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ANNEXATION - INDIANA

Fight Against Brownsburg Annexation v. Town of Brownsburg

Court of Appeals of Indiana - May 15, 2015 - N.E.3d - 2015 WL 2328736

After the Town of Brownsburg introduced an ordinance to annex 4,461 acres north of the town, several affected landowners formed a group called Fight Against Brownsburg Annexation (“FABA”) and filed a remonstrance petition with the trial court. Brownsburg moved to dismiss the petition under Trial Rule 12(B)(1) and 12(B)(6), and, following a hearing, the trial court dismissed the remonstrance petition.

FABA appealed, arguing that the trial court erred both when it dismissed the petition under Trial Rule 12(B)(1) and when it concluded that FABA had failed to obtain a sufficient number of signatures in support of its remonstrance petition.

The Court of Appeals held that:

- A trial court has subject matter jurisdiction to determine whether a remonstrance petition is facially sufficient under Indiana Code Section 36-4-3-11;
- A party seeking to challenge a remonstrance petition under that statute may not move to dismiss the petition under Trial Rule 12(B)(1);
- Landowner signatures on the the remonstrance petition were valid regardless of whether they were obtained after the ordinance was introduced or after it was adopted; and
- The amendments to the annexation ordinance between the time it was introduced and the time it was adopted did not substantively change the ordinance, so the amendments were not akin to the repeal and replacement of an ordinance, and thus FABA’s petition was not moot.