

# **Bond Case Briefs**

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## **ANNEXATION - ILLINOIS**

### **In re Petition to Annex Certain Territory to Village of Lemont**

**Appellate Court of Illinois, First District, Third Division - December 13, 2017 - N.E.3d - 2017 IL App (1st) 170941 - 2017 WL 6559294**

Residential landowners seeking annexation of unincorporated land to adjacent village, which subsequently intervened and joined as plaintiff, filed petition for “forcible” or “involuntary” annexation of land that included golf course property.

Following hearing, the Circuit Court denied landowners’ motion for substitution of judge, and following discovery, granted objectors’ motion for summary judgment. Landowners and village appealed.

The Appellate Court held that:

- Landowners and village were not entitled to substitution of trial judge after trial judge presided over hearing and issued a ruling in favor of objectors;
- Voluntary petitions previously filed by golf course owners seeking annexation of their unincorporated land into village were not abandoned, and thus the voluntary petitions had priority; and
- Trial court did not abuse its discretion by limiting discovery to after a certain date.

Residential landowners, who owned portion of unincorporated territory, and village were not entitled to substitution of trial judge in their proceedings for involuntary annexation of land to village, after trial judge presided over hearing and issued a ruling in favor of objectors, refusing to move forward on the petition and granting objectors’ request to meet after annexation ordinances passed in objecting village; trial judge had already issued a ruling that was substantive in nature and, even if the ruling was not substantive, landowners had been given ample opportunity at the hearing to “test the waters” in order to discern the judge’s potentially unfavorable disposition on the merits.

Voluntary petitions filed by golf course owners seeking annexation of their unincorporated land into village were not abandoned by the owners or the village at issue, and thus the voluntary annexation petitions had priority over subsequent “involuntary” annexation petition filed by residential landowners and joined by competing village; the delay in village’s formal approval of the voluntary petitions was owing to village’s engagement in consistent action to prepare for annexation process, and the village eventually did pass ordinances facilitating the annexation, all of which constituted “action” on the case so as to prove the village was integrally involved in the process and had not abandoned the cause of annexation.

Trial court did not abuse its discretion by limiting discovery to “January 1, 2015, and forward,” in annexation dispute between residential landowners and one village against golf course owners and another village; prior voluntary annexation petitions filed by golf course owners in previous years

were never challenged by any opposing annexation petitions, were irrelevant to the matter at hand, which was determining the priority for the 2015 annexation petitions, and no law was cited demonstrating that those prior petitions could even be considered still jurisdictionally “live” once they were replaced with the 2015 petition.