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ANNEXATION - GEORGIA

City of Brookhaven v. City of Chamblee

Court of Appeals of Georgia - October 23, 2014 - S.E.2d - 2014 WL 5369089

City, to which land had been designated for annexation pursuant to General Assembly's local act, filed petition seeking declaratory judgment and injunctive relief against city that sought to annex same land pursuant to "100% method" of annexation. The trial court granted summary judgment in favor of city to which land had been designated under local act. City that sought annexation through "100% method" appealed.

The Court of Appeals held that:

- Local act went into effect when it was signed by the Governor;
- As an issue of first impression, city was prohibited from annexing land through "100% method" during referendum process under local act; and
- Enforcement of local act did not violate constitutional one-subject-matter rule.

General Assembly's local act, which identified annexation area for inclusion within city's corporate limits and directed county elections superintendent to hold referendum to allow a vote on whether designated area should be annexed, went into effect when it was signed by the Governor to initiate the referendum process on the defined annexation area, and the referendum was a condition precedent for annexation, even though annexation, if approved, was not supposed to become effective until end of year. Although language providing that the act would not become effective until end of year was inartfully worded, the act provided that if voters disapproved the annexation, the act not only would "not become effective," it would also be "automatically repealed," and there would be no need to repeal an act that was not effective.

City was prohibited from attempting to annex land through "100% method" of annexation, requiring application by all owners of the land, during referendum process of local act by General Assembly, pursuant to which legislature had designated same land for annexation to another city upon voter approval of referendum. "100% method" was not intended to restrict General Assembly's constitutionally granted annexation powers, allowing city to annex land through "100% method" before referendum took place would, in essence, allow it to unilaterally effectuate an amendment to the local act, and "100% method" did not allow city to race the General Assembly to annex land that had already been designated for annexation under local law.

Enforcement of local act that provided for annexation of land to city upon voter approval of referendum did not violate constitutional one-subject-matter rule that all legislation have a single subject matter by simultaneously deannexing land from city that had purported to annex same land through alternative "100% method" of annexation and annexing land to city upon approval of referendum. City that purported to annex land through "100% method" lacked authority to annex that land during pendency of referendum process, and thus no annexation through the "100% method" had occurred and no violation of one-subject-matter rule arose.

