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ANNEXATION - ILLINOIS

People ex rel. Geneva Public Library Dist. v. Batavia Public Library Dist.

Appellate Court of Illinois, Second District - August 6, 2015 - Not Reported in N.E.3d - 2015 IL App (2d) 100674-U - 2015 WL 4709534

Geneva and Batavia are both public library districts organized pursuant to the Illinois Public Library District Act (Act). Geneva provides library service to certain portions of Kane County; Batavia provides library services to certain portions of Kane and Du Page Counties. At issue in this appeal is land commonly referred to as Blackberry Township, which both parties have attempted to annex.

On October 18, 2006, Batavia passed Ordinance No.2006-011, which purported to annex Blackberry Township.

Geneva also sought to create an annexation that would safeguard Blackberry Township from future annexation attempts should Batavia's annexation pursuant to Ordinance No.2006-011 fail or be invalidated. Following advice of its counsel, on November 17, 2006, Geneva passed Ordinance No.2006-7, which purported to annex a block of the Blackberry Township territory extending 500 feet in depth and nearly 4,000 feet in width. The parties stipulated that the Geneva annexation, if given effect, would have precluded Batavia from annexing northwards into Blackberry Township.

On February 16, 2007, Geneva filed a petition for leave to file a complaint in quo warranto. Geneva sought to challenge all of Batavia's annexation ordinances. On November 7, 2007, Batavia filed a petition for leave to file a complaint in quo warranto, attacking the Geneva annexation of the block of Blackberry Township territory.

The trial court held that Geneva Ordinance No.2006-7 was "a legal gimmick aimed at preventing Batavia from exercising its lawful, even if unneighborly, right to annex territory" under the Public Library District Act of 1991 (Library Act) (75 ILCS 16/1-1 et seq. (West 2006)). The court further held that "Geneva failed to meet its burden" as the defendant to a quo warranto action and that Geneva's annexation ordinance was "null and void and of no effect." Geneva appealed.

The appeals court reversed, agreeing with Geneva that the trial court erred in determining that Ordinance No.2006-7 was a legal gimmick designed to interfere with and frustrate Batavia's ability to exercise its lawful authority to annex territory in Blackberry Township because the consideration of Geneva's intent was outside of its purview in reviewing an annexation under section 15-15 of the Act. The court also held that Batavia's annexation ordinance was invalid due to an incorrect legal description of the territory to be annexed.

"We note that, by holding that Geneva Ordinance No.2006-7 was not invalid (at least for the reasons stated by the trial court and raised by the parties), while Batavia Ordinance No.2006-11 was invalid, we have reversed the priority between the parties regarding their attempted annexations. We believe that the better practice in this situation is to allow another challenge to the annexation ordinances, this time involving only proper grounds, such as contiguity and priority. Accordingly, we

remand with directions to allow the parties to make appropriate challenges to the ordinances.”