

Bond Case Briefs

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ANNEXATION - NEW YORK

Town of Union Vale v. Town of Beekman

Supreme Court, Appellate Division, Second Department, - New York. September 20, 2023 - N.Y.S.3d - 2023 WL 6134177 - 2023 N.Y. Slip Op. 04670

Town commenced proceeding for annexation of real property lying within other municipality and that comprised of part of a public park, and referees were designated to hear and report their findings of fact and conclusions of law.

Following hearing referees, issued report finding that annexation was not in the overall public interest and recommended denial of annexation. Town filed motion to disaffirm report and other municipality filed motion to confirm report.

The Supreme Court, Appellate Division, held that:

- Annexation of property was not in the overall public interest, and
- Annexation proceeding was not proper former for resolution of zoning dispute regarding proposed site of cellular phone tower.

Annexation of real property lying within other municipality, which comprised part of a public park, was not in the overall public interest, precluding grant of town's request for annexation; there was no indication that unified government of park encompassing subject property would benefit the public or provide significant public safety benefits or that annexation was necessary to resolve a taxation dispute.

Annexation proceeding was not the proper forum for resolution of zoning dispute between town and other municipality regarding proposed site of cellular phone tower located within real property composed of largely vacant land and making up part of a public park; dispute was the subject of a related article 78 proceeding and appeal.