

SUPREME COURT OF NEBRASKA

Darling Ingredients Inc., formerly known as Darling International Inc., and Darling National LLC v. City of Bellevue, a Nebraska municipal corporation; Frank R. Krejci, Trustee of the Frank R. Krejci Revocable Trust v. City of Bellevue, a Nebraska municipal corporation

Darling Ingredients Inc. v. City of Bellevue; Frank R. Krejci, Trustee of the Frank R. Krejci Revocable Trust v. City of Bellevue, 309 Neb. 338 (2021) · No. Nos. S-20-405, S-20-406 · Decided May 28, 2021

SUMMARY

The Nebraska Supreme Court reviewed consolidated challenges to the City of Bellevue’s annexation of Area #9. The court held that the district court erred in finding the annexed land rural in character and noncontiguous or nonadjacent under Neb. Rev. Stat. § 16-130. It reversed and remanded for consideration of the landowners’ separate claim that the annexation was motivated by an improper purpose.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Papik, J.; Heavican, C.J.; Cassel, J.; Stacy, J.; Funke, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	May 28, 2021
DOCKET	Nos. S-20-405, S-20-406
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The City of Bellevue appealed consolidated district court orders declaring an annexation ordinance invalid and permanently enjoining its enforcement.
STANDARD OF REVIEW	Because an action challenging an annexation ordinance and seeking to enjoin its enforcement sounds in equity, the appellate court reviews factual questions de novo on the record and reaches an independent conclusion on questions of fact and law. Whether the land's character satisfies the statutory standard is a question of law.

PRECEDENTIAL VALUE	Published, precedential Nebraska Supreme Court opinion
PARTIES	City of Bellevue, a Nebraska municipal corporation v. Darling Ingredients Inc., formerly known as Darling International Inc., and Darling National LLC, Frank R. Krejci, Trustee of the Frank R. Krejci Revocable Trust

TOPICS

municipal law ordinances statutory interpretation appellate procedure standard of review

PRACTICE AREAS

Municipal law Real estate Appellate procedure Equitable remedies

QUESTIONS PRESENTED

1. Whether Area #9 was agricultural land rural in character and therefore outside Bellevue's statutory annexation authority under Neb. Rev. Stat. § 16-130(2).
2. Whether Area #9 was contiguous or adjacent to Bellevue as required by Neb. Rev. Stat. § 16-130(2).
3. Whether the Nebraska Supreme Court should address the landowners' claim that the annexation was invalid because it was solely motivated by an increase in tax revenue or another improper purpose.

HOLDINGS

1. Area #9 was not shown to be agricultural land rural in character within the meaning of Neb. Rev. Stat. § 16-130(2). Agricultural use alone does not establish rural character; the location, surrounding development, present uses, and contemplated future development demonstrated a rational relationship to legitimate annexation purposes.
2. Area #9 satisfied the statutory contiguous-or-adjacent requirement because the Darling property shared a common border with an area already annexed into Bellevue, and the Krejci property was substantially adjacent to the Darling property.
3. The court would not decide the landowners' improper-purpose challenge because the district court had not addressed it, but it remanded for the district court to consider that challenge in the first instance.

KEY QUOTATIONS

“It is the nature of its location as well as its use which determines whether it is rural or urban in character.”
(at 352)

“In evaluating all of this evidence, we also bear in mind that the standard we have articulated for determining whether an annexation is invalid based on the character of the land sought to be annexed is deferential to the municipality.” (at 354)

“We have used the terms “contiguous” and “adjacent” synonymously to mean adjoining, touching, and sharing a common border.” (at 355)

FACTUAL BACKGROUND

Bellevue adopted an ordinance annexing Area #9, which included property owned by Darling and property held by Krejci. Much of the area was used for agriculture, but it also included a longstanding industrial plant and was near residential subdivisions, an elementary school, Offutt Air Force Base, highways, and other commercial and industrial establishments. Bellevue's comprehensive plan contemplated future industrial and other nonagricultural development in the area, and the annexation was part of a broader growth and development plan.

PROCEDURAL HISTORY

In 2019, Bellevue adopted an ordinance annexing Area #9. Darling and Krejci separately sued in the Sarpy County District Court, arguing that the City lacked statutory authority because the land was rural and agricultural, was not contiguous or adjacent, and was annexed for an improper purpose. The district court consolidated the cases for discovery and trial, ruled for the landowners, declared the ordinance invalid, and issued a permanent injunction. The Nebraska Supreme Court reversed the determinations that Area #9 failed the statutory character and adjacency requirements and remanded for consideration of the unresolved improper-purpose challenges.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Sarpy County District Court for further proceedings addressing Darling's and Krejci's challenges that the annexation ordinance was enacted for an improper purpose, including the claim that it was solely motivated by increased tax revenue.

CASES CITED

- SID No. 196 of Douglas Cty. v. City of Valley, 290 Neb. 1, 858 N.W.2d 553 (2015)
- Cornhusker Pub. Power Dist. v. City of Schuyler, 269 Neb. 972, 699 N.W.2d 352 (2005)
- Witham v. City of Lincoln, 125 Neb. 366, 250 N.W. 247 (1933)
- County of Sarpy v. City of Papillion, 277 Neb. 829, 765 N.W.2d 456 (2009)
- Williams v. County of Buffalo, 181 Neb. 233, 147 N.W.2d 776 (1967)
- Wagner v. City of Omaha, 156 Neb. 163, 55 N.W.2d 490 (1952)
- County of Sarpy v. City of Gretna, ante p. 320 (2021)
- Swedlund v. City of Hastings, 243 Neb. 607, 501 N.W.2d 302 (1993)
- Voss v. City of Grand Island, 186 Neb. 232, 182 N.W.2d 427 (1970)
- Sullivan v. City of Omaha, 183 Neb. 511, 162 N.W.2d 227 (1968)
- Bierschenk v. City of Omaha, 178 Neb. 715, 135 N.W.2d 12 (1965)
- Shields v. City of Kearney, 179 Neb. 49, 136 N.W.2d 174 (1965)
- County of Sarpy v. City of Gretna, 273 Neb. 92, 727 N.W.2d 690 (2007)

- Johnson v. City of Hastings, 241 Neb. 291, 488 N.W.2d 20 (1992)
- Speece v. Allied Professionals Ins. Co., 289 Neb. 75, 853 N.W.2d 169 (2014)
- State on behalf of Kaaden S. v. Jeffery T., 303 Neb. 933, 932 N.W.2d 692 (2019)

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