property is shown as owned by a person who did not own the property on January 1 of that tax year.**

# THEY CAN REALLY DO THAT?



***Travis Cent. Appraisal Dist. ex rel Crigler v. Tex. Disposal Sys. Landfill, Inc., No. 03-20-00122-CV, 2022 WL 2236109 (Tex. App.—Austin June 22, 2022, pet. filed) (mem. op.)***

Section 42.02 (a) On written approval of the board of directors of the appraisal district, the chief appraiser is entitled to appeal an order of the appraisal review board determining:

- (1) a taxpayer protest as provided by Subchapter C, Chapter 41, subject to Subsection (b); or
- (2) a taxpayer's motion to change the appraisal roll filed under Section 25.25.

Section 42.23 (a) Review is by trial de novo. The district court shall try all issues of fact and law raised by the pleadings in the manner applicable to civil suits generally.

***IN RE STETSON RENEWABLES HOLDINGS, LLC, 658 S.W.3D 292 (TEX.  
2022)***



GAME OVER  
NO OVERTIME

## THAT RULE DOESN'T COUNT!



***Providence Town Square Hous., Ltd. v. Harris Cnty. Appraisal Dist., No. 01-20-00835-CV, 2022 WL 17981838 (Tex. App.—Houston [1st Dist.] Dec. 29, 2022, no pet. h.) (mem. op.)***

(e) Notwithstanding any provision of this subchapter to the contrary, if the appraised value of property in a tax year is lowered under Subtitle F, the appraised value of the property as finally determined under that subtitle is considered to be the appraised value of the property for that tax year. In the next tax year in which the property is appraised, the chief appraiser may not increase the appraised value of the property unless the increase by the chief appraiser is reasonably supported by clear and convincing evidence when all of the reliable and probative evidence in the record is considered as a whole.....The burden of proof is on the chief appraiser to support an increase in the appraised value of property under the circumstances described by this subsection.



**CAN'T USE ACTUAL LONG TERM BELOW MARKET LEASES IN THE INCOME APPROACH**

*AMELANG V. HARRIS CNTY. APPRAISAL DIST., NO. 01-20-00623-CV, 2022 WL 4371518 (TEX. APP.—HOUSTON [1ST DIST.] SEPT. 22, 2022, NO PET.)*





## **OFFICERS AND EMPLOYEES MAY TESTIFY TO MARKET VALUE IN COURT**

***ASPENWOOD APARTMENTS PARTNERS, LP V. HARRIS CNTY. APPRAISAL DIST., NO. 01-20-00335-CV, 2022 WL 1249956 (TEX. APP.—HOUSTON [1<sup>ST</sup> DIST.] APRIL 28, 2022, NO PET.) (MEM. OP.)***

## **WOULD A ROSE BY ANY OTHER NAME SMELL AS SWEET?**

### ***GETOSA, INC. V. CITY OF EL PASO, 642 S.W.3D 941 (TEX. APP.—EL PASO 2022, PET. DENIED)***

SECTION 42.09 (B) A PERSON AGAINST WHOM A SUIT TO COLLECT A DELINQUENT PROPERTY TAX IS FILED MAY PLEAD AS AN AFFIRMATIVE DEFENSE:

(1) IF THE SUIT IS TO ENFORCE PERSONAL LIABILITY FOR THE TAX, THAT THE DEFENDANT DID NOT OWN THE PROPERTY ON WHICH THE TAX WAS IMPOSED ON JANUARY 1 OF THE YEAR FOR WHICH THE TAX WAS IMPOSED;





"Happy Trails To You, Until We Meet Again" - Roy Rogers

## QUESTIONS?

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- **John Brusniak**
- **BRUSNIAK TURNER FINE LLP**
- **17480 Dallas Parkway, Suite 210**
- **Dallas, TX 75252**
- **Phone: 214-506-1073**
- **[John@TexasPropertyTaxAttorneys.com](mailto:John@TexasPropertyTaxAttorneys.com)**