

City wins suit over annexation

SUIT

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The city of Whitefish has prevailed in a legal dispute over the city's legal right to annex a number of properties along the east shore of Whitefish Lake:

A group of property owners sued the city a year ago over the anticipated annexation of their property, alleging the portion of state law the city uses to annex wholly surrounded properties isn't applicable and that it prohibits the city from attempting to annex more than one property at the same time under one resolution.

The property owners further maintained the Houston Lakeshore Tracts subdivision — targeted for annexation — is not wholly surrounded because it's not surrounded on all four sides by the city.

Flathead District Judge Robert Allison sided with Whitefish on both points in a recent ruling.

Whitefish attorney Sean Frampton, who represents the property owners, said he anticipates the homeowners will appeal the District Court ruling to the Montana Supreme Court.

The property in question, the Houston Lakeshore Tract

and Stocking Addition, plus five other parcels, is geographically bounded by Whitefish Lake on the west and south and the city of Whitefish to the north and east. To access their properties, landowners must cross through city territory when driving from either the north or the south, according to the court ruling.

Regarding the property owners' assertion their land is not wholly surrounded by city property, Allison stated, "Property need not share four common boundaries with the city to qualify; rather, a two-prong test determines whether an area is wholly surrounded by the city for purposes of annexation."

The judge cited a 1969 Great Falls court case that determined property is wholly surrounded when all lands on the side of the area are within the city or it is impossible to reach the area without crossing through city territory. A property is wholly surrounded if it satisfies both these standards.

The property owners alleged it is possible to reach their properties without crossing city streets by traveling via Whitefish Lake or other state and county roads. They further alleged that

because East Lakeshore Drive was not properly annexed by the city, they do not cross over city territory to reach their properties.

Allison said "it is practically impossible for the city to build infrastructure on Whitefish Lake. Thus, for all pragmatic purposes all of the Houston Lakeshore Area borders that physically touch municipal jurisdiction in fact touch Whitefish territory."

He said the map provided by the property owners reveals that to access the Houston Tract properties — even if driving on East Lakeshore Drive — one must traverse through city jurisdiction because all of the territory touching the north and east boundaries of the Houston Tract area is city territory.

City officials cited the water quality of Whitefish Lake as a key reason for wanting to annex areas around the lake. Other neighborhoods targeted for future annexation include the West Lakeshore Drive and Ramsey Avenue areas.

The city attempted unsuccessfully to annex the Houston Drive area in 1983 and again in 2000.

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