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ANNEXATION - KENTUCKY

City of Mayfield v. Kennemore

Court of Appeals of Kentucky - August 5, 2016 - Not Reported in S.W.3d - 2016 WL 4256898

In late 2015, the city of Mayfield passed two ordinances allowing it to annex properties owned by the Graves County Board of Education. In a letter sent to the Mayor of Mayfield on January 5, 2016, an attorney representing the Board objected to the annexation. The Board considered the letter to be its notice to the City that it was petitioning for a referendum on the annexation, to be certified by the Graves County Clerk and brought for a vote in the November general election. In response, the City filed a declaratory judgment action against the Clerk and sought an injunction to prevent the Clerk from certifying the petition. The Board, to protect its interests, filed a motion to intervene.

The Circuit Court entered an order granting intervention, denying injunctive relief, and declaring that the petition had been properly submitted. It ordered the Clerk to certify the petition and place the question of annexation on the ballot in the general election. The Circuit Court reasoned that the Board could not meet the requirements of KRS 65.012 since it has no date of birth, no address, and is not a registered voter in the area to be annexed. However, it did find that the Board properly filed a petition under KRS 81A.420, which allows property owners, as well as residents of the affected area, to petition for a referendum. Acknowledging the conflict between the statutes regarding the requirements for a valid petition, the court found KRS 81A.420 more specifically addressed a petition for a referendum on an annexation. The City appealed.

The Court of Appeals held that:

- The Board's motion to intervene was rightly granted, but;
- Reversed the Circuit Court's order denying the City's request to prohibit the Graves County Clerk from certifying the petition for a referendum.

The Court found that KRS 65.012 controlled, not KRS 81A.420. Because the Board could not follow the requirements of KRS 65.012 (i.e. date of birth, address, registered voter in the area to be annexed), the petition was void and the clerk could not certify it for placement on the November ballot.