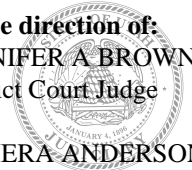


The Order of the Court is stated below:

Dated: December 29, 2021
10:41:33 AM

At the direction of:
/s/ JENNIFER A BROWN
District Court Judge
by
/s/ TAMERA ANDERSON
District Court Clerk



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Attorneys for Defendant Town of Hideout

**IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR WASATCH COUNTY, STATE OF UTAH**

SUMMIT COUNTY, a political subdivision of the State of Utah,	RULING AND ORDER
Plaintiff,	
vs.	Case No. 200500107
TOWN OF HIDEOUT, a municipal corporation of the State of Utah,	Judge Jennifer A. Brown
Defendant.	

Summit County’s April 17, 2021 Motion for Summary Judgment and the Town of Hideout’s May 5, 2021 Motion for Summary Judgment came before the Court for oral argument on June 7, 2021. Margaret Olson and Jami Brackin argued on behalf of Summit County. Robert Mansfield argued on behalf of the Town of Hideout (“Hideout”). The Court, having considered the written and oral arguments of counsel, and for good cause appearing hereby finds and orders

as follows:

A. Summit County's Motion for Summary Judgment on Cause of Action 5

With respect to Summit County's April 19, 2020 Motion for Summary Judgment addressing only the fifth cause of action in the Complaint, the Court hereby finds that there are no disputed issues of material fact with respect to this cause of action. The relevant facts being:

1. On August 20, 2020 the Utah State Legislature, through HB 6007, amended Utah Code § 10-2-418 by repealing amendments made by HB 359S1, which had been enacted in the 2020 General Legislative Session. HB 6007 deleted and removed the right of a municipality to annex non-contiguous unincorporated area of land in another county without a petition and without that county's consent.

2. HB 6007 had an effective date of October 20, 2020.

3. Hideout was aware of the HB 6007 effective date at the time it restarted its annexation effort on September 10, 2020.

4. Hideout adopted Ordinance No. 2020-10, an annexation ordinance, on October 16, 2020.

5. On October 16, 2020, Hideout prematurely submitted to the Lieutenant Governor's Office a Notice of an Impending Boundary Action, which included a materially false Certification.

6. Hideout enacted Ordinance No. 2020-10, as defined by Utah Code Ann. §10-3-712, on October 26, 2020 after its publication and posting.

7. Hideout received a Certificate of Annexation from the Lieutenant Governor's

Office on October 28, 2020.

Based upon the above material and disputed facts, Summit County is entitled to judgment as a matter of law and this Court grants Summit County's Motion. In so doing, the Court finds Summit County's position to be the most correct; reading the Municipal Code "to give meaning to all parts, and avoid rendering portions of the statute superfluous." *State v.*

Watkin, 2013 UT 28, ¶23, 309 P.3d 209, 213. "To do so, courts read the plain language of the statute as a whole, and interpret its provisions in harmony with other statutes in the same chapter and related chapters." *State v. Barrett*, 2005 UT 88, ¶ 29, 127 P.3d 682, 689.

Under Utah Code §10-4-425(1)(a), in order for the annexation ordinance to be effective, it must be enacted, and not simply adopted. Pursuant to Utah Code § 10-3-711 and § 10-3-712, enactment requires publication or posting of the ordinance after adoption, which was not accomplished until after the effective date of HB 6007. After the effective date of HB 6007, Hideout no longer had the delegated statutory authority to annex a non-contiguous unincorporated area in another county without a petition.

Accordingly, Hideout's authority to annex in this manner had expired before Ordinance No. 2020-10 had been enacted, making Ordinance No. 2020-10 invalid from its inception.

Hideout's argument that the certification by the Lieutenant Governor creates a conclusive presumption of the validity of the annexation is without merit. To create the conclusive presumption, the required Certification which was submitted to the Lieutenant Governor by Hideout in order to obtain the Certificate of Annexation must be accurate. It was not. The language of HB359S1 creating a conclusive presumption required that the annexation meet the

requirements of Utah Code §10-4-418(3) and upon the effective date under Utah Code §10-2-425. The October 16, 2020 Notice of an Impending Boundary Action and its Certification by Hideout, which was provided to the Lieutenant Governor, was submitted prior to Ordinance No. 2020-10 being enacted on October 26, 2020. Accordingly, the conclusive presumption was based upon inaccurate and materially false information provided to the Lieutenant Governor by Hideout and this Court finds that the Certificate of Annexation issued by the Lieutenant Governor is not entitled to a conclusive presumption as the provisions of Utah Code §10-2-425 were not met.

B. Hideout's May 5, 2020 Motion for Summary Judgment

Hideout also brought its own Motion for Summary Judgment seeking judgment on all causes of action based upon Summit County's lack of standing, failure to join indispensable parties, and untimely filing of the suit and that the annexation was conclusively presumed to be valid. Having considered the arguments raised by Hideout in its Motion, the Court finds that those arguments are not persuasive and do not warrant the entry of summary judgment in Hideout's favor.

Summit County has statutory standing under Utah Code §10-9a-103(2)(a) as they are an adjoining property owner of the land which was affected by virtue of the annexation. Summit County also has standing under Utah Code §52-4-303 which grants to County Attorneys the ability to enforce violations of Utah's Open and Public Meetings Act. Even if statutory standing did not exist, Summit County has standing under the public interest doctrine as this annexation and development is a matter of great public interest and societal impact. The very nature of the

annexation and its impact upon not just the parties involved in this litigation, but the residents of the two adjoining counties, is sufficient from this Court's perspective to convey standing to Summit County to pursue the causes of action set forth in its Complaint.

Hideout has also failed in demonstrating that there are any necessary parties that have not been joined in this litigation. The other parties involved in the underlying actions are adequately represented in this action, because Hideout is seeking to enforce its own annexation ordinance and underlying pre-annexation agreement, under which those parties' interests are directly aligned with Hideout's. It is the developer that by agreement in the pre-annexation agreement is paying Hideout's legal fees in this endeavor. Even if those parties were deemed to be necessary to this litigation, that does not warrant dismissal of the Complaint or Summary Judgment, because those parties could be joined.

This action was timely filed pursuant to Utah Code §10-9a-801(5). Ordinance No. 2020-10 was not enacted until October 26, 2020 and this action commenced on November 19, 2020 which is within the 30-day window allowed under that statute.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. Summit County's April 19, 2020 Motion for Summary Judgment on the fifth cause of action is GRANTED. Ordinance No. 2020-10, in its entirety, together with the Certificate of Annexation, are declared to be void ab initio and of no legal force or effect.

2. Hideout's May 5, 2020 Motion for Summary Judgment is DENIED.

****END OF ORDER - Entered when indicated by the Court's seal at the top of first page****

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 8, 2021, I caused a true and correct copy of the foregoing **RULING AND ORDER** to be filed via the Court's electronic filing system, which automatically provided notice to the following counsel of record:

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/s/ Cassie Thompson