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ANNEXATION - MICHIGAN

Teridee LLC v. Charter Tp. of Haring

Court of Appeals of Michigan - December 8, 2015 - Not Reported in N.W.2d - 2015 WL 8286094

This case involves 1984 PA 425, MCL 124.21 et seq. (Act 425), which enables two local units of government - in this case Charter Township of Haring and Township of Clam Lake - to conditionally transfer property by written agreement for the purpose of economic development projects.

Plaintiff LLCs owns approximately 140 acres of vacant land in Clam Lake Township, which they intend to develop into a mixed-use development. In June 2011, plaintiffs sought to annex their property to the city of Cadillac to gain access to the city's water and sewer services, which are located within one-quarter mile from the property. According to plaintiffs, the Townships did not have the infrastructure or was unable to provide the property with public water and sewer services in a timely manner. The Townships opposed the annexation.

The Townships entered into an Act 425 agreement on June 5, 2013 to conditionally transfer property - including all of plaintiffs' property - from Clam Lake to Haring. This was of significance to plaintiffs because while an Act 425 agreement is in effect, annexation cannot occur.

Plaintiffs alleged that although the Act 425 agreement proposed a mixed-use development, the development restrictions and regulations in the agreement to be implemented by Haring were so strict that they effectively restricted any reasonable commercial development. Plaintiffs also alleged that the agreement was simply an attempt to prevent plaintiffs' property from being annexed to Cadillac.

The trial court determined that the agreement divested Haring of its legislative zoning authority, which made the contract void. It also determined that the unlawful provisions were central to the agreement and could not be severed. Townships appealed and the Court of Appeals affirmed.