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**AN ANNEXATION TALE OF TWO CITIES:
What Happens When Municipalities Collide in a
Battle Over Territory?**

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First time property owner Dewy Suem purchased his first house in the City of Nowhere, Texas and moved in right next door to John “Straight-arrow” Smith. The two neighbors got off on the wrong foot and began squabbling over everything from the shared fence line to how close the others trash can should be placed on the curb during trash day. The relationship deteriorated to such a point that Straight-arrow Smith decided to move across town. He picked up his family and moved only to find out that he moved next door to Dewy’s sister, Imagona.

Types of Territorial Dispute

Unlike John Smith, when neighboring cities get into disputes, it is impossible for one or the other to get up and move. As a result, the dynamics of territorial disputes between municipalities must incorporate practical logistics and political variables. There are typically three types of territorial disputes that occur between municipalities. The first is a dispute over extraterritorial jurisdiction (“ETJ”). A city can obtain ETJ, in one of two ways. First, pursuant to Tex. Local Gov’t Code §42.021 (West 2013), each city, dependent on population, has a certain area of “statutory ETJ” which is obtained automatically. When a city annexes new territory, the ETJ expands simultaneously at each point in the new boundary. Tex. Local Gov’t Code

§42.022(a) (West 2013). The other way a city can obtain ETJ is through voluntary extension under Tex. Local Gov’t Code §42.022(b) (West 2013). This provision allows a property owner to choose and request to be placed in the extraterritorial jurisdiction of a particular municipality. Typically property owners request to be included in the ETJ of a general law city since general law cities, with few exceptions, cannot annex property without property owner consent. Tex. Local Gov’t Code §43.032 (West 2013). Home rule municipalities have the ability to unilaterally annex property regardless of property owner desires. Tex. Local Gov’t Code § 43.021. A property owner can seek protection in a general law city’s ETJ to prevent them from being annexed by a home rule municipality. Tex. Local Gov’t Code § 42.023 (West 2013) (A City’s ETJ cannot be reduced without its consent).

The second type of territorial dispute is when a city attempts to incorporate all or part of a city’s extraterritorial jurisdiction. Tex. Local Gov’t Code §42.041(West 2013). Many times property owners in a particular subdivision or area will attempt to incorporate into their own city in order to prevent being annexed by a home rule municipality. Often times this is done with a belief they will not be taxed as much; however, city operations typically cost more than most citizens realize.

The third is a dispute over adjoining city limit boundaries. It is easier for cities to exchange ETJ as that is authorized by statute. Exchanging City limit boundaries is more difficult. In situations where a City

does not have the legal authority to disannex, exchanges of city limits is legally impossible without a judicial decision to invalidate its annexation ordinances.

All of these entail neighboring cities fighting for territory over which regulation and potential taxation can apply. Many times when a dispute breaks out, regardless of legal standing or the validity of the various legal arguments, city leaders realize that the most efficient way to dispose of any dispute is to sit down in a room with maps and begin drawing out territorial lines. However, in order to obtain leverage over one another, cities will rely on the various aspects of legal authority in order to obtain the best boundary lines possible. In order to allow for an effective negotiation however, city leaders must be aware of the aspects that typically come into play with such negotiations.

Questions for City Leaders

The first question a City leader should ask is what does the other city want? The second question is what does your city want? Sometimes there is a dispute over a particular subdivision or area that has a high tax value. Both cities attempt annexation and ETJ inclusion over an area which is prime for development or is a heavily traveled public thoroughfare. This all boils down to dollars.

Sometimes one city, either through annexation or ETJ extension, cuts off the development ability of another city. A city which is landlocked and unable to grow will suffer greater consequences than a city which has the ability to expand its

boundaries and increase its tax base. Inflation has a nasty habit of requiring the increase of taxes in order to sustain regular services. A city which is entirely cut-off from growth abilities will fight tooth and nail for territories allowing for expansion since such territory is necessary for the city's future survival.

Sometimes territorial disputes are caused because of a certain relationships with property owners where the property owners attempt to utilize city boundaries to their advantage. Sometimes there are other reasons for a territorial dispute but these three are the most common. In order to prevent all-out war between neighboring cities, city leaders should keep several fundamental aspects in mind.

1) Don't Cut-Off Another City's Ability to Expand

Cities which become landlocked or whose expansion abilities become limited due to the surrounding ETJ of another city will not have much of a choice but to fight and fight hard for any territory. Many times such disputes can be resolved simply by allowing a corridor for expansion to ensure that both cities grow and can expand. The economic health of one city will have a symbiotic connection on the health of a neighboring city. As a result, it is in the long term benefit of both sets of city leaders to allow for proper economic development for both cities.

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