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664 High Court
Jefferson, Oregon 97352

RE: City of Jefferson vs. Citizens of Jefferson

There could not be more important effort to maintain the citizens right to vote on an annexation than that of the City of Jefferson. It has created a terrible case of anarchy by a long term land owner/applicant and the majority of its voting citizens. Both the issue of the LUBA criteria is in question as well as the outcome of a decision of whether the City had the right to not follow their City Charter and pass an ordinance by legislation that is not referable to the citizens for a vote.

This town has been run by a coalition of people for decades that are deep supporters of the applicant of the annexation including the prior City Council and Mayor. They want to keep it a bedroom community and want no others in control of that outcome. Currently, a very large demographic of people are fixed income or families where both parents work and are very limited budgets. An increased tax burden for added infrastructure subtracts from their bottom line. Where business could be brought in to share the growing tax burden, this City has neglected to do so. The citizens chose to vote-in a slate of Councilors and a new Mayor in order for that to change. They want to see businesses move into the City to share the tax burden vs. all the residents increasing their property taxes, water bills, electric bills and other bills.

Some History:

Last year, the State passed SB 1573 as an emergency bill in an attempt to disallow the residents in cities the right to vote and put in place voting powers of the City Councils for annexation. However, almost all cities did not adopt this change into their City Government's City Charter. The far reaching hand of the State attempted to push this down on the voters without seeking out the consequences of such a change. There are constitutional rights for people of cities to vote on annexation that this bill attempts to override. Those constitutional rights are according to Home Rule. This bill was not an emergency.

Fifteen days later the Jefferson Land Owner and Applicant filed an application for annexation knowing that this Senate Bill had passed. This same applicant had attempted two other times to pass annexation on their property through a proper vote, but was unsuccessful. But now, with a City Council that has been a proponent of the applicant for years, passed it with flying colors in the face of a public that wanted to vote on it.

This application did not follow proper criteria for annexation into the City as it did not show proof that there was adequate water, sewer, drainage, emergency services, power, and many other things for 65 more homes. After reviewing the application, LUBA found they had at least 3 assignments of error associated with their application and they chose to remand the application to the City for a new decision.

If you are on a fixed income and own a home and someone decides to annex property into your City, all those criteria need to be met by the City. All those costs show up on your water bill, electric bill and mostly on your taxes. If those annexations costs, along with any other personal convictions, are something you deem fair and affordable and helpful for your City, then you should be able to vote yes, if not, then be able to vote no. But you have the right to vote. It is not up to 6 individuals to make that decision. In this case, this City chose to ignore their City Charter not referring the vote to the people.

Meantime, interested citizens in getting the vote back to the citizens formed a Political Action Committee and called it Jeffersonians For Jefferson in an attempt to refer this ardent move of local legislation to the vote of the people. A petition was signed by 20% of the population of voters (only needed 10%) to put it on the ballot for this May. It was brought to the City to have the City's Election Official send it to the Elections office in Salem. The Elections Official refused and would not. Jeffersonians For Jefferson compelled the Elections Official to do so, but

ultimately ended up suing the City in order to get the courts to compel the City's Elections Official. That suit is now at the Court of Appeals and is pending further outcome.

Meanwhile, because the applicants Application for Annexation did not meet the criteria for annexation, Jeffersonians For Jefferson also filed a complaint that was heard by the Land Use Board of Appeals (LUBA). That appeal was won and the decision to approve or disapprove the application was sent back to the City to make a new decision by the City Council and Mayor (this just happened).

While those two issues were being carried forward, 4 members of the group chose to run for City Council and Mayor. Oddly enough, they all won.

Current:

So now, these new Council Members and Mayor are on the City Council and are decision makers for the City. This has caused the people backing the applicant to go crazy and rail at each City Council meeting this year and now are doing character assassination of the newly elected Mayor and Councilors.

The applicant is attempting to get one of them to resign. In doing so, the applicant sees it as though a majority is lost and they can make a new decision and vote on the Annexation Application without any influence. The applicant knows this. The applicant has formulated a very ugly vocal campaign every other Thursday night to threaten each Council member and the Mayor. As well, each one is being bullied in social media as well as in each meeting.

These newly elected Council Members and Mayor feel very threatened. They are not sure how to proceed. Ethics violations have been filed and threats for recall and resignations are heard at every turn.

In this matter, Article 1, section 21 applies effectively on the limitations of the prohibition of delegated power only outside of Home Rule under Article 11, Section 2 and not because of it. The confines of the original interpretation of the founding constitutional body of law does not mean that later interpretations of that body of law are still in affect long after the original body of law has been passed. In doing so, the delegating powers remain constrained to that original language, regardless of delegation. Without so doing, intent of the constitutional law AND its interpretation become inoperative and further extinguish the extent of the enactment and its original safeguards to and for Home Rule and its harbors AND violates policy and rules of the citizens regarding annexation and the right to exercise a vote for or against such matters. In that, the City of Corvallis decision making process is therefore interfered with (i.e. how does the State know about the local needs and requirements for decision making? Why would they know? It is a personal decision of each voter)

The constitutionality of Article XI, Section 2 is not to be construed as “infringing” on the ability to annex or not, rather confines the authority to vote on an annexation to the will of the people in that City and does not impermissibly infringe on the State’s right to use its legislative authority to permissibly enact legislature amending controls and direction of annexation, but cannot relieve the constitutional Home Rule authority and must not infringe and must remain consistent with the City Charter.

Regarding conflicting State law and Local Government, plenary authority is the given right of Article XI, Section 2, Home Rule, as found under the constitution. To the degree that SB 1573 impinges on powers reserved by the citizens of local communities, the citizens of local communities, the citizens internal decision making process for self-declaration, and the citizens right to modify its boundary after it meets the required criteria for annexation, is to the same degree that it impinges on the citizens intramural authority regardless if the City government is exercising its intramural or extramural authority. The citizen’s right to self-declaration is exclusive BECAUSE of constitutional Home Rule.

In and of itself, SB 1573 violates Article XI, Section 2 regardless of case considerations. Land associated with the Urban Growth Boundary does not limit SB 1573. Regardless of LCDC's Goal 14, or in spite of, the orderly transition from rural to urban use, including rules governing planned and projected population growth, are entrusted to the citizens of the City and not promulgated by the State OVER the vote of the people, rather in line with the people.

State statutory development for UGB and collective criteria should not be the precursor to or for legislative acts at the State level concerning City level annexations regardless of State review and approval of ORS197A.325 and should not be considered extramural authority that the State can impinge on said City regardless of how that City may exercise its extramural authority, as limited, designating its own UGB.

The court recognizes that Article 11, Section 2 is truncated by SB 1573 for most annexations and as such is limiting the constitutionality of Article 11, Section 2. The State arguably DOES NOT have an interest in providing landowners with some predictability, rather this interest is solely the responsibility of the City and to their citizens and to their existing constitutional rights to self-declaration under Article 1, Section IV notwithstanding the land use planning of surrounding entities including other City or county municipalities. It is incumbent on the City elected government to ascertain the land use plans and declare them to its citizens so voters are properly informed of such plans as to safe harboring the citizen's interests both personally and governmentally.

I find that this judge's outcomes negate the form and conscience of the meaning and permissions the article intends regardless of the extramural authority a City might exercise concerning its boundaries regardless of special cases determined by this judge and defendant's jurisdictional case subjects and tests and find therefore conflict, replete with cases, with City Home Rule authority.