



Senator Eliot Shapleigh

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Texas Press Release

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FEDERAL JUDGE DELAYS CONSTRUCTION OF BORDER WALL IN BROWNSVILLE, SAYS U.S. GOVERNMENT MUST DEFINE PROPERTY RIGHTS

CASE MAY HAVE IMPLICATIONS FOR FUTURE CONSTRUCTION OF BORDER WALL

"This Brownsville case has enormous implications for all border wall construction. In America, property owners do have rights, even on the border."

AUSTIN - A federal judge has ordered the U.S. government to temporarily stop construction of the U.S.-Mexico border wall in Brownsville, saying the government must clearly define to what degree property owners affected by the wall's construction will have access to their land and how they will be compensated for loss of use.

On Friday, May 22, 2009, [Brownsville Federal District Judge Andrew Hanen](#) temporarily stopped construction of the border wall separating Brownsville and Matamoros in response to landowners' motions which claimed the government did not really know what property rights it wanted to take from local property owners. Their suit alleges that the government had not decided how it wished to balance both its desire to protect national security and, at the same time, minimize the cost of the project.

Among the property rights at issue is whether the government will allow property owners vehicle and farm equipment access. If they are allowed access, the government would also need to agree to what degree those property owners have access to the thousands of acres that are caught between the Border Wall and the Rio Grande River.

The government argues that for national security reasons, it should be able to limit access through the wall and to retain maximum control and flexibility for the wall's design, operation, and to possible future additions to the wall.

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Should the government further limit landowner access through the wall, however, landowners will be entitled to recover more compensation for the taking and damaging of their property. This problem has already led to a large disparity in what the government has offered landowners as compensation and what landowners claim is still owed to them for use of their land. The court has now ordered the government to clear up any ambiguities in its use of private land by listing the access it will and will not allow landowners.

In cases now pending before the court, the government is offering some landowners each compensation ranging from approximately \$10,000 to \$200,000. Those same landowners are each seeking compensation between \$1.5 million and \$4 million. The disparity is due, in part, to the different ways both parties describe the access rights being taken and reserved.

Justice Department attorneys argued the delay would cost taxpayers close to half a million dollars. Judge Hanen, however, ruled that forcing the government to focus now on what property rights it really wants and needs would save the government money in the long term.

This case could have profound implications for future construction of the border wall.

The Obama administration has publically discussed its decision [not to pursue further expansion of the border wall beyond where it is currently planned](#). This case may give the administration reason to reconsider whether to build the border wall in those areas already planned where construction of the wall has yet to begin— or if even current construction projects will be more costly to U.S. taxpayers than previously estimated.

"This Brownsville case has enormous implications for all border wall construction. In America, property owners do have rights, even on the border," Senator Shapleigh said.

City officials in Brownsville have also opposed construction of the wall, [directing a resolution this month to local, state and federal agencies](#). In Washington, U.S. Rep. Solomon P. Ortiz also [expressed his opposition](#) to the U.S. Department of Homeland Security's plans to take possession of 15.919 acres of city property for the wall.

[Click here](#) to read a transcript of Judge Hanen's decision.

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