




Area of City Impact and Annexation

Coloring Within the Lines



Why Does Annexation Matter?

- Today's boundaries locked in place?
- Future urban development will work and play where? New facilities for newcomers?
- Will new development girdle your community?
- How will you deal with water and sewer in coming years? Extensions/sizing for future use?
- Will your current residents pay for community facilities for all?

Annexation Requirements

Idaho Code §50-222

- Divisions of land for other-than-ag reasons
- Adjacent to city – corners touching works
- Identified Exceptions – fairgrounds, non-contiguous airport
- Zoning hearing procedures
- Included in Area of City Impact

Annexation Requirements

Continued

- Categories of Annexation
- Plan Required (B&C)
- Additional notice – 1st hearing
- Potential consent – Cat. C
- Specific findings – for B & C
- Judicial Review – B & C

Categories of Annexation

- Category A – total consent by owners, residential enclave of 100 or fewer owners
- Category B
 - <100 parcels and less than total consent
 - >100 parcels and majority of area supports annexation
- Category C
 - Owners of less than a majority of the area to be annexed do not consent – either actual or implied

What Is Consent?

- Category A – written consent, residential enclave
- Categories B & C – written consent, receive water or sewer service (implied), covenant of consent (can be prior to adjacency)
- After 7-1-08 – no new implied consent – must obtain future consent in writing and record it in county recorder's office.

Category A

- Similar to pre-2002
- Evidence of consent at outset – shouldn't be a "don't object" – should be consent
- Zoning hearing – same as for zone change
- Enact ordinance
- Enclaved residential uses < 100 parcels

Category B

- Consent (implied or express) from more than half of private land area (>100 parcels), or
- Incomplete consent (<100 parcels)
- Development Moratorium (parcels don't count to reach Category C)
- Must be within Area of Impact
- Must be adjacent - touching

B Requirements

- Annexation Plan
 - Tax-supported services – how provide?
 - Changes in costs (examples)
 - Fee-supported services – how provide?
 - Effects on other local governments
 - Proposed future land use and zoning

B Requirements (Cont'd)

- 28-day notice publication (first hrg)
- Mailed notice – plan summary
- Published notice – plan availability
- Specific findings
 - Compliance with statute
 - Consistent with plan purposes
 - Necessary for orderly development

Category C

- >100 parcels, less than majority of area consents at outset
- Must be in Area of Impact
- Must be adjacent
- Consent required at end of process

C Requirements

- Comply with B procedures
- At point of ordinance adoption, must seek consent of owners of majority of private land area
- Clerk compiles responses from owners
- Reports results of survey to council
- Majority land area consent – can annex

Judicial Review

- Court can review B or C annexation
- 28-day limitation on filing appeal
- Must be affected person
- Limited review
- Expedited hearing required

Area of City Impact

- Must designate physical area
- Must set forth substantive regulations
- Adoption by reference
- Revisions
- Complying with Blaha (*court decision limiting city ordinances to city limits*)
- Review at least every ten (10) years

Additional Annexation-related Requirements

- Info on property condition report
 - Seller must tell buyer he/she is in ACI - annexable
 - Seller must tell buyer he/she is connected to municipal utilities - annexable
 - Seller must tell buyer he/she is subject to covenant to annex – annexable
- Review Area of City Impact agreements



Area of City Impact

Legal Foundations and
Practical Application

Local Land Use Planning Act

- Enacted in 1975
- Grants equal authority to counties and cities
- Doctrine of separate sovereignty applies
- ***Blaha v. Ada County*** (2000)
 - Exclusive jurisdiction outside city rests with board of county commissioners
 - Exclusive jurisdiction inside city rests with city council and mayor
- But the world doesn't stop there

Area of City Impact

- Mandatory procedure (shall adopt) - §67-6526
- Map identifying area (both city and county)
- Separate ordinance applying plans and ordinances for ACI (both city and county)
- Implementation requires total of four separate ordinances
- Cannot carry out some annexations (B&C) unless in ACI – I.C. §50-222

Authorized Options

- Application of city plan and ordinances
- Application of county plan and ordinances
- Application of mutually agreed upon plan and ordinances
- Apply *Blaha* – Cities have no authority outside corporate limits
- **Only county and joint options remain – joint option must be implemented by county**

Failure to Agree

- Either City or County “may demand compliance” by written notice – start in 30 days.
- Begins “committee of nine” process
 - 3 county commissioners
 - 3 elected city officials appointed by mayor/confirmed by council
 - Together – choose 3 more

Committee of Nine (Cont'd)

- Develop recommendation in 180 days
- Refer to respective governing boards
- Governing boards have 60 days to act
- If either fails to implement – other can seek declaratory judgment identifying area and establishing requirements
- Factors: (1) trade area; (2) geographic factors and (3) reasonable expectation of annexation

ACI Details

- Overlapping ACI – agree to adjustments or election
- ACI remains until renegotiated – if cannot agree, resort to judicial review
- Renegotiation starts within thirty (30) days of request by either party – then follow original negotiation procedures
- P-Z must review before process moves forward – negotiation or renegotiation

Further Details

- Review status every ten years
- Growth not precluded in areas outside ACI
- Representation on city P-Z required if city regulations apply in ACI – not possible in light of *Blaha* decision
- Allows expansion of P-Z to accommodate additional members

What Matters?

- Meaningful communication – express your position thoughtfully
- Try to understand interests of the other party – listen thoughtfully
- Look for short-term common ground
- Establish area to assure communication
- Determine what you agree upon – commit to it
- Consider the interests of all constituents
- Shun imposed agreement terms