

Annexation

CLAIMS BRIEF



Issue No. 20

Spring 2001

Combined Consents Does Not Authorize Annexation

By Sherri Butler

In February 2001, the Court of Special Appeals ruled that a municipality may not “tie” together consents of non-adjoining landowners to obtain the required minimum consent for annexation.

In November of 1998, the Town of Berlin passed a Resolution, which annexed four separate parcels of land to the corporate limits of the Town. Each parcel adjoined the Town’s boundaries but consisted of multiple lots under separate ownership. The lots located within the annexed parcels were not adjacent to each other; however, they all abutted the Town’s water and wastewater lines in different areas. The lot owners of two of the parcels gave consent to the annexation by only 10% and 5%. Maryland’s annexation statute requires that consent for an annexation proposal must be approved by not less than “25 percent of the assessed valuation of the real property located in the area to be annexed.” Following the annexation, several property owners filed a complaint to have the annexation declared invalid.

After the Circuit Court ruled that the

annexation was void, the Town noted an appeal. It argued that the term “area” used in the annexation statute refers to the total area to be annexed in a single annexation proceeding and, therefore, a municipality may annex in a single proceeding multiple parcels that do not adjoin by tying together the consents of all of the parcels. The Court of Appeals disagreed and held that a municipality may not annex multiple non-contiguous tracts of land without the consent of at least 25 percent of owners from each land parcel. The Court stated “we do not assume that the General Assembly intended to allow a town to annex multiple non-contiguous areas, where one consenting area can essentially force another non-consenting area into annexation.” *Mayor and Council of Berlin v. Barrett*, __Md. App.__ (2001).

Note: These types of claims are often filed as declaratory, injunctive, or other equitable relief actions that do not seek damages against the local government. Only actions, which seek damages, are covered under the LGIT Scope of Coverage.¹

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