

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

In Re: Proposed Annexation of
Wilkinsburg by the City of Pittsburgh

Petition of: Tracey Evans, Monica Garcia,
Debra Raubenstrauch, Vanessa Buffry and
Michael Rose

CIVIL DIVISION

No. GD 22-012361

Intervenor Objectors: Carmen Brown,
Renee Haynes-Johnson, Borough of
Wilkinsburg, Moira Kaleida, Angel Gober,
Oerkvitz, Pamela Harbin and Evan
Gascoine

ORDER OF COURT

AND NOW, this 28th day of October 2022, the following is hereby ORDERED.

The Petitions to Intervene filed by Objectors Carmen Brown, Renee Haynes-Johnson, the Borough of Wilkinsburg, Moira Kaleida, Angel Gober, Susan Oerkvitz, Pamela Harbin and Evan Gascoine are GRANTED.

Upon review of the Petition to Initiate Annexation Proceedings, Objections to the Petition and Memorandums of Law in support thereof, the Court concludes that the Act of 1903 has been effectively repealed by the Constitutional Amendments of 1968, effective 1970. Article IX, Section 8 of the Pennsylvania Constitution required the legislature to enact uniform legislation establishing the procedure for consolidation, merger or change of the boundaries of municipalities.

“Since the Legislature did not enact uniform legislation regarding annexation procedures by April 23, 1970, all annexation after that date must be by initiative, as set forth in Article IX, Section 8.”

Derry Township Supervisors v. Borough of Hummelstown, 326 A.2d 342, 344 (Pa. 1974).

The Pennsylvania Supreme Court has held:

In reviewing the constitutionality of a statute, we presume the Legislature did not intend for the statute to violate either the United States or this Commonwealth's Constitution. “[W]e uphold the constitutionality of a statute unless it ‘clearly, palpably, and plainly violates constitutional rights.’” *In the Interest of F.C. III*, 607 Pa. 45, 2 A.3d 1201, 1221 (2010) (citation omitted). Furthermore, “[a]ll doubts are to be resolved in favor of finding that the legislative enactment passes constitutional muster.” *DePaul v. Commonwealth*, 600 Pa. 573, 969 A.2d 536, 545 (2009) (citation omitted).

Estate of Fridenberg v. Com., 33 A.3d 581, 591 (Pa. 2011).

Because the 1994 Municipal Consolidation or Merger Act, (53 Pa. C.S. Section 731 et seq.) expressly excludes the City of Pittsburgh, the only procedure for annexation is set forth in Article IX Section 8.

Therefore, the Petition to Initiate Annexation under the 1903 Act is dismissed.

By the Court:

