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ANNEXATION - KANSAS

Bunge Milling, Inc. v. City of Atchison

Court of Appeals of Kansas - August 23, 2013 - P.3d - 2013 WL 4499120

The City of Atchison (City) appealed the district court's decision setting aside its ordinance establishing the annexation of Bunge Milling, Inc.'s (Bunge) property under K.S.A. 12-520(a)(1). The City argued that Midland Surveying (Midland) acted as Bunge's agent when Midland filed a boundary survey of Bunge's property with the register of deeds. As the City would only have had the authority to annex Bunge's property if the *owners* had filed the survey under K.S.A. 12-519(e), the filing of a boundary survey by Bunge's agent would meet this requirement. Bunge argued its property was not subject to annexation because Midland was not its agent for the purpose of filing the survey.

The appeals court agreed with the district court that Midland was not acting as Bunge's agent when it filed a boundary survey of Bunge's property with the register of deeds, meaning that the survey had not been filed by the "owner" of such tract.