

WASHINGTON SUPREME COURT

Snohomish County Fire Protection District No. 1 v. Washington State  
Boundary Review Board

155 Wash. 2d 70 (2005) · Decided August 11, 2005

SUMMARY

The Washington Supreme Court held that, under the direct-petition method of municipal annexation, the filing of a petition signed by owners of at least 75 percent of the assessed property value triggers the 180-day period for notifying a county boundary review board. Because the City of Everett filed its notice within that period, the Board had jurisdiction to review and approve the annexation.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                      |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Washington Supreme Court                                                                                                                                                                                                                                                                                             |
| WRITING FOR THE COURT | Owens, J.; Alexander, C.J.; C. Johnson, J.; Madsen, J.; Sanders, J.; Bridge, J.; Chambers, J.; Fairhurst, J.; J.M. Johnson, J.                                                                                                                                                                                       |
| JURISDICTION          | Washington                                                                                                                                                                                                                                                                                                           |
| DECIDED               | August 11, 2005                                                                                                                                                                                                                                                                                                      |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | The Snohomish County Fire Protection District No. 1 appealed the boundary review board's approval of the City of Everett's annexation. The superior court affirmed the board, the Court of Appeals affirmed, and the Washington Supreme Court granted the District's petition for review.                            |
| STANDARD OF REVIEW    | The jurisdictional issue is reviewed de novo on the evidence in the administrative record. Under RCW 36.93.160(6)(b), the superior court may reverse a boundary review board decision when substantial rights may have been prejudiced because the board acted in excess of its statutory authority or jurisdiction. |
| PRECEDENTIAL VALUE    | Published Washington Supreme Court opinion; precedential.                                                                                                                                                                                                                                                            |
| PARTIES               | Snohomish County Fire Protection District No. 1 v. Washington State Boundary Review Board for Snohomish County, City of Everett                                                                                                                                                                                      |

TOPICS

municipal law

statutory interpretation

administrative law

judicial review of agency action

appellate procedure

## PRACTICE AREAS

municipal law

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## QUESTIONS PRESENTED

1. Under RCW 36.93.090, what event in the direct-petition annexation process constitutes the proposed action that triggers the 180-day period for filing a notice of intention with the boundary review board?
2. Did the City's notice of intention fall within the applicable 180-day period, such that the Boundary Review Board had jurisdiction to review the annexation?

## HOLDINGS

1. For an annexation initiated by the direct-petition method, the filing of the 75 percent annexation petition with the city or its governing body is the proposed action that triggers the 180-day period for filing a notice of intention with the boundary review board.
2. The Boundary Review Board had jurisdiction because the City's notice of intention was filed within 180 days after the filing of the 75 percent petition.

## KEY QUOTATIONS

*"We hold that RCW 36.93.090, in concert with chapter 35.13 RCW, requires notification of the boundary review board within 180 days of the filing of an annexation petition signed by owners of at least 75 percent of the assessed value of the property to be annexed."* (155 Wash. 2d at 70)

*"In sum, reading RCW 36.93.090 in its entirety (with attention to its proviso) and in conjunction with RCW 35.13.176, we conclude that, as to the direct petition method of annexation, the step at which the annexation action is "proposed" is the filing of the 75 percent petition with the city or its governing body."* (155 Wash. 2d at 79-80)

## FACTUAL BACKGROUND

Property owners initiated the direct-petition annexation of approximately 142 acres at Murphy's Corner, south of Everett. After the City accepted the initial 10 percent request, property owners submitted a 75 percent annexation petition, which was certified as signed by owners representing 79 percent of the assessed value of the territory. The City filed its notice of intention with the Boundary Review Board on February 24, 2000, no more than 115 days after the 75 percent petition was filed, and the Board approved the annexation.

## PROCEDURAL HISTORY

The Boundary Review Board approved the proposed annexation after a public hearing and unanimously adopted written findings and a decision. The District appealed under RCW 36.93.160(5), arguing that the City failed to

file a timely notice of intention and that the Board therefore lacked jurisdiction. The Snohomish County Superior Court and Court of Appeals affirmed the Board's decision, and the Supreme Court granted review and affirmed.

## DISPOSITION

affirmed

## CASES CITED

- King County v. Wash. State Boundary Review Bd., 122 Wn.2d 648, 671-72, 860 P.2d 1024 (1993)
- Dep't of Ecology v. Campbell & Gwinn, L.L.C., 146 Wn.2d 1, 11, 43 P.3d 4 (2002)
- Heinsma v. City of Vancouver, 144 Wn.2d 556, 564, 29 P.3d 709 (2001)
- State v. J.P., 149 Wn.2d 444, 450, 69 P.3d 318 (2003)
- Snohomish County Fire Prot. Dist. No. 1 v. Wash. State Boundary Review Bd., 121 Wn. App. 73, 80-82, 87 P.3d 1187 (2004)
- Glenrose Cmty. Ass'n v. City of Spokane, 93 Wn. App. 839, 850, 971 P.2d 82, review denied, 138 Wn.2d 1009 (1999)

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