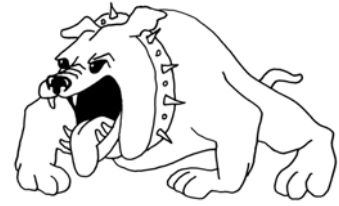


CITIZENS AGAINST ANNEXATION

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May 9, 2008

CITIZENS AGAINST ANNEXATION APPEAL FAWN RIDGE / RHODODENDRON DRIVE ANNEXATION

On June 18, 2007, the City Council of the City of Florence approved Resolution No. 8, Series 2007, for an annexation of Fawn Ridge and about 1.3 miles of Rhododendron Drive, including Sebastian Drive. CAA appealed the decision to the Oregon Land Use Board of Appeals (LUBA). LUBA ruled that because the Lane County Boundary Commission gave the “final” approval of the annexation, CAA would have to appeal the Boundary Commission’s decision instead. That level of appeal was directly to the Oregon Court of Appeals, and CAA filed our Opening Brief on May 1, 2008.

Two other Opening Briefs were filed in conjunction with CAA's appeal, and below are excerpts from all three of those briefs.

Citizens Against Annexation - Summary of Arguments:

"1. The Lane County Local Government Boundary Commission erred by approving the challenged decision as an ORS 199.490(2)(a)(A) annexation without first requiring the City of Florence to enact a local government resolution for this type of annexation after first filing an intent to annex with the Boundary Commission generally describing their proposed annexation as required by ORS 199.490(2).

"2. The Lane County Local Government Boundary Commission erred by approving the challenged decision without any consideration or findings as to any of Oregon’s State Land Use Goals as required by ORS 199.462 and OAR 191-030-0020(25).

"3. The Lane County Local Government Boundary Commission erred by changing both the legal basis and the applicable criteria for this annexation decision after the close of the public hearing thereby depriving Petitioner from addressing the new legal basis and the applicable criteria for this annexation decision, in violation of the procedures required for contested case hearings by the Oregon APA and by rights conferred under the Due Process Clause of the United States Constitution."

Citizens For Florence - Summary of Argument:

“Annexation statutes have an implied “reasonableness” requirement, stemming from due process restrictions on arbitrary legislation. Cherry-stem annexations are not *per se* reasonable or unreasonable - evaluation of the reasonableness of each one requires a comparison of the specific facts of the situation to the factors inherent in the statutory language. The state statutes set out the policies and purposes of annexation, including the efficient provision of urban services and the

orderly and logical extension of urban development. Because, in this particular situation, this particular cherry-stem annexation does not further those policies and purposes, it is unreasonable and thus violates the applicable law.”

Thomas Link - Summary of Argument:

“The Lane County boundary commission is required by its own regulations to ensure that its annexation decisions comply with the Statewide Land Use Goals. Yet, the commission's conclusory findings failed to mention, much less demonstrate, the requisite conformity with said Goals. This omission means that despite the commission's stated purpose for the annexation "to ensure adequate provision of urban services" to the subject property, very few such services will in fact be provided.”

WHAT'S NEXT?

Attorneys representing the Boundary Commission and the City of Florence are due to file their Response Briefs by June 19, 2008. Filing deadlines are often extended, and so the conclusion of this level of appeal may not be seen until this fall, or even later, depending on the schedule of the Court of Appeals.