

Bond Case Briefs

Municipal Finance Law Since 1971

ANNEXATION - MONTANA

St. John v. City of Lewistown

Supreme Court of Montana - May 30, 2017 - P.3d - 2017 WL 2334477 - 2017 MT 126

Land owners applied for a preliminary injunction and temporary restraining order to prevent city's annexation of property.

The District Court granted summary judgment to city. Owners appealed.

The Supreme Court of Montana held that:

- City complied with statutory requirement for filing copy of plat or survey;
- City's proposed annexed land was contiguous, as required by statutory procedures;
- City's determination that annexation was in its best interest was unreviewable;
- City was allowed to require waivers to protest annexation in exchange for city's water services;
- Owners were not denied equal protection by city's decision of what property to annex; and
- Owners, as incidental beneficiaries, lacked standing to enforce contract between city and subdivision developer.

City seeking to annex contiguous land complied with statutory requirement for filing with county clerk and recorder copy of plat or survey. Even though corrected map identified partial lots to be annexed as "not a parcel," and noted that no field survey was performed, map identified all land proposed to be annexed, map was recorded as certificate of survey, and annexation statute allowed for annexation of only portions of tracts of land that were being immediately serviced by city's water.

City's proposed annexed land was contiguous to existing annexed land and connected by road, also part of the annexation, as required by procedures for annexing contiguous land, despite contention that city used "hopscotch" method to skip certain parcels; tracts of land were deemed contiguous even though separated from city by road, road was indisputably an area of land, and roads could be considered contiguous to other land for purposes of annexation.

City's determination that annexation of contiguous property was in its best interest was unreviewable, where city did not proceed contrary to statute, as city filed plat or survey and annexed area was contiguous, and city complied with statutory procedures regarding validity of protests to annexation.

City was allowed to require waivers to protest annexation in exchange for city's water services, and therefore protests to annexation were validly discounted based on waivers, despite objecting land owners' contention that waivers were signed under duress or fraud. Even if waivers were requested after utilities and annexation proceedings were initiated, owners were connected to city's water supply for period of time and continued to receive service without request from city to sign a waiver, and owners were receiving utilities from city which, in exchange for those services, sought to annex property receiving benefit of those services.

City's decision of what property to annex was left to its discretion, absent failure to follow statutory directives, and therefore land owners were not denied equal protection by city's annexation; even though annexation distinguished between property owners whose property would and would not be annexed, annexation, by its very nature, was exercise of choosing one parcel over another to annex.

Land owners were not signatories to nor intended beneficiaries of contract between city and subdivision developer, and therefore owners were incidental beneficiaries who lacked standing to enforce contract in their action seeking to prevent city's annexation of properties; even if owners used roads located in subdivision, no owners lived in subdivision, their names were not in any part of contract, and they were not identified as third-party beneficiaries.