

Bond Case Briefs

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ANNEXATION - WEST VIRGINIA

Coffman v. Nicholas County Commission

Supreme Court of Appeals of West Virginia - February 9, 2017 - S.E.2d - 2017 WL 562827

Objectors filed action against county commission, individual commission members, and property owner, seeking declaration that commission's grant of city's petition for annexation of property by minor boundary adjustment was void, that operation of automotive junkyard on property was in violation of city and county ordinances, and that owner was required to cease operation of junkyard and restore property.

The Circuit Court granted summary judgment in favor of commission. Objectors appealed.

The Supreme Court of Appeals held that:

- Property was "contiguous" with municipal boundary of city, so as to support annexation;
- Statute governing annexation by minor boundary adjustment was not limited to property involving certain types of streets or highways;
- City's petition for annexation met threshold requirements to initiate annexation; and
- Commission properly considered all relevant statutory factors and made determination that granting of annexation was in best interest of county.

Property was "contiguous" with municipal boundary of city, within meaning of statute requiring territory annexed by minor boundary adjustment to be contiguous to corporate limits of city by directly abutting municipal property or being separated from boundary by certain types of property, including unincorporated streets, though objectors to annexation asserted that property was only technically linked to city by private easement and did not share common boundary line with residential or commercial property within city's corporate limits. Property directly abutted the municipal boundary of the city, as it directly abutted road that had previously been annexed by minor boundary adjustment, and statute did not direct that property to be annexed abut residential or commercial municipal property.

Statute governing annexation by minor boundary adjustment, which stated "In addition to other annexation configuration" a municipality could incorporate territory consisting of two configurations including streets or highways, was not limited to properties involving streets or highways; had legislature intended to limit minor boundary adjustment to two configurations of territory with streets or highways it would have so stated or simply omitted the "In addition to" language.

City's petition for annexation of property, on which owner sought to operate salvage yard, met statutory threshold requirements for petitions to initiate annexation by minor boundary adjustment, and thus county commission was required to proceed to notice, publication, and hearing on petition, though objectors to annexation asserted that petition failed to contain accurate map and that it inaccurately stated that no business was operating on property. Petition identified property to be annexed by metes and bounds and attaching plat, petition included other necessary statements, including plan for fire and other services, and any inaccuracy about business operation could be tested during public hearing process.

In granting annexation by minor boundary adjustment, county commission properly considered relevant statutory factors and made determination that proposed annexation of property, on which owner sought to operate salvage yard, was in best interest of county, and thus reversal was not warranted, though objectors to annexation asserted commission failed to account for evidence regarding environmental impact and devaluing of property in surrounding homes and businesses and commission's order did not go into great detail or lengthy analysis. Commission serially addressed each and every statutory factor that it was mandated to consider in making its decision, and commission's order on boundary adjustment met minimum requirements of statutory scheme.