

Staff Position on Compliance Challenge Ch. 171.043, FS

Section 171.043, Florida Statutes, includes three provisions, two of which should be met. Subsection 171.034(1) contiguity needs to be met. Either subsection 171.043(2) regarding surrounding property sizes or subsection 171.043(3) regarding character of land use, either part (a) or (b).

Contiguity

Section 171.031 provides the definitions applicable to all annexation petitions (voluntary and involuntary). The definition of contiguous is in subsection 11:

(11) "Contiguous" means that a substantial part of a boundary of the territory sought to be annexed by a municipality is coterminous with a part of the boundary of the municipality. The separation of the territory sought to be annexed from the annexing municipality by a publicly owned county park; a right-of-way for a highway, road, railroad, canal, or utility; or a body of water, watercourse, or other minor geographical division of a similar nature, running parallel with and between the territory sought to be annexed and the annexing municipality, shall not prevent annexation under this act, provided the presence of such a division does not, as a practical matter, prevent the territory sought to be annexed and the annexing municipality from becoming a unified whole with respect to municipal services or prevent their inhabitants from fully associating and trading with each other, socially and economically. However, nothing herein shall be construed to allow local rights-of-way, utility easements, railroad rights-of-way, or like entities to be annexed in a corridor fashion to gain contiguity; and when any provision or provisions of special law or laws prohibit the annexation of territory that is separated from the annexing municipality by a body of water or watercourse, then that law shall prevent annexation under this act.

It is being argued that the Wellington petition for annexation of land located at Seminole Pratt Whitney Road and Southern Boulevard is not contiguous because the distance to the nearest access road into Wellington is too distant from the annexation site and therefore, "as a practical matter, prevents the territory sought to be annexed and the annexing municipality from becoming a unified whole with respect to municipal services or prevent their inhabitants from fully associating and trading with each other, socially and economically." There is no challenge to the fact that the annexation is contiguous on the basis of adjacency.

There are several faults with the challenge made:

- This provision is extremely subjective. There are no measurable standards to base a conclusion on. No guidelines exist, relegating conclusions to be a matter of opinion. Therefore, it seems appropriate to let that decision be made by the annexing municipality and the property owners being annexed. A referendum must be held, after all. The distance between Seminole Pratt Whitney Road and Flying Cow Road is only 0.7 mile (0.25 mile from the eastern edge of the annexation area) and 1.1 mile from Bink's Forest Drive (0.7 miles from the eastern edge of the annexation area).
- There is precedence however. There are numerous properties that have been annexed into Wellington that must travel the same or more distances to get to a roadway that travels to the interior of the community. All of these annexations were reviewed by Palm Beach County, but none of them were challenged as too far removed to meet the

contiguity standard. Examples are the Isle Verde mixed use project (SR 7, 1 mile north of Forest Hill Boulevard), Wellington Reserve Office Park (SR 7, 0.8 mile north of Forest Hill Blvd.), Black Diamond PUD (SR 7, 1 mile of Forest Hill Boulevard), Versailles PUD (1 road mile from Wellington boundary on SR 7 & Lake Worth Road).

- None of the above annexations have experienced an inability to become a unified whole with respect to municipal services or their inhabitants from fully associating and trading with each other, socially and economically.” The same holds true for the subject annexation. Children from the annexation area already attend Wellington schools. The annexation property is in the same MSTU as the rest of Wellington for fire & rescue services. Wellington will provide police services. People from the annexation area already can and do attend Wellington community events such as concerts at the amphitheater, sports and other recreation programs, the Green Market, senior events and shopping opportunities. With annexation the present and future resident and business people will be able to take advantage of other grass roots services such as permitting, inspections, access to other local government programs much more conveniently than remaining in the unincorporated area.
- The annexation site is located within the service area of the Palm Beach County Water Utilities Department which has water & sewer mains running along Southern Boulevard and Seminole Pratt Whitney Road adjacent to the subject site. These same lines serve all of the Commercial and institutional land uses in Loxahatchee along southern Boulevard, including Loxahatchee Town Hall. This is common practice. All annexed properties located on the east side of SR 7 in Wellington are served by Palm Beach County including
- Isla Verde, the Buena Vida PUD and the Olympia PUD. Clearly, who provides water and sewer services is not a consideration for annexation. Likewise, Wellington provides these services to projects located in the unincorporated area west of SR 7 such as the Wycliffe PUD, The Marketplace at Wycliffe shopping center and the Whitehorse subdivision
- The proposed annexation is clearly consistent with the statement of intent for section 171.043, which states:

The purpose of this subsection is to permit municipal governing bodies to extend corporate limits to include all nearby areas developed for urban purposes and, where necessary, to include areas which at the time of annexation are not yet developed for urban purposes whose future probable use is urban and which constitute necessary land connections between the municipality and areas developed for urban purposes or between two or more areas developed for urban purposes.

Character of the land to be annexed -Sec.171.043(3)(b)

The purpose statement for section 171.043 clearly explains that its intent is to allow municipalities to annex any nearby areas that are developed for urban purposes and areas that are not so developed whose future probable use is urban. Further, this includes lands which constitute necessary connections between the municipality and areas developed for urban

purposes or between 2 or more such areas. This is exactly the situation with the proposed annexation.

The annexation site is located adjacent to a general area that is in transition from rural to urban. Land located to the east of the site on the north side of Southern Boulevard is located in the Town of Loxahatchee Groves. The Town's Future Land Use Map supports commercial development for its entire frontage along Southern Boulevard. Urban level development has already taken place for most of that area, including a commercial recreation site (go-cart track and paint ball course), a college campus (urban scale institutional use) and at least 4 large shopping centers. A portion of this annexation site has already been approved for commercial use by palm Beach County, consisting of 2 commercial properties and an institutional property that combined make up 22% of the developable site. The balance of the annexation site lies between the established urban land uses to the east and the already approved commercial land use that forms the westernmost 22% of the annexation site, making the balance of the site eligible. Consequently, Wellington believes that the proposed annexation complies with the provisions of subsection 171.043(3)(b).