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ANNEXATION - OREGON

City of Corvallis v. State

Court of Appeals of Oregon - May 13, 2020 - P.3d - 304 Or.App. 171 - 2020 WL 2478669

City filed declaratory judgment action against state, Governor, and other state officials, seeking to have statute, requiring cities to annex territory within their urban growth boundary without submitting the proposal to the electors of the city, declared unconstitutional on its face or as applied.

Another city later intervened as plaintiff. The Circuit Court granted the state defendants' motion for summary judgment and motion to strike certain declarations from the summary judgment record, and denied cities' cross-motions for summary judgment. Cities appealed.

The Court of Appeals held that:

- Statute was not unconstitutional on its face under the state constitution's home-rule provisions;
- Letter sent to cities by Department of Land Conservation and Development (DLCD), notifying cities of new statute, did not constitute an executive enforcement action which could serve as prerequisite for cities to bring as-applied challenge to constitutionality of the statute;
- Landowners' filing of annexation petitions did not constitute enforcement of statute, and thus, did not satisfy prerequisite for bringing an as-applied challenge to the constitutionality of the statute;
- Trial court's error, if any, in excluding declarations from summary judgment record was harmless;
- Statute did not conflict with cities' charter provisions, and thus, statute was not unconstitutional as applied to cities;
- City charters' language of "unless mandated by state law" did not violate the state constitution's rule against prospective delegation of legislative authority; and
- Trial court's grant of summary judgment was defective, and thus, remand was warranted for entry of a judgment that declared the rights of the parties.