

Commercial Real Estate **Extra**

Expert Insight

Annexation policies play role in urban planning

By Soo Lee-Cho



Municipal annexation laws – the process by which a city is permitted to expand its boundaries – constitute the historical and legal backbone of urban planning and metropolitan growth in the United States.

The genesis of annexation laws can be traced to the migration from rural to urban areas that occurred in the decades before and after 1900 and the new wave of immigrants that began to settle into U.S. cities starting in 1880. These early laws proved effective in managing the growth of urbanizing areas adjacent to cities by securing the power to annex solely within the discretion of the city.

By the 1960s, however, complaints from suburban and rural residents opposed to the rapid pace of urban expansion led state legislatures to drastically alter annexation laws, shifting the power to control annexation from the cities to the areas to be annexed. The result: a patchwork of differing approaches to annexation law.

Maryland and Virginia adopted more restrictive schemes involving property owner consent or judicial approval, respectively, while North Carolina granted its cities the power to forcibly annex.

Unlike its neighbors to the north, cities in North Carolina have for decades enjoyed the ability to incorporate adjacent county controlled areas without the approval of the actual residents or property owners whose property is targeted to be annexed. By doing so, those cities have been able to incorporate land for new development into their boundaries, effectively expanding their tax base, helping them remain economically vital. Observers largely attribute North Carolina's achievement of having the highest concentration of fiscally healthy cities in America to its ability to annex land for new growth under its permissive annexation laws.

But the tide may be turning. A recent backlash of public sentiment opposed to forced annexation has embroiled North Carolina in a debate that could threaten its long-standing annexation law. A temporary moratorium on annexations imposed in 2011 has been followed by litigation and numerous legislative proposals to curtail annexations that will no doubt have an impact on future urban planning in the state.

Virginia's adopted annexation scheme is quite restrictive. The commonwealth adopted a judicial system of annexation that inherently invited battle lines to be drawn. But a particularly contentious annexation involving Chesterfield County and the city of Richmond ultimately led in 1987 to the imposition of a moratorium on all city annexations that continues to this day. The result? Faced with stagnated growth, a number of cities in Virginia are studying the potential of reverting back to "town" status and merging with the surrounding county. On the other hand, Virginia's annexation policy (or lack thereof) appears to have had a mostly positive effect on its counties, turning them into booming urbanized centers of commerce.

Maryland's annexation law falls under the moderately restrictive category. A mini-

mum amount of property owner consent (25 percent) is required to initiate an annexation. Although involuntary annexations are technically feasible under Maryland's scheme, cities in Maryland rarely act to forcibly annex. Rather, annexations function more as a development tool, predominantly used by a fully consenting property owner that wants to voluntarily annex into a city to receive needed services or obtain a more desirable form of development.

An example of this recently occurred in

Montgomery County where, but for an opportunity to annex into a neighboring city, a transit-oriented residential development may not have been feasible. The owners of a former car dealership site located just outside of Rockville sought redevelopment as a multiunit residential project. Faced with objection from county planners to a residential project due to the site's proximity to the county's Waste Transfer Station, the owners sought approval to annex into the city. Unlike county planners, the city

welcomed the project as a model of smart growth development.

The various methods of annexation share at least one common trait – none offer a fully satisfactory approach. Whatever the approach, it's evident that a state's annexation policy can play a pivotal role in urban planning at the local level.

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