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ANNEXATION - NEBRASKA

[Darling Ingredients Inc. v. City of Bellevue](#)

Supreme Court of Nebraska - March 24, 2023 - N.W.2d - 313 Neb. 853 - 2023 WL 2618705

Landowner brought action against city challenging validity of annexation ordinance, seeking declaratory and injunctive relief.

The District Court entered judgment for landowner on two bases for relief without addressing third basis. City appealed. The Supreme Court reversed and remanded. On remand, the District Court entered judgment for city. Landowner appealed.

The Supreme Court held that:

- Trial court acted within scope of remand by deciding case without receiving additional evidence as to third basis to challenge ordinance, and
- Annexation ordinance was not for an improper purpose of solely seeking to increase tax revenue.

Trial court acted within scope of Supreme Court's remand to consider landowner's "improper purpose" challenge to city's annexation ordinance when trial court decided case on remand without receiving additional evidence, on remand following reversal of judgment declaring ordinance invalid on two of three bases raised by landowner, where proof on all three of landowner's bases for relief was fully presented at trial, trial court found for landowner on the first two bases for relief at close of the evidence but did not address the third basis for relief which was whether ordinance was enacted for an improper purpose, Supreme Court observed that trial court did not render any decision as to the "improper purpose" challenge, and landowner did not seek leave to amend pleadings, seek additional discovery, or offer new evidence at a subsequent trial.

City's annexation ordinance that included rural area which was not contiguous or adjacent to city was not for an improper purpose of solely seeking to increase tax revenue, where city was motivated to annex area in question, at least in part, to foster natural growth and development of city.