

# **Bond Case Briefs**

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## **ANNEXATION - TENNESSEE**

### **State ex rel. Allen v. City of Newport**

**Court of Appeals of Tennessee - June 18, 2013 - Slip Copy - 2013 WL 3148260**

The City of Newport sought to annex certain properties in Cocke County, Tennessee. A number of affected parties objected to the annexation and filed a complaint against the City. The trial court allowed the plaintiffs to amend their complaint to allege that the City was barred from annexing their properties because it had defaulted on a prior plan of services from an earlier annexation.

The following issues were raised on appeal:

- Whether a municipality, after the enactment of Tennessee Code Annotated section 6-51-102(b)(5), may annex “any new territory” if it is in default on “any plan of services?”
- Whether the appellants were entitled to a jury trial to determine any material facts at issue in this declaratory judgment action?

The court found that the 1998 provisions do include compliance with the City’s earlier plans of service and concluded that the trial court erred in dismissing the appellants’ declaratory judgment claim on the basis of improper retroactive application of Tennessee Code Annotated section 6-51-102(b)(5). Thus, it reversed the judgment and remanded to the trial court. “We express no opinion as to the eventual result of this litigation after further proceedings.”

The court also found that a jury was authorized.