

**IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY MARYLAND**

THE TOWN OF CHEVERLY, et al

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CASE NO. C-16-CV-25-000183

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v.

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TOWN OF BLADENSBURG

**PLAINTIFF'S MOTION FOR TEMPORARY AND  
PRELIMINARY INJUNCTIVE RELIEF**

The Plaintiffs, by counsel, hereby file this Motion for Temporary and Preliminary Injunctive Relief and moves this Honorable Court for an Order granting temporary and permanent injunctive relief and for grounds state as follows:

**I. Introduction and Background**

1. The Plaintiffs hereby adopt by reference the Verified Complaint signed under oath by the Mayor of the Town of Cheverly as a factual basis and background for this motion as recited herein.

**II. Argument**

2. Pursuant to the Maryland Rules, Section 15 – 500 et seq., this Court has broad discretion to grant appropriate relief. The Court may grant a Temporary Restraining Order upon a showing that immediate, substantial, and irreparable harm will result to the party seeking the Order before a full adversary hearing can be held on the propriety of a preliminary or final injunction. The Court must also examine and make appropriate findings of fact regarding: 1. The likelihood that the moving party will succeed on the merits 2. the balance of harm to each party if relief is or is not granted 3. Whether the moving party will suffer irreparable injury unless the Order is granted and 4. a determination that granting the order is not contrary to the public

interest.

3. This issue of an injunction between two governmental entities was squarely addressed in *State Department of Health and Mental Hygiene v. Baltimore County* 281 MD 548, 383 A2d 51 (1977) in which the Supreme Court of Maryland held where two governmental parties, both presumably acting in the public interest, are in irreconcilable conflict in the execution of their government responsibilities, a court of equity can usually best resolve the impasse by issuing a temporary injunction where that is necessary to preserve the status quo until a decision on the merits is rendered, so long as that course does not result in greater harm to the public interest than would a refusal to interfere. This rationale in this finding appears to be on point as to this issue between the parties and the appropriateness of granting this injunction. The Plaintiff will address the four factors in granting this injunction below.

### **III. There is a strong likelihood that Plaintiffs will succeed on the merits**

4. As indicated in the Verified Complaint for Declaratory Judgment that was signed by the Mayor of the Town of Cheverly under oath, the Plaintiffs are entitled to Declaratory Injunction by showing a real probability of success on the merits. The Plaintiffs in their complaint have shown that the actions of the defendant has created an illegal conclave in this annexation, attempted to annex Federal property which is illegal in trying to create property that is contiguous, failure to have contiguous property subject to the annexation, and, the failure to have a proper public hearing as required by Maryland law in that the representatives and citizens of the Town of Cheverly were prohibited from placing items on the record, speaking, or even attending the public hearing with regard to this annexation as further discussed below. As such,

the entire annexation process by the Defendant is illegal and improper and the Plaintiffs have a strong likelihood of success on the merits.

**IV. The balance of harm weighs heavily in favor of granting injunctive relief**

5. That many years of planning between the Prince George's County government, Maryland National Capital Park and Planning Commission, the Town of Cheverly, and the developer of this project have occurred to create this development project which was viewed to be a development Gateway into Prince George's County and to create the best development use for the citizens of Prince George's County and State of Maryland and create an economic development hub for this entire region. As part of the annexation process, the municipality must show in an Annexation Plan that it has the resources to provide for the citizens with regard to this annexation. The Annexation Plan as provided by the Defendant does not indicate that it has such resources especially when the site of the annexation is not contiguous to the Town of Bladensburg and the Town would need to cross and annex Federal property to provide such services in which Bladensburg simply does not have.

6. It is undisputed between the parties that the Town of Cheverly has the ability to provide such services to support this development especially since the development site is immediately adjacent and contiguous to the Town of Cheverly. Furthermore, there have been numerous discussions over many years regarding annexing the site by the Town of Cheverly. It was specifically requested by various Prince George's County officials to refrain from such annexation until the development was further along in the process to avoid any conflict or disputes in the development process even though the Town of Cheverly was actively involved with both the County, Park and Planning as the development review and planner, and the developer to create a project beneficial to both the citizens of Prince George's County and State

of Maryland. This action by the Town of Bladensburg with its numerous violations of Maryland law with regard to this annexation process is solely for the result of harming the citizens of Prince George's County and State of Maryland since it does not have the necessary resources in the Town pursuant to the Annexation Plan to abide by the requirements of this annexation nor provide any benefits and amenities needed since it is not contiguous to the Town of Bladensburg which makes this process of an attempted annexation illegal.

**V. Plaintiffs are at risk of immediate, substantial, and irreparable harm**

7. As is known to the Court, in order to obtain a Temporary Restraining Order or Preliminary Injunction, the moving party must show that it suffered or is at risk of suffering immediate injury. Irreparable injury is any harm that may not be adequately remedied with money damages and, as ordinarily understood, an injury is a repairable, within the law of injunctions, where it is of such character that a fair and reasonable redress may not be had in the court of law so that to refuse the injunction would be a denial of justice, in other words, where, from the nature of the act, or from the circumstances surrounding the person injured, or from the financial condition of the person committing it, it cannot readily, adequately, and completely compensated for with money. *El Bay v. Moorish Science Temple of America, Inc.* 362 Md 339, 765 A2d 132 (2001).

8. Here, the Plaintiffs are at risk of immediate, substantial, and irreparable harm if the Defendants are permitted to illegally annex property which violates the law by not being adjacent to the municipality i.e. contiguous, not indicating that it has the resources to provide for this annexation, illegally attempting to annex Federal property to create this adjacent requirement, by holding an illegal hearing with regard to this annexation, and indicating that it has the resources or amenities to support this development project which it does not since it does

not meet the necessary requirements.

9. This development review has been ongoing in the planning process for many years between the Town of Cheverly, Prince George's County, Maryland National Capital Park and Planning Commission and the developer with the goal of providing a "Gateway" to Prince George's County and the State of Maryland for the benefit of the citizens of Prince George's County and the State of Maryland. This intentional and illegal act by the Town of Bladensburg has provided harm to many citizens, businesses, and governmental units, of Cheverly and Prince George's County.

10. By not granting injunction irreparable harm may occur because the annexation process sets forth specific timelines and process for finalization of annexation resolution, including but not limited to the process for aggrieved parties to submit a petition for referendum and the process for scheduling a special election on the referendum. Aggrieved parties are unable to fully act with certainty when the legitimacy of a proposed annexation resolution is being challenged in Court and may lose their statutory right if an injunction is not granted which tolls the annexation process including the time for filing petitions during the pendency of the Court action.

11. The annexation map prepared by Bladensburg to establish the annexation area is patently flawed on its face so as to exhibit an intentional effort to circumvent the legislative intent of establishing adjacency while promoting fair and logical establishment of municipal and County jurisdictional boundaries.

**VI. Important public policy considerations weigh in favor of granting injunctive relief**

12. Public policy strongly supports the granting of this injunctive relief. For many years the review for the development of the site has been occurring between the Town of Cheverly, Prince George's County, the Maryland National Capital Park and Planning Commission, and the developer. Those plans and goals with regard to this development site has have been occurring including the expected and discussed annexation of the site by the Town of Cheverly. The Town specifically was asked not to engage in its own annexation plans as that may interfere with the overall planning and development of the site and a recognition that the County planners would act to protect the citizens of the Town of Cheverly and Prince George's County. The Town of Bladensburg was not involved throughout any of these plans since it is not contiguous nor did it have the amenities or resources to support this development. Instead, the Town of Bladensburg chose to engage in an illegal attempt at annexation and to violate numerous areas of law which have been stated herein and specific intent to harm residence, its citizens, businesses, governmental entities, and other individuals both at the local, county, state levels. What is most shocking about the entire illegal annexation process by the Town of Bladensburg is when the required public hearing was scheduled, the citizens of the Town of Cheverly were not permitted to place anything on the record, testify, or even attend the hearing and were specifically required to show their ID to attend that hearing and were turned away and prohibited from engaging in any participation or the required public hearing process. Such conduct violated numerous local, state, and federal laws especially since this is a required public hearing for the annexation.

13. As a result of the illegal conduct of the Town of Bladensburg with regard to this annexation as well as the Town of Bladensburg indicating that it did not have the necessary amenities in the required Annexation Plan to support this development and the Town of Cheverly

