

CAUSE NO. DC-23-01174

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|--|---|--------------------------------|
| CALVIN V. HOUSE, | § | IN THE DISTRICT COURT |
| <i>Petitioner,</i> | § | |
| | § | |
| v. | § | 298th |
| | § | _____ JUDICIAL DISTRICT |
| | § | |
| TEXAS CENTRAL RAILROAD & INFRASTRUCTURE INC., | § | |
| | § | |
| <i>Respondent.</i> | § | DALLAS COUNTY, TEXAS |

**VERIFIED PETITION FOR ORAL DEPOSITION TO INVESTIGATE
POTENTIAL CLAIMS PURSUANT TO RULE 202**

Pursuant to Texas Rule of Civil Procedure 202, Petitioner Calvin V. House (“Landowner”) respectfully requests an order permitting an oral deposition of a corporate representative of Respondent Texas Central Railroad & Infrastructure, Inc. (“Texas Central”). Landowner is investigating a potential lawsuit in which Texas Central may be party and therefore seeks an oral deposition of Texas Central to investigate potential claims. TEX. R. CIV. P. 202.1(b).

INTRODUCTION

Landowner’s potential claims arise out of Texas Central’s decade-long promotion of a now lifeless Dallas-to-Houston high-speed rail project (the “Project”). Landowner owns property in Harris County that will be directly impacted by the Project were it ever to be built.

In 2016, Texas Central sued Landowner in an attempt to obtain access to his property to conduct surveys related to the Project. After its failed attempt to obtain a temporary injunction and subsequent denial of a summary judgment motion, Texas Central threw in the towel and non-suited its claims against Landowner in early 2017. Yet, Texas Central has continued for years to promote the Project through, among other acts, repeated false claims that construction is about to begin.

Texas Central never came close to putting a shovel in the ground and almost certainly never will. Texas Central has no money, no CEO, no executive leadership, no board of directors, no employees, no permission to construct, and no permission to operate. In addition, Texas Central has only a fraction of the property needed along the Project's proposed 240-mile-long route. Despite these facts, Texas Central continues to state publicly that it intends to construct the \$30+ billion Project.

Texas Central's refusal to admit the obvious—that the Project is dead—has harmed and continues to harm Landowner. Texas Central's actions have prevented and presently are preventing Landowner from freely using and enjoying his property. For instance, Landowner cannot sell or refinance his property without first disclosing that Texas Central has stated an intention to construct the Project through his property. For these and other reasons, Texas Central's actions continue to stigmatize and depress the value of Landowner's property.

Enough is enough. If Texas Central will admit that it no longer intends to construct and operate the Project, Landowner will non-suit this Petition for a Rule 202 deposition. If, on the other hand, Texas Central continues to stubbornly insist that it intends to construct and operate the Project, Landowner respectfully requests that the Court order Texas Central to present a corporate representative for deposition to answer questions regarding any such claimed intentions. The likely benefit of allowing Landowner to take the requested deposition to investigate potential claims far outweighs the burden and expense of the procedure.

PARTIES

Petitioner Calvin V. House is Texas resident who owns property in Harris County. Mr. House may be contacted through undersigned counsel.

Respondent Texas Central Railroad & Infrastructure Inc. is a Texas corporation with a principal place of business at 1400 Botham Jean Boulevard, Ste. 1022, Dallas, Texas 75215. Texas Central may be served through its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

JURISDICTION AND VENUE

This Court has personal jurisdiction over Texas Central because it is a Texas corporation. Texas Rule of Civil Procedure 202.2(b)(2) states that if no suit is yet anticipated, a Rule 202 petition may be filed in any county where the witness resides. No suit is yet anticipated, and Texas Central resides in Dallas County. Therefore, venue is proper in Dallas County.

BACKGROUND FACTS

A. All facts and circumstances indicate that Texas Central is no longer pursuing construction of the Project.

About seven months ago, Carlos Aguilar announced his resignation as Texas Central's CEO, lamenting that he "could not align our current stakeholders on a common vision for a path forward." His biography has been missing from Texas Central's website for nearly a year and no executive team members are currently listed on the website. In addition to Aguilar's departure as CEO, Texas Central's entire board of directors was recently disbanded.

Former Chairman Richard Lawless said Texas Central is now being managed by Michael Bui, a senior managing director at FTI Consulting who advises clients through distress events and corporate restructurings. Texas Central's counsel has since confirmed that Bui "is in charge of Texas Central," whatever that means. Another FTI Consulting senior managing director, Tom Becker, recently made a public statement on Texas Central's behalf. According to his bio on FTI's website, Mr. Becker supports clients through sensitive and critical matters, including litigation and civil and criminal investigations. It is unclear what Mr. Becker's role is at Texas Central, if any.

According to other reports, the Project has entered “a hibernation phase in search of financing.” This is unsurprising given the dire financial straits Texas Central appears to be navigating. For months into 2022, Texas Central remained delinquent on its 2021 property taxes in various counties along the proposed Dallas-to-Houston route. In addition, Texas Central remains delinquent on its HOA dues on a number of properties it owns. Liens against Texas Central for non-payment of HOA dues have been filed in a number of counties.

Texas Central recently sold a number of potentially impacted properties (or portions of them) that it previously represented it must acquire in order to construct the Project. Texas Central has allowed many properties it does still own to become dilapidated due to lack of care and maintenance, as recently reported by various media outlets. The toll-free hotline (1-844-TX-TRAIN) formerly reserved for landowner inquiries has been disconnected for months. Texas Central’s main office number has been going straight to voicemail for months. Delinquency notices sent to the address listed for Texas Central in the Secretary of State records have been returned undeliverable. Texas Central’s Houston office located at 1021 Main Street, Suite 1570 was recently listed for lease.

B. All facts and circumstances indicate that Texas Central will never be able to raise the \$30+ billion it needs to construct the Project.

In April 2020, former Texas Central Chairman Drayton McLane admitted the Project will cost *at least* \$30 billion to construct. Whatever the total cost of construction may be, Texas Central appears to have only four potential funding sources at its disposal: (1) private investment; (2) Texas Central’s Japanese partners; (3) the federal government; and (4) the State of Texas. All facts and circumstances indicate that each of these potential sources is a dead end.

First, Texas Central has been trying to attract private investment in the Project for over a decade. Back in 2015, when Texas Central was fighting public disclosure of one of its ridership

studies, it told the Texas Attorney General that “[w]ithin the next six months,” it anticipated “finishing its current round of funding and seeking additional funding from private sources.” Because funding of the Project, according to Texas Central at that time, was “imminent,” it feared public disclosure of its ridership study “would jeopardize [its] ability to obtain funding” due to the “sensitivity of investors during the funding process.”

That was *seven years ago*. As it turned out, Texas Central was never forced to disclose *any* of its ridership studies. But it never raised *any* substantial private investment either. The reason why is clear: as multiple independent transportation infrastructure experts have concluded, the Project is not investment grade.

Second, all facts and circumstances indicate that Texas Central’s Japanese partners have made clear they will no longer fund Texas Central’s efforts to pursue construction of the Project. Upon information and belief, these Japanese partners are the “current stakeholders” whom Carlos Aguilar referred to in his resignation post.

Third, now that the federal infrastructure bill is law, Texas Central is ineligible for *any* high-speed or passenger rail funds in the bill, as those funds are reserved exclusively for public projects. And although Texas Central has stated an interest in the Department of Transportation’s Railroad Rehabilitation & Improvement Financing (RRIF) loan program, Congress has limited the total amount of RRIF loans to \$35 billion. The largest RRIF loan ever extended was \$2.45 billion, which would account for merely 8% of the \$30+ billion Texas Central needs to construct the Project. Upon information and belief, Texas Central has not even started the process of applying for an RRIF loan. In any event, Texas Central would be ineligible to receive any such loan unless it could meet the Buy America requirements enacted to promote U.S. economic development.

Finally, in 2017 the Texas Legislature enacted a law, which remains in effect today, prohibiting *any* state money from going to the Project. TEX. TRANS. CODE § 199.003 (Use of State Money for High-Speed Rail).

C. Texas Central refuses to apply for a construction permit.

On July 16, 2020, the Surface Transportation Board—the federal agency tasked with oversight of the construction and operation of federal railroads—denied Texas Central’s petition to be exempted from the full application process required of new railroads seeking permission to construct. In its decision, the Board made clear that Texas Central cannot begin *any* construction unless and until the Board approves its permit application. As such, the first step Texas Central must take if it intends to construct the Project is to apply for a construction permit. In verified pleadings, Texas Central has admitted as much: “Texas Central, of course, will not begin construction of its proposed rail line without Board approval.”

Two and a half years have passed, and Texas Central has yet to file its application for a construction permit. Were it ever to do so, federal statutes would require Texas Central to disclose how it intends to finance the Project and the amount of funds for financing presently available, along with a recent balance sheet and income statement. Texas Central’s refusal to file an application for a construction permit after being explicitly instructed by the Board to do so *over two years ago* suggests that Texas Central has no intention of ever doing so.

D. Despite repeated requests, Texas Central refuses to answer straightforward questions concerning the Project.

On July 19, 2022, Texas Central’s counsel complained that Texas Central “is getting a lot of calls” from impacted landowners.¹ Texas Central’s counsel asked Landowner’s counsel (who

¹ Exhibit 1.

represents numerous other impacted landowners) for “a list of common questions [impacted landowners] have, in addition to their question of whether Texas Central is interested in selling the property to them, so that we can be efficient in our response...”

On September 29, 2022, Landowner’s counsel complied with this request. After summarizing the current state of affairs, Landowner’s counsel provided a list of common questions Landowner (and other impacted landowners) have concerning the Project.² Landowner’s counsel stressed that Landowner and other impacted landowners have suffered long enough. Counsel explained that should Landowner wish to sell or refinance his property, he must first disclose that the property will be impacted by the Project were it ever to be built.³ Counsel explained further: “This stigmatizes and depresses the value of their property. It interferes with landowners’ rights to freely use and enjoy their property. It harms impacted landowners, plain and simple.”

At the conclusion of this letter, Landowner made clear that “[i]f Texas Central is unwilling to publicly state that it no longer intends to construct the Project or, alternatively, provide full and complete answers to the questions above, we intend to file a Rule 202 petition to investigate potential claims against Texas Central.”

Rather than responding to these straightforward, legitimate questions concerning the Project, Texas Central’s counsel responded with snide, evasive remarks, further highlighting Texas Central’s complete and utter disregard for impacted landowners, including Landowner here.⁴

On October 10, 2022, Landowner’s counsel tried one last time to get answers from Texas Central to these basic questions prior to seeking court intervention. Landowner’s counsel explained

² Exhibit 2.

³ In fact, Landowner recently considered selling a portion of his property. He learned that if he chose to do so, he would be forced to disclose the Project’s potential impact on his property as part of the process.

⁴ Exhibit 3.

that although Texas Central had expressly requested a list of common questions (which Landowner provided), Texas Central has refused to answer them.⁵ Landowner’s counsel asked Texas Central to reconsider its position and answer the questions provided. Texas Central once again refused.⁶

INFORMATION SOUGHT FROM TEXAS CENTRAL

A. Landowner has a legitimate basis for taking the requested deposition in order to investigate potential claims against Texas Central.

In Texas Central’s prior lawsuits against Landowner (and other impacted landowners), Texas Central claimed that it is planning to construct and operate an “interurban electric railway.” On this basis, Texas Central claimed to be vested with the power to exercise eminent domain to take surveys and, ultimately, to obtain the property necessary to construct the Project. For six years, litigation ensued over this sole issue—that is, whether Texas Central has the power to exercise eminent domain.

On June 24, 2022, the Texas Supreme Court ruled in favor of Texas Central, finding that it did qualify as an interurban electric railway under Texas law and therefore possesses the power to exercise eminent domain.⁷ In rendering its decision, the Texas Supreme Court made clear that its analysis was restricted to the facts as they existed in August 2018. The Court noted that, as of August 2018, Texas Central had, among other things: (1) engaged nearly 100 technical experts along with 200 employees and contractors; (2) spent over \$125 million on the Project; (3) purchased land needed for the Project; and (4) engaged state and federal regulators to obtain the necessary permits and safety rules.

⁵ Exhibit 4.

⁶ Exhibit 5.

⁷ *Miles v. Texas Central Railroad & Infrastructure, Inc.*, 647 S.W.3d 613 (Tex. 2022).

Nearly four and half years have passed since the record on which the Texas Supreme Court made its decision closed, and the landscape has changed dramatically. Texas Central has long spent the money it initially raised and there are no signs that Texas Central has secured additional funds or financing. Texas Central has no employees. The technical experts Texas Central engaged years ago have moved on to viable projects. Texas Central is no longer purchasing property along the Project's proposed route; instead, Texas Central is selling some of the properties it claimed it must acquire in order to construct the Project. According to federal regulators, Texas Central hasn't been in contact with them *in years*. At the state level, Texas Central has not proposed any legislation for the upcoming session and does not appear to be actively engaging legislators.

In short, it does appear that Texas Central is doing some things. However, none of the things Texas Central is now doing suggest in any manner whatsoever that it does, in fact, intend to construct and operate an interurban electric railway. If that is indeed the case, it is time for Texas Central to come clean and admit the Project is over so that Landowner does not suffer further harm.

To be clear, Landowner does not seek to relitigate the issues decided by the Texas Supreme Court in its June 24, 2022 opinion. Rather, Landowner seeks to investigate potential claims against Texas Central based on new facts and new circumstances—the facts and circumstances *as they exist today*. Put simply, Landowner seeks to investigate whether Texas Central intends to construct and operate an interurban electric railway. If so, Landowner seeks to investigate whether Texas Central is actively taking *any* steps toward that end. If, at the deposition, a corporate representative can demonstrate that Texas Central intends and is actively taking steps to construct the Project, then in all likelihood Landowner will not pursue claims against Texas Central. On the other hand, if Texas Central cannot present a corporate representative to confirm its intentions and demonstrate that Texas Central is actively taking steps to construct the Project, Landowner may seek

declaratory relief against Texas Central. Specifically, Landowner may seek an order declaring that Texas Central is *not* planning to construct and operate an interurban electric railway.

Landowner has a legitimate basis for seeking the requested deposition. If Texas Central is not planning to construct and operate the Project, then Landowner is entitled to an order declaring as such so that Landowner will be able to freely use and enjoy his property without the stigma and devaluation that Texas Central has caused as a result of its promotion of the Project.

B. The benefit of allowing Landowner to take the requested deposition outweighs the burden or expense of the procedure.

Landowner's proposed Notice of Oral Deposition is attached as Exhibit 6. Landowner seeks only to determine, in good faith, whether he should pursue claims for declaratory relief against Texas Central. As previously explained and shown in the attached exhibits, Landowner tried repeatedly to obtain the requested information prior to seeking court intervention, but Texas Central has refused to provide the requested information.

Permitting Landowner to investigate his potential claims through a Rule 202 deposition will be far less burdensome and expensive for the parties than the time, resources, attorneys' fees, and costs entailed in prosecuting and defending an actual lawsuit. Certainly, allowing Landowner to take the requested Rule 202 deposition will be far less costly and burdensome than the lawsuit Texas Central filed (and then dismissed) against Landowner back in 2016.

RELIEF REQUESTED

Petitioner Calvin V. House respectfully requests that the Court:

- (a) Set this Verified Rule 202 Petition for hearing;
- (b) Find that the likely benefit of allowing the requested deposition to investigate potential claims outweighs the burden or expense of this procedure;

- (c) Enter an order authorizing Calvin V. House to take the oral deposition of a corporate representative of Texas Central Railroad & Infrastructure Inc., the date, time, location, and manner of recording to be specified in a notice of deposition in accordance with the Texas Rules of Civil Procedure; and
- (d) All other and further relief, both at law in equity, to which Petitioner may be justly entitled.

Respectfully submitted,

/s/ Blake L. Beckham

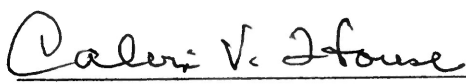
Blake L. Beckham
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***ATTORNEYS FOR PETITIONER
CALVIN V. HOUSE***

VERIFICATION

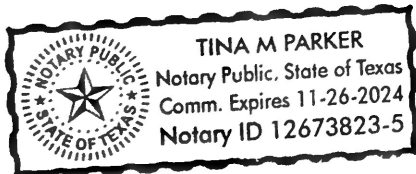
STATE OF TEXAS §
 §
COUNTY OF HARRIS §

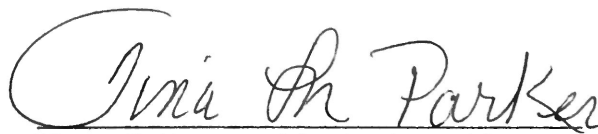
BEFORE ME, the undersigned notary public, on this day personally appeared Calvin V. House, affiant, who is over the age of 21 and of sound mind and body, who being by me duly sworn, who stated upon oath that he has read the foregoing *Verified Petition for Oral Deposition to Investigate Potential Claims Pursuant to Rule 202*, and that the factual statements contained in it are within his personal knowledge and are true and correct, unless indicated otherwise.



Calvin V. House

SUBSCRIBED AND SWORN TO before me on January 20, 2023, to certify which witness my hand and official seal of office.





Notary Public in and for the State of Texas

Print Name: Tina M Parker

My commission expires:

11/26/2024

Exhibit 1

RE: Landowner inquiries [IMAN-JWDOCS.FID3166812]

Neblett, Robert <rneblett@jw.com>

Tue 7/19/2022 3:34 PM

To: Patrick McShan <patrick@bptriallaw.com>

Patrick,

Our client is getting a lot of calls, probably due to the TAHSR posting. Can you give us an updated list of your clients so we'll know not to communicate directly with them? Secondly, can you give us a list of the common questions they have, in addition to their question of whether Texas Central is interested in selling the property to them, so that we can be efficient in our response to these questions?

Thanks.

Robert

From: Patrick McShan <patrick@bptriallaw.com>**Sent:** Thursday, July 14, 2022 3:30 PM**To:** Neblett, Robert <rneblett@jw.com>**Subject:** Landowner inquiries****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Robert - I've had several landowners contact me lately regarding the status of the project. Specifically, for those that sold their property to Texas Central but now believe the project is not going to be built, they are interested in buying their property back from Texas Central. If your client has any interest, let me know and I will provide contact information.

Thanks,

Patrick

Patrick McShan

The Beckham Group

3400 Carlisle, Suite 550

Dallas, TX 75204

T: 214 965 9300 | F: 214 965 9301

patrick@beckham-group.com

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Exhibit 2



September 29, 2022

Robert Neblett
Jackson Walker, LLP

Via email rneblett@jw.com

Re: Status of Texas Central's proposed project

Robert:

As you know, our law firm represents landowners who will be directly impacted by Texas Central's proposed project (the "Project") were it ever to be built. You requested a current list of our clients. Attached is that list. You also requested, for the sake of efficiency, a list of common questions our clients and other impacted landowners have concerning the status of the Project. Before I provide that list, I want to share our view of the current state of affairs.

All facts indicate Texas Central is no longer pursuing construction of the Project.

A few months ago, Carlos Aguilar [announced](#) his resignation as Texas Central's CEO, lamenting that he "could not align our current stakeholders on a common vision for a path forward." His biography has been missing from Texas Central's website for nearly six months and no executive team members are currently listed on the [website](#). In addition, Texas Central's entire board of directors [was recently disbanded](#).

Former Chairman Richard Lawless said Texas Central is now being managed by [Michael Bui](#), a senior managing director at FTI Consulting who advises clients through distress events and corporate restructurings. Another FTI Consulting senior managing director, [Tom Becker](#), recently made a [public statement](#) on Texas Central's behalf. According to his bio, Mr. Becker supports clients through sensitive and critical matters, including litigation and civil and criminal investigations. It is unclear what Mr. Becker's role is at Texas Central, if any.

According to other reports, the Project has [entered](#) "a hibernation phase in search of financing." This is unsurprising given the dire financial straits Texas Central appears to be navigating. Until July 2022, Texas Central remained delinquent on its 2021 property taxes in Dallas, Harris, Navarro, Limestone, Freestone, Leon, Madison, and Grimes Counties. And it has yet to pay the 2021 property taxes it owes in Ellis County. Texas Central remains delinquent on its HOA dues on a number of its properties in Grimes, Waller, and Harris Counties. [Liens](#) against Texas Central for non-payment of HOA dues are currently on file in Harris County.

Additional facts further demonstrate that Texas Central is no longer pursuing construction of the Project. Texas Central recently sold a number of impacted properties (or portions of properties) that it previously represented it must possess in order to construct the Project. [The toll-](#)

[free hotline](#) (1-844-TX-TRAIN) formerly reserved for landowner inquiries has been disconnected for months. Texas Central hasn't answered its main office number for months either. [Delinquency notices](#) sent to the address listed for Texas Central in the [Secretary of State records](#) are being returned undeliverable. The Dallas office address listed on [Texas Central's website](#)—1400 Botham Jean Blvd—is the address for the [Dallas Police Department](#). Texas Central's Houston office located at 1021 Main St, Suite 1570 is currently [listed for lease](#). These are not signs of a company moving forward with plans to construct a \$30+ billion, 240-mile-long, first-of-its-kind, high-speed rail line. These are signs of a company circling the drain.

Texas Central will never be able to raise the \$30+ billion it needs to construct the Project.

In April 2020, former Chairman Drayton McLane [admitted](#) the Project will cost at least \$30 billion to construct. Given the passage of over two years, supply chain issues, rising construction costs, and inflation, among other factors, this estimate has undoubtedly increased substantially. Whatever the ultimate total cost may be, there are only four potential funding sources at Texas Central's disposal: (1) private investment; (2) Texas Central's Japanese partners; (3) the federal government; and (4) the State of Texas. Each of these potential sources is a dead end.

First, history has proven Texas Central to be utterly incapable of attracting private investment in the Project. Back in 2015, when Texas Central was fighting public disclosure of one of its bogus ridership studies, it [told](#) the Texas Attorney General that “[w]ithin the next six months,” it anticipated “finishing its current round of funding and seeking additional funding from private sources.” Because funding of the Project, according to Texas Central, was “imminent,” it feared public disclosure of its ridership study “would jeopardize [its] ability to obtain funding” due to the “sensitivity of investors during the funding process.” That was seven years ago. Texas Central was never forced to disclose any of its ridership studies, but it never raised any private investment either. As multiple independent transportation infrastructure experts have concluded, the Project simply is not investment grade. And that's precisely why Texas Central will never be able to raise the necessary funding through private investment.

Second, at least three credible sources have confirmed that Texas Central's Japanese partners sent Texas Central a letter stating they will no longer fund efforts to pursue construction of the Project. We believe these Japanese partners are the “current stakeholders” whom Carlos Aguilar referred to in his resignation post. If our sources are mistaken, Texas Central need only provide proof that its Japanese partners remain on board. But given Aguilar's statement and the fact that Texas Central has already flushed hundreds of millions of their dollars down the drain, we believe Texas Central's Japanese partners have turned the faucet off for good.

As for the federal government, that ship has sailed. Now that the federal infrastructure bill is law, Texas Central is ineligible for *any* high-speed or passenger rail funds in the bill, as those funds are reserved exclusively for public projects. And although Texas Central has stated an interest in the Department of Transportation's Railroad Rehabilitation & Improvement Financing (RRIF) loan program, Congress has limited the total amount of RRIF loans to \$35 billion. The largest RRIF loan given out to date was \$2.45 billion, which would account for merely 8% of the \$30+ billion Texas Central needs to construct the Project. Texas Central has not even started the process of applying for an RRIF loan and, in any event, would be ineligible to receive any such

loan unless it could meet the Buy America requirements enacted to promote U.S. economic development. Because Texas Central chose to use Central Japan Railway Company's Shinkansen technology for the Project, it cannot satisfy these Buy America requirements.

Finally, in 2017 the Texas Legislature wisely enacted [a law](#), which remains in effect today, prohibiting *any* state money from going to the Project. As discussed during the hearings leading to the passage of this law, Texas does not want to suffer through a repeat of the ongoing high-speed rail disaster in California.

Given these facts, to even suggest that Texas Central will be able to raise the \$30+ billion it needs to construct the Project is pure fantasy. If Texas Central believes otherwise, it need only identify any source from which it intends to obtain funding, how much funding it intends to obtain from any such source, and when it expects to obtain such funding.

Texas Central has refused to apply for a construction permit.

On July 16, 2020, the Surface Transportation Board [denied](#) Texas Central's petition to be exempted from the full application process required of new railroads seeking permission to construct. In its decision, the Board made clear that Texas Central cannot begin *any* construction unless and until the Board approves its permit application. As such, the first step Texas Central *must* take if it intends to construct the Project is to apply for a construction permit. In verified pleadings, Texas Central [admitted](#) as much: "Texas Central, of course, will not begin construction of its proposed rail line without Board approval."

Well over two years have passed and Texas Central has yet to file its application for a construction permit. If it were to ever do so, Texas Central would have to [disclose](#) how it intends to finance the Project and the amount of funds for financing presently available, along with a recent balance sheet and income statement. We believe Texas Central has not filed, nor will it ever file, an application for a construction permit for two reasons: (1) Texas Central does not want to make these required financial disclosures; and (2) it knows that if it did make these disclosures its application would be summarily denied.

Texas Central's stubborn refusal to file an application for a construction permit after being explicitly instructed by the Board to do so *over two years ago* leads us to the only plausible conclusion: it has no intention of ever doing so because it no longer has any intention of constructing the Project.

To prevent further harm to impacted landowners, Texas Central must publicly state that the Project is over.

We aren't the only ones who have put the pieces together and see the writing on the wall. Multiple media outlets, including the [Dallas Morning News](#), [Houston Chronicle](#), [Texas Tribune](#), [Railway Age](#), and [Texas & Louisiana Engineering News-Record](#), among others, have reached the same conclusion: the Project is over. Yet, Texas Central continues to claim, using more or less the same empty wording, that it ["is moving forward with the development of this high-speed train."](#)

With no leadership, no money, no permit to construct, and now, apparently, no offices, these baseless claims will no longer suffice.

Granted, Texas Central appears to be doing things. But none of the things Texas Central is now doing suggest in any manner whatsoever that it does, in fact, intend to construct the Project. Yet, our clients and other impacted landowners who might wish to sell or refinance their property must first disclose that their property will be impacted by the Project were it to be built. This stigmatizes and depresses the value of their property. It interferes with landowners' rights to freely use and enjoy their property. It harms impacted landowners, plain and simple.

Our clients and all other impacted landowners have suffered long enough. They deserve to be able to move on with their lives without Texas Central or the Project hanging over their heads. They must be allowed once again to do with their property as they please, without interference from Texas Central. We will not allow Texas Central to hold landowners hostage any longer.

If Texas Central will not declare that it no longer intends to construct the Project, it must answer questions regarding its current plans and intentions.

Per your request, below is a list of common questions our clients and other impacted landowners keep asking us. If Texas Central truly has any intention of constructing the Project, it owes landowners answers to these questions:

1. If Texas Central intends to construct the Project, by when does it expect to begin construction? And by when does it expect operations to commence?
2. If Texas Central intends to construct the Project, from what source(s) will it obtain the necessary funding? And by when does it expect to obtain the necessary funding?
3. How much funding is presently available to Texas Central for construction of the Project?
4. If Texas Central intends to construct the Project, how does it intend to acquire the remaining property it needs along the Project's proposed route?
5. Does Texas Central intend to use its recently-granted eminent domain authority to condemn property along the Project's proposed route? If so, by when does Texas Central intend to begin condemnation proceedings?
6. Is Texas Central going to file an application for a construction permit with the Surface Transportation Board? If so, by when will it file its application?
7. Did Texas Central's Japanese partners notify Texas Central that they will no longer fund the Project?
8. Who are the "current stakeholders" referenced by Carlos Aguilar in his resignation post?

9. Does Texas Central currently have a Board of Directors? If so, who are they and when did they each become Board Members?
10. Does Texas Central currently have any executive leadership? If so, who are its executives and what are their respective positions?
11. Who is currently running Texas Central? Michael Bui? Tom Becker?
12. Is Texas Central presently attempting to obtain any grants, funds, financing, or loans from the federal government? If so, what is the current status of any such attempts?
13. Has Texas Central defaulted on its \$300 million loan from the Japan Bank of International Cooperation's special purpose vehicle, Japan Texas High-Speed Railway Cayman, LP?
14. If Texas Central defaults on its loan, what is going to happen to the property it purchased from landowners through option contracts? Will landowners be allowed to purchase their property back at the price Texas Central paid for it?
15. If Texas Central does not construct the Project, what is going to happen to the property it purchased from landowners through option contracts? Will landowners be allowed to purchase their property back at the price Texas Central paid for it?
16. Why is Texas Central selling properties it previously represented it must possess in order to construct the Project?
17. Why is Texas Central delinquent on its homeowners' association dues? Does it plan on paying them? If so, by when?
18. When subdividing property, why is Texas Central not following county regulations to get plat exemptions?
19. Why is mail being sent to Texas Central's Dallas office being returned undeliverable? Why is Texas Central's Houston office available for lease?
20. Who should unrepresented landowners contact with questions about the Project or issues concerning their property?

Notice of intent to seek Rule 202 deposition to investigate claims.

If Texas Central is unwilling to publicly state that it no longer intends to construct the Project or, alternatively, provide full and complete answers to the questions above, we intend to file a Rule 202 petition to investigate potential claims against Texas Central. The record upon which the Texas Supreme Court recently granted Texas Central eminent domain authority was restricted to August 2018. Four years have passed, and in those four years new facts have developed, many of which are set forth in this letter. These new facts demonstrate that Texas Central no longer has any intention of constructing the Project. We do not intend to relitigate the

eminent domain issues the Texas Supreme Court recently decided. Rather, we intend to investigate, based on the facts and circumstances *as they exist today*, whether Texas Central is, in fact, planning to construct and operate an interurban electric railway. We will not let Texas Central sit back, stay silent, and do nothing in furtherance of construction of the Project while our clients and other impacted landowners continue to suffer.

Sincerely,

/s/ Patrick McShan

I:\High Speed Train\Correspondence 2022\Ltr to Neblett.doc

| Ellis County | Grimes County | Harris County |
|-------------------------|-------------------------|--------------------------------|
| Minta Phillips | Craig Cooper | Story Lindsey Family LP |
| Ronny Caldwell | David Miseldine | Marsha Smith and Joyce Perkins |
| David Risinger | Billy and Brenda Wells | Calvin House |
| Charles Hodge | Elise Wells | Maria Castro (VEC LP) |
| John and Wanda Sullivan | Allen and Becky Morris | W.L. Bane |
| William Ward | Carol Garnett | David Seaman |
| Chuck McCormack | Darrell Bushman | Lavon and Lance Thomas |
| Bob Beakley | John Zitkus | Mary Snow |
| Brad Beakley | Ronnie Floyd | Mike and Cindy Green |
| Becky Scasta | George Finch | Judith Evans |
| Kelly Cruzan | Frank Seber | Tom Neal (TDTAN) |
| F&N Partners | Kim and Bryce Smith | Michael McRae |
| Kay Lynn Kovar | Johnny Mancuso | |
| Bess Johnson | Christine Crawford | |
| Doug Taylor | James Cox | |
| Gary Worthy | Walter Truett | |
| Clayton Gorn | | |
| Richard Spaniel | | |
| Freestone County | Limestone County | Leon County |
| Gary Stevenson | Logan Wilson | Jim Miles |
| Tony Miller | Francelle Bettinger | Brian Winter |
| Rita Lenoir | Sara Simms | Larry Selman |

| | | |
|----------------------|-------------------------|------------------------|
| Nick Roppolo | Charles Carr | Charles Durbin |
| Joe Alderman | Bill Crider | Jon Cogdill |
| Lawrence Davis | | Wayne Reed |
| | | Paula and Gary Dossett |
| | | Carolyn Lummus |
| | | Alan and Lisa Johnson |
| | | Hilda Cave |
| | | Lyndall Leathers |
| | | Robert Martin |
| | | Ben and Betty Frank |
| | | Carolyn Pettey |
| | | Birdene Perry |
| Waller County | Madison County | Navarro County |
| Dan Hablinski | Herman Poteet | Clinton Chastain |
| Ralph Lee Burton | George and Sally Jaster | Dwayne Grounds |
| Donovan Maretick | Matt Schiel | Brian Phillips |
| Lawrence Falk | Robert Fannin | Robert/James Page |
| Shirley Benfer | Perry Mizell | Nelda Carter |
| Stephanie Cervantes | Ray Lee Reding | Lewis Tidwell |
| | Gene Whitesides | Brandon/Amy Nicholson |
| | | Luann Brown |

Exhibit 3

October 7, 2022

Via Email: patrick@bptriallaw.com

Patrick McShan
The Beckham Group
3400 Carlisle, Suite 550
Dallas, Texas 75204

Re: Texas Central Proposed Project

Dear Patrick,

I have reviewed your September 29, 2022 letter and have the following response.

Your letter appears to be another public relations exercise, similar to what we've seen over the last six years, intended to interfere with our current and prospective relationships with lenders and investors, more than an attempt at a constructive dialogue. As you know, the ultimate conclusion of our prior disagreements was a ruling in Texas Central's favor from the Texas Supreme Court. Texas Central has no intention of re-litigating decided issues with you—in court, in correspondence, or in the press. Instead of a constructive discussion focused primarily on your client's rights to repurchase a portion of their property, we get a diatribe from you on the alleged problems with the project.

For these reasons and those listed below, we will not be responding to your questions:

- Your letter includes misleading, incomplete, and erroneous statements. For example, it fails to acknowledge that HOA dues are in dispute and that Texas Central has paid its property taxes in all counties.
- Your questions have little or nothing to do with individual issues relating to your clients' desire to sell a portion of their property to Texas Central.
- There is no legitimate purpose in your questions, as there is no pending litigation between Texas Central and your clients.

- Your questions seek proprietary and confidential business information.

Your threat to pursue a Rule 202 deposition to investigate claims would be an improper and abusive use of the rule. You say you would seek to investigate claims. Claims for what? Your letter states you plan to investigate claims about whether Texas Central plans to construct the railway. There is no legal claim or cause of action there. If there is some "claim" that I am not appreciating, please tell me what it is.

Texas Central has been and remains committed to treating all landowners fairly. It is committed to making this transformational project one that Texas will be proud of, as it would provide an economic boost in all counties which it crosses, bring a world class transportation system to two of the fastest growing metropolitan areas in the country, and will do so in a manner that causes as little disruption as possible to landowners. We are simply not willing to engage in another endless propaganda war against a project that would bring such great value to the State of Texas.

Texas Central has spent hundreds of millions of dollars advancing its goal of providing high speed rail for Texas. Its time and energies remain focused on these efforts.

Sincerely,

A handwritten signature in blue ink that reads "Robert Neblett". The signature is written in a cursive, flowing style.

Robert Neblett

RNB/jks

Exhibit 4



BECKHAM PORTELA
TRIAL LAW

October 10, 2022

Robert Neblett
Jackson Walker, LLP

Via email rneblett@jw.com

Re: Response to your October 7, 2022 letter

Robert:

I received your October 7, 2022 letter. Let's get a few things straight. In July, you sent me this email:

From: Neblett, Robert <rneblett@jw.com>
Sent: Tuesday, July 19, 2022 3:34 PM
To: Patrick McShan <patrick@bptriallaw.com>
Subject: RE: Landowner inquiries [IMAN-JWDOCS.FID3166812]

Patrick,

Our client is getting a lot of calls, probably due to the TAHSR posting. Can you give us an updated list of your clients so we'll know not to communicate directly with them? Secondly, can you give us a list of the common questions they have, in addition to their question of whether Texas Central is interested in selling the property to them, so that we can be efficient in our response to these questions?

Thanks.

Robert

It took me a couple months, but I did send you precisely what you requested: a list of common questions my clients and other impacted landowners have in addition to the question of whether Texas Central is interested in selling their property back to them.

In response to my letter, you did three things. First, you accused me of waging "another endless propaganda war" against Texas Central. Second, you claimed that "Texas Central has been and remains committed to treating all landowners fairly." Third, you regurgitated the same, tired Texas Central mantras we've been hearing for years. Getting into a protracted back and forth over your allegations is unproductive, but I do need to briefly respond.

I understand that Texas Central is in no position to engage in a public relations war in defense of the Project. Given the circumstances laid out in my prior letter, I wouldn't advise Texas Central to do so either. I understand that Texas Central will continue to claim until it is blue in the face that it treats landowners fairly, despite a mountain of contrary evidence. And I understand that Texas Central believes, among other nonsense, that the Project would be "transformational" and "provide an economic boost in all counties which it crosses." I got it, and, frankly, so does everybody else. Let's now move on to the business at hand.

3400 Carlisle
Suite 550
Dallas, Texas 75204
Phone: 214 965 9300
Fax: 214 965 9301

You asked me for a list of common questions and I sent you a list of common questions. You then refused to answer a single one of them. You mean to tell me you can't give me a name and number of a person at Texas Central who unrepresented landowners can call if they have questions concerning the Project or its potential impact on their property? You can't tell me who is in charge of Texas Central? You can't tell me whether Texas Central intends to apply for a construction permit with the Surface Transportation Board? You can't tell me whether (or when) Texas Central intends to use the eminent domain authority you boast about in your letter to condemn property needed for construction of the Project? If Texas Central's "time and energies remain focused" on its goal of providing high-speed rail to Texas, why can't you answer these simple questions?

I respectfully ask that you reconsider your position. I sent you a list of common questions, per your request. Please answer them.

Sincerely,

/s/ Patrick McShan

Exhibit 5

October 20, 2022

Via Email: patrick@bptriallaw.com

Patrick McShan
The Beckham Group
3400 Carlisle, Suite 550
Dallas, Texas 75204

Re: Texas Central Proposed Project

Dear Patrick,

I am in receipt of your letter of October 10th.

As mentioned in my prior letter, I am not interested in engaging in more protracted correspondence with you that simply serves as a platform for you to disparage the project and my client. My client and I have not, and will not, disparage your clients even when confronted with correspondence laden with sarcasm and misleading information.

We understood from your past correspondence that the questions would be primarily related to issues about landowners buying back excess land Texas Central had purchased from them. Instead, we got, after more than three pages of misleading and erroneous statements about the project, a list of 20 questions that went far afield of any legitimate inquiries about landowners buying the property back. Most of these questions are clearly designed for other purposes. We objected to that and declined to answer them.

Your October 10th letter contains a more refined, narrow list of questions for Texas Central. The answers to those questions are set forth below.

- You asked who unrepresented landowners should contact. Any unrepresented landowner, whether in contact with you or not, can reach Texas Central at info@texascentral.com or (214) 736-1605.
- Michael Bui is in charge at Texas Central.

- Texas Central intends to obtain any and all Surface Transportation Board certifications required to construct and operate the project.
- Eminent domain will only be used as a last resort to acquire property, should negotiations fail, for those properties that have not been acquired. We don't know at this time when that will occur.

These are our responses. Texas Central will continue its efforts to move forward with the project and make every effort to work responsibly and fairly with landowners as it does so.

Sincerely,

A handwritten signature in blue ink that reads "Robert Neblett". The signature is written in a cursive style with a large initial "R".

Robert Neblett

RNB/jks

Exhibit 6

CAUSE NO. _____

| | | |
|--|---|-------------------------|
| CALVIN V. HOUSE, | § | IN THE DISTRICT COURT |
| | § | |
| <i>Petitioner,</i> | § | |
| | § | |
| v. | § | _____ JUDICIAL DISTRICT |
| | § | |
| TEXAS CENTRAL RAILROAD & INFRASTRUCTURE INC., | § | |
| | § | |
| <i>Respondent.</i> | § | DALLAS COUNTY, TEXAS |

**NOTICE OF ORAL DEPOSITION OF CORPORATE REPRESENTATIVE OF
TEXAS CENTRAL RAILROAD & INFRASTRUCTURE, INC.**

To: Respondent Texas Central Railroad & Infrastructure, Inc. located at 1400 Botham Jean Boulevard, Suite 1022, Dallas, Texas 75215, by and through its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

Please take notice that pursuant to TEX. R. CIV. P. 199 and 202, Petitioner Calvin V. House (“Landowner”) will take the oral and videotaped deposition of a corporate representative of Texas Central Railroad & Infrastructure, Inc. (“Texas Central”) on _____, 2023 beginning at 10:00 a.m. as indicated below. This deposition will be taken upon oral and videographed examination before an officer who is authorized by law to take such depositions. Further, this deposition may be recorded by audio and by instant visual display of the testimony. You may attend and question the witness.

Pursuant to TEX R. CIV. P. 199.2(b)(1), Landowner requests that Texas Central designate, at a reasonable time before the deposition, one or more individuals to testify on its behalf on the matters on which examination is requested and to set forth for each individual designated, the matters on which the individual will testify. Each individual designated must testify as to matters that are known or reasonably available to the organization.

| | |
|-----------------------|---|
| WITNESS: | Texas Central Railroad & Infrastructure, Inc. |
| TIME AND DATE: | _____, 2023 at 10:00 a.m. |
| PLACE: | Beckham Portela (or mutually agreeable location) 3400 Carlisle, Suite 550 Dallas, Texas 75204 |

MATTERS ON WHICH EXAMINATION IS REQUESTED

Pursuant to Tex. R. Civ. P. 199.2(b)(1), Texas Central is requested to designate the person(s) with the most knowledge to testify on its behalf concerning the matters on which examination is requested, described with reasonable particularity as set out below:

DEFINITIONS

1. "Texas Central," "You," or "Your" means Texas Central Railroad & Infrastructure, Inc. and any agents, partners, employees, affiliates, representatives, or other persons acting on its behalf.
2. "Landowner" or "Petitioner" means Calvin V. House.
3. "Property" means Landowner's property located in Harris County that will be directly impacted by the Project were it ever to be built.
4. "Project" means Texas Central's proposed high-speed rail project between Dallas, Texas and Houston, Texas.

AREAS OF INQUIRY

1. Texas Central's intentions, if any, to construct and operate the Project;
2. The date on which Texas Central intends to begin construction of the Project;
3. The date on which Texas Central intends to commence operation of the Project;
4. The present source(s) of any funding or financing for the Project;
5. The potential source(s) of any funding or financing for the Project;
6. The amount of funding or financing presently available for the Project;
7. All present efforts being undertaken by Texas Central to secure or raise funding or financing for the Project;

8. The date on which Texas Central intends to secure or raise all necessary funding or financing for the Project;
9. Texas Central's intentions, if any, to acquire the remaining property it needs along the Project's proposed route;
10. The date on which Texas Central intends to begin acquiring the remaining property it needs along the Project's proposed route;
11. Texas Central's intentions, if any, to acquire Landowner's Property for the Project;
12. The date on which Texas Central intends to acquire Landowner's Property for the Project;
13. Texas Central's intentions, if any, to use its recently granted eminent domain authority to condemn Landowner's Property;
14. The date on which Texas Central intends to begin condemnation proceedings, if any, against Landowner;
15. Texas Central's plans or intentions, if any, to use its recently granted eminent domain authority to condemn property along the Project's proposed route;
16. The date on which Texas Central intends to begin condemnation proceedings for property needed along the Project's proposed route;
17. Texas Central's intentions, if any, to file an application for a construction permit with the Surface Transportation Board;
18. The date on which Texas Central intends to file an application for a construction permit with the Surface Transportation Board;
19. For the time period August 2018 to the present, all communications or correspondence between and among Texas Central and any federal agency or regulator, including but not limited to the Surface Transportation Board and Federal Railroad Administration, concerning or relating in any way to the Project;
20. For the time period August 2018 to the present, all communications or correspondence between and among Texas Central and any federal or state legislator or government official concerning or relating in any way to the Project
21. For the time period August 2018 to the present, all communications or correspondence between and among Texas Central and Amtrak concerning or relating in any way to the Project;

22. For the time period August 2018 to the present, all communications or correspondence between and among Texas Central and the City of Dallas concerning or relating in any way to the Project;
23. For the time period August 2018 to the present, all communications or correspondence between and among Texas Central and the City of Houston concerning or relating in any way to the Project;
24. The identity of the “current stakeholders” referenced by Carlos Aguilar in his resignation post published on LinkedIn on or about June 12, 2022;
25. For the time period August 2018 to the present, all communications or correspondence between and among Texas Central, the Japan Bank of International Cooperation, and Japan Texas High-Speed Railway Cayman, LP, concerning or relating in any way to the Project;
26. The current composition of Texas Central’s Board of Directors, if any;
27. The current composition of Texas Central’s executive leadership, if any;
28. All persons currently employed or retained by Texas Central and the roles and duties of all such persons;
29. Michael Bui’s current role at Texas Central;
30. Tom Becker’s current role at Texas Central;
31. Texas Central’s intentions, if any, to apply for any grants, funds, financing, or loans from the federal government;
32. Texas Central’s intentions, if any, to apply for any grants, funds, financing, or loans from the State of Texas;
33. The current status of any applications filed or submitted by Texas Central to obtain any grants, funds, financing, or loans from the federal government;
34. The current status of any applications filed or submitted by Texas Central to obtain any grants, funds, financing, or loans from the State of Texas;
35. The date on which Texas Central intends to apply for any grants, funds, financing, or loans from the federal government;
36. The date on which Texas Central intends to apply for any grants, funds, financing, or loans from the State of Texas;
37. The status of Texas Central’s \$300 million loan from the Japan Bank of International Cooperation’s special purpose vehicle, Japan Texas High-Speed Railway Cayman, LP;

38. The status of all homeowners' association dues owed by Texas Central on properties owned by Texas Central;
39. With respect to delinquent homeowners' association dues, the date on which Texas Central intends to pay any such delinquent dues;
40. For the time period August 2018 to the present, all communications or correspondence between and among Texas Central and Jack Matthews concerning the Project;
41. For the time period August 2018 to the present, all communications or correspondence between and among Texas Central and John Kleinheinz concerning the Project;
42. The identity of all consultants currently engaged by Texas Central; and
43. The role(s) of any and all consultants currently engaged by Texas Central.

Respectfully submitted,

/s/ Blake L. Beckham

Blake L. Beckham
blake@bptriallaw.com
Texas State Bar No. 02016500
M. Patrick McShan
patrick@bptriallaw.com
Texas State Bar No. 24047415
BECKHAM PORTELA
3400 Carlisle, Suite 550
Dallas, Texas 75204
214-965-9300 (tel.)

***ATTORNEYS FOR PETITIONER
CALVIN V. HOUSE***

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Jimmy Barker on behalf of Blake Beckham
Bar No. 02016500
jimmy@beckham-group.com
Envelope ID: 72028710
Status as of 1/27/2023 3:29 PM CST

Case Contacts

| Name | BarNumber | Email | TimestampSubmitted | Status |
|-----------------|-----------|------------------------|-----------------------|--------|
| Jimmy Barker | | jimmy@bptriallaw.com | 1/23/2023 10:16:17 AM | SENT |
| Yesenia Briones | | yesenia@bptriallaw.com | 1/23/2023 10:16:17 AM | SENT |
| Patrick McShan | | patrick@bptriallaw.com | 1/23/2023 10:16:17 AM | SENT |
| Blake Beckham | | blake@bptriallaw.com | 1/23/2023 10:16:17 AM | SENT |