

Bond Case Briefs

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ANNEXATION - INDIANA

Town of Whitestown v. Rural Perry Tp. Landowners

Court of Appeals of Indiana - July 29, 2015 - N.E.3d - 2015 WL 4557062

Remonstrators challenged town's annexation of land. The Superior Court adopted remonstrators proposed findings and conclusions and entered judgment in their favor. Town appealed.

The Court of Appeals held that:

- Town met its burden of demonstrating that annexation area was "needed" and could be "used by the municipality for its development in the reasonably near future," as required to justify annexation, and
- Remonstrators failed to show that annexation would have "a significant financial impact," as required to defeat the otherwise valid annexation.

Town seeking to annex unincorporated portions of adjacent township met its burden of demonstrating that the annexation area was "needed" and could be "used by the municipality for its development in the reasonably near future," within meaning of statute governing requirements for annexation. Witnesses testified concerning rapid growth of town, annexation area was to be site of new waste water treatment plant, town had plans to run water mains through the area, town had plans to connect the plant to water lines from subdivision next to the annexation area, preventing annexation of a portion of the area could lead to substantial expense to town, and there was no evidence that town only sought to bolster its tax base.

Remonstrators challenging town's annexation of unincorporated portions of adjacent township failed to demonstrate that the annexation would have "a significant financial impact," as required to defeat town's otherwise valid annexation, even though annexation could result in an increase in property taxes of 52% to 74% for residents of the annexation area. Town's annexation ordinance provided that property taxes in the annexation area would remain at preannexation levels for 13 years, there was no evidence as to financial impact at the conclusion of the 13-year period, and town's 13-year plan of accommodation would not be regarded as an effort to "game the system," in absence of legislative provision barring such arrangement.