

Bond Case Briefs

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ANNEXATION - MISSOURI

Village of Agency v. City of St. Joseph

Missouri Court of Appeals, Western District - October 25, 2016 - S.W.3d - 2016 WL 6208433

Village petitioned for a declaratory judgment authorizing its involuntary annexation of 347 acres of unincorporated land, 238 acres of which were owned by city that operated landfill near the annexed territory.

The Circuit Court denied petition. Village appealed.

Holdings: The Court of Appeals, Cynthia L. Martin, J., held that:

- The circuit court imposed on village the proper burden of proceeding with the evidence, as opposed to a burden of persuasion, and
- Village's proposed involuntary annexation to prevent expansion of city's landfill was not reasonable and necessary.

The standard of review applicable to a municipality's decision to involuntarily annex adjacent unincorporated land is whether there is substantial evidence showing that the reasonableness and necessity of the annexation is at least fairly debatable.

The extent of the court's inquiry as to whether the reasonableness and necessity of a municipality's involuntary annexation of adjacent unincorporated land is at least fairly debatable is whether substantial evidence has been presented by municipality to support the determination of its governing body such that reasonable men could differ as to the necessity of the extension.

Factors for determining whether an involuntary annexation is reasonable include need for residential or industrial sites; city's inability to meet its needs without expansion; consideration only of needs which are reasonably foreseeable; past growth relied on to show future necessity; extent to which past growth has caused city to spill into proposed area; beneficial effect of uniform application and enforcement of zoning ordinances; need for or beneficial effect of uniform application and enforcement of municipal building codes; need for or beneficial effect of extending police protection area; need for or beneficial effect of uniform application and enforcement of health ordinances or regulations; need for and ability of city to extend essential municipal services into area; enhancement in value by reason of adaptability of land for prospective city uses; and regularity of boundaries.

Circuit court imposed the proper burden of proceeding with the evidence, as opposed to a burden of persuasion, on village seeking a declaratory judgment approving an involuntary annexation of adjacent unincorporated land, despite the court's finding that village failed to produce substantial evidence that the reasonableness and necessity of the proposed annexation was fairly debatable; that finding only reflected the court's determination that village failed to sustain its burden to proceed with the evidence.

The “burden of proof” applicable in an involuntary annexation proceeding by a municipality is a burden of proceeding with the evidence and not a burden of persuasion by the preponderance of the evidence.

Village’s proposed involuntary annexation of adjacent unincorporated land was not reasonable and necessary, where village based its annexation decision exclusively on concerns about, and a desire to prevent, city’s efforts to expand a nearby landfill.

When the sole evidence justifying a proposed involuntary annexation of adjacent unincorporated land is the municipal annexing authority’s defensive desire to prevent uses on annexed land, no benefit to the annexed land is demonstrated, negating any ability to find the annexation reasonable and necessary to both the annexing authority and the annexed area.