

--- S.W.3d ---, 2013 WL 297831 (Tex.)  
 (Cite as: 2013 WL 297831 (Tex.))

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Supreme Court of Texas.

**Angela Mae BRANNAN**, Individually and as Independent Executrix of the Estate of Bob Albert Brannan, Deceased, et al., Petitioner,

v.

STATE of Texas, et al., Respondents.

No. 10-0142.  
 Jan. 25, 2013.

On Petition for Review from the Court of Appeals for the First District of Texas.

[J. David Breemer](#), [Ted Hirtz](#), for Petitioner, Angela Mae Brennan.

[Barbara Bryant Deane](#), Assistant Attorney General, [Daniel T. Hodge](#), First Asst. Attorney General, Greg W. Abbott, Attorney General of Texas, [Brian E. Berwick](#), Cynthia Woelk, [Elizabeth R.B. Sterling](#), Office of the Attorney General of Texas Env'tl. Protection & Admin. Law Div., [Kenneth Cross](#), [William J. "Bill" Cobb III](#), [David Preister](#), Office of the Attorney General, Austin, Liz Bills, for Respondent, State of Texas.

[Adrienne B. Kvello](#), [George W. Vie III](#), Mills Shirley L.L.P., Houston, for Respondent, Village of Surfside Beach, Texas.

Chief Justice [JEFFERSON](#), Justice [LEHRMANN](#), and Justice [BOYD](#) did not participate in the decision.

PER CURIAM.

\*1 Storms on Surfside Beach on the Gulf of Mexico have moved the vegetation line landward of petitioners' houses.<sup>FNI</sup> When the Village of Surfside Beach refused to allow the houses to be repaired or to have access to utilities, and the State asserted that the houses encroach on a public access easement and must

be removed, petitioners sued, contending among other things that the State's assertion amounts to a constitutionally compensable taking of their property. The court of appeals rejected petitioners' claims, [365 S.W.3d 1 \(Tex.App.-Houston \[1st Dist.\] 2010\)](#), and petitioners sought review in this Court.

While their petition has been pending, we have issued our opinion in [Severance v. Patterson](#), [370 S.W.3d 705, 725 \(Tex.2012\)](#), concluding that "avulsive events such as storms and hurricanes that drastically alter pre-existing littoral boundaries do not have the effect of allowing a public use easement to migrate onto previously unencumbered property". We now conclude that this case should be remanded to the court of appeals for further consideration in light of [Severance](#).

Accordingly, we grant the petition for review and without hearing oral argument, vacate the judgment of the court of appeals and remand the case to that court for further proceedings. TEX.R.APP. P. 59.1, 60.2(f).

**FNI.** Petitioners are Angela Mae Brannan, individually and as Independent Executrix of the Estate of Bob Albert Brannan, deceased, Brooks and Mary Porter, Russell and Judy Clinton, Russell Clinton as Independent Executor of the Estate of Elizabeth Clinton, deceased, Reg and Beaver Aplin, Partners d/b/a Benchmark Developing, Louise Bullard, Diane Loggins Clark, Joseph Cornell Dewitt, Lisa Marie Dewitt Fuka, Macario Ramirez, Chrissie Dickerson, Jeffrey Dymont, the Marvin Jacobson Family Holding Company, Cathy T. Charles, James and Patricia Meek, Mark Palmer, James C. and Patricia Pursley, Kenneth C. and Andrea Reutzler, S & S Holdings, LLC, and Rogers Thompson, Executor of the Estate of P.E. Kintz, deceased.

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