

STATE OF INDIANA)
)
COUNTY OF MONROE) IN THE MONROE CIRCUIT COURT
)
) CAUSE NO. 53C06-2203-PL-000509

COUNTY RESIDENTS AGAINST ANNEXATION, INC.,
an Indiana not for profit corporation,
Representative of Those in the Territories Sought to be
Annexed; DON CREEK, HARRY FERRIS,
WILLIAM MANWARING, DAN DOYLE, CATHERINE
DENSFORD, SCOTT S. LOMAN, ETHEL ANN SATLER,
MARILYN J. DANIELSON, DEAN E. HOKE, BERT F.
PHILLIPS, SUNNY SLATER, HOLLY HILL, DEBORAH
REED for REED QUARRIES, INC., THOMAS W. McGHIE,
RICKY FERGUSON, THOMAS E. OSBORN, JIMMIE JOHNSON,
RICHARD PEACH, KAREN LAUCELLA, BARBARA
LEININGER, CINDI LIVINGSTON, RHONDA GRAY,
ARLLYS PAPKE, JOANNA HAHN; and OTHER TERRITORY
1A AND 1B OWNERS OF LAND,
Remonstrators/Appellants/Petitioners,

vs.

THE COMMON COUNCIL of the City of Bloomington,
Monroe County, Indiana,
CITY OF BLOOMINGTON, Monroe County, Indiana,
JOHN HAMILTON in his official capacity as
Mayor of Bloomington, Monroe County, Indiana, and
CATHERINE SMITH in her official capacity as Auditor
of Monroe County, Indiana,
Respondents.

PETITIONERS' MOTION TO STAY

COME NOW the Petitioners, by counsel, and for their Motion to Stay state as follows:

1. The City of Bloomington has, separately but in relation to its proposed annexation of Areas 1A and 1B which are the subject of the present case, sued Catherine Smith, the Monroe County Auditor. *See City of Bloomington v. Smith Cause No. 53C06-2203-PL-000608.*

2. In *City of Bloomington v. Smith*, the City has argued that the Indiana General Assembly has acted unconstitutionally by retroactively voiding contractual obligations. The City

argues that if their lawsuit is successful, then Areas 1A and 1B will not meet the statutory threshold for judicial review of annexation as is being sought in the present case.

3. Based on the City's separate lawsuit against the Monroe County Auditor concerning Areas 1A and 1B, the Petitioners respectfully request that the Court stay the proceedings in this case.

4. If the City is successful in its suit against the Auditor, then most issues in the present case will be moot. Exceptions are whether additional time to gather remonstrances should be granted pursuant to the Emergency Statutes (Indiana Code § 34-7-6-1 *et. seq.*), Equitable Tolling, and potentially others.

5. Therefore, the possibility exists that the present case could be prepared for trial, tried, and appealed but be of no force or effect if the City prevails in its suit against the Auditor. Such an outcome would cause undue burden upon the Court and expense upon the parties that would be avoided if the present case is stayed.

6. Accordingly, judicial economy demands that the present case be stayed while the City's suit against the Auditor is finally resolved.

7. The Petitioners would be prejudiced if they were forced to incur the cost of preparing the present case for trial and incur the cost of trial, only to possibly have the City's suit against the Auditor change the outcome of the present case.

8. The significance of the issues in this case – namely, involuntary and unwanted annexation of property owners – justifies a stay of the present case.

9. This matter should be stayed in the interest of judicial economy. It would be a waste of judicial resources if the Court were to permit present case to move forward while the City's lawsuit against the Auditor remains pending and its outcome unknown.

10. It is within the realm of possibility that the Court presiding over the City's lawsuit against the Monroe County Auditor could enter judgments and orders which would affect this lawsuit.

11. The City objects to this motion.

12. Catherine Smith does not object to this motion.

13. The Petitioners respectfully request that the Court stay these proceedings until the City's lawsuit against the Monroe County Auditor has been fully and finally decided.

14. WHEREFORE the Petitioners, by counsel, request that the Court stay these proceedings until the City's lawsuit against the Monroe County Auditor has been fully and finally decided, and for all other just and proper relief in the premises.

Respectfully submitted,

/s/ William J. Beggs

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CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing document using the Indiana E-filing System (IEFS) and that the foregoing document was served upon the following person(s) using the service contact entered in the IEFS via IEFS on June 9, 2023:

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Hon. Nathan G. Nikirk, Special Judge
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/s/ William J. Beggs

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