

## Appraisal Based on Non-Comparable Sales Fails Reliability Test

June 24, 2021

*Bank of Texas v. Collin Central Appraisal District*

Dallas Court of Appeals, No. 05-19-00568-CV (June 22, 2021)

Justices Myers, Nowell (Opinion linked [here](#)), and Goldstein

[Lyndon Bittle](#)



Bank of Texas appealed a judgment denying its challenge to CCAD's tax appraisal of two properties. The bank argued the trial court abused its discretion by striking the bank's appraisal experts for not properly applying the "income method," one of three appraisal methods recognized by the Tax Code. The Dallas Court of Appeals affirmed, holding the trial court could reasonably have concluded "that the comparables relied on by the [bank's] appraisers, rents for office buildings and retail properties, were not comparable to the property being valued, branch banks." This "analytical gap" failed the reliability test articulated by the Texas Supreme Court in *Gammill v. Jack Williams Chevrolet* (1998) and its progeny.

The appeals court rejected the bank's argument (a common refrain of proponents of expert opinions) that CCAD's complaints went "to the weight of the evidence, not its admissibility." The court explained that whether an "appraisal is based on non-comparable sales is an issue for the trial court in determining admissibility," and thus within its discretion. The appeals court also rejected the notion that "real estate appraisers are unique and somehow different from other experts; that their testimony is for the jury and not subject to reliability requirements." To the contrary, the court said, "Courts must act as gatekeepers of expert testimony; appraisers do not get a free pass."

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