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**COMMONWEALTH OF KENTUCKY  
KENTUCKY SUPREME COURT  
ON GRANT OF DISCRETIONARY REVIEW BY ORDER  
ENTERED APRIL 18, 2012  
SUPREME COURT ACTION NO. 2011-SC-000468-D  
COURT OF APPEALS ACTION NO. 2010-CA-000941  
MARION CIRCUIT COURT CIVIL ACTION NO. 06-CI-00070**

**CITY OF LEBANON, KY**

**APPELLANT**

v.

**ELINOR B. GOODIN, Trustee of and on behalf  
Of Elinor B. Goodin Revocable Trust, et. Al.**

**APPELLEES**

**BRIEF FOR THE KENTUCKY LEAGUE OF CITIES AS AMICUS CURIAE**

I hereby certify that I have served the within Brief of the Kentucky League of Cities, as *Amicus Curiae*, on the following named individuals by U.S. Postal Service First Class Mail on July 3, 2012: Hon. James L. Arvitt Sr., P.O. Box 671, Lebanon, KY; Hon. Theodore H. Lavit, Lavit and Associates, PSC, One Court Square - P.O. Box 676, Lebanon, KY 40033, both as Counsel for Appellees; Hon. Kandice D. Engle Gray, P.O. Box 807, Lebanon, KY 40033-0807; Hon. David A. Pike and Hon. F. Keith Brown, Pike Legal Group, LLC, 1578 Highway 44 East, Suite 6, P.O. Box 369, Shepherdsville, KY 40165, as Counsel for the Appellant; Hon. Judge Glenn E. Acree, Kentucky Court of Appeals, Tate Building, 125 Lisle Industrial Avenue, Suite 140, Lexington, KY 40511-2058; Hon. Judge Sara Walter Combs, Kentucky Court of Appeals, 323 E. College Avenue, P.O. Box 709, Stanton, KY 40380-0709; Hon. Chief Judge Jeff S. Taylor, Kentucky Court of Appeals, 401 Frederica Street, Suite A-102, Owensboro, KY 42302; Hon. Judge Allan Ray Bertram, Circuit Judge, Justice Center, Suite 301, 300 E. Main St, Campbellsville, KY 42718.

Respectfully submitted,



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## STATEMENT OF PURPOSE

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*Amicus Curiae* Kentucky League of Cities (“KLC”) is a membership organization representing 371 city governments throughout the Commonwealth of Kentucky. Each of KLC’s member cities is similarly situated to Appellant, City of Lebanon (“City”), having a vested interest in protecting the integrity of the annexation process for municipal governments. KLC believes it is uniquely positioned to represent the collective interest of these cities with respect to the common questions of law and fact related to the issue of the proper procedures that may be used by a city in effecting a legally sound annexation. The issue in this appeal is whether the Court of Appeals of Kentucky has created a lawful and acceptable test for contiguity in nonconsensual annexations. This appeal raises important issues regarding legislative and judicial authority that threaten to undermine the abilities of city governments to provide for the health, safety, and welfare of their citizens through effective expansion of municipal boundaries.

KLC's purpose in filing this brief is to urge the Court to uphold precedent on the constitutional validity of Kentucky’s annexation process and overturn the Court of Appeals’ decision setting forth a nonconsensual annexation standard that contradicts legal precedent and statutes. Maintaining current precedent will ensure the proper balance between legislative and judicial functions and preserve the ability of city officials to effectively govern and expand their boundaries in a manner that serves the public interest.

## ARGUMENT

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Envision a legal system in which city boundaries must be examined like an inkblot test, searching for perception in shapes on a page. Some will see an hourglass, some will see New Jersey. Some will see acquisition of industry, some will see deprivation of property. What will not be seen is the forest, for the trees will be in the way. Yet the Court of Appeals decision makes this legal system a reality, endangering cities, their expansion, and our very government structure.

While this case involves a single annexation by a single city, the resolution will have far-reaching consequences for all Kentucky cities. The Court of Appeals' ruling creates a new legal requirement for nonconsensual annexations that misinterprets Kentucky Supreme Court precedent and state annexation law, impermissibly restrains legislative authority while expanding that of the judiciary, and establishes an ineffectual course for the future of city expansion in Kentucky. This appeal presents an opportunity to restore the court's proper role in evaluating legislative action and protect the critical statutory mechanism for growth bestowed on cities by the Kentucky General Assembly.

### **I. THE COURT OF APPEALS MISINTERPRETED AND MISAPPLIED LEGAL PRECEDENT AND STATUTES, CREATING AN UNWORKABLE NEW CONTIGUITY TEST CONTRADICTING ESTABLISHED LAW.**

The Court of Appeals opinion began with a logical approach to judicial review of a challenged annexation. It referenced KRS 81A.410(1)(a), establishing the first of two requirements a city must meet when extending its boundaries: that the area be adjacent or contiguous to the city's boundaries at the time of annexation. The court then stated that resolution of this appeal turns on the definition of "adjacent or contiguous," to be

ascertained through legislative intent and history of annexation law. (Court of Appeals Opinion, p. 4). At this point, the opinion begins to stray from years of jurisprudence.

The ultimate issue to be resolved was whether the City's annexation met the contiguity test as required by law. In one paragraph of a nine-page opinion, the court outlined its version of the contiguity "test," defining contiguity to mean the boundaries of the annexed property are "touching or sharing common boundaries with the municipality" **and** "natural or regular." If the boundaries are unnatural or irregular, there is no contiguity unless a court then determines that "a concrete or tangible municipal value or purpose exists to justify the unnatural or irregular boundaries." (Court of Appeals Opinion, p. 7).

The court cited only two cases, both Kentucky Supreme Court opinions, in this paragraph: Ridings v. City of Owensboro, 383 S.W.2d 510 (Ky. 1964), and Griffin v. City of Robards, 990 S.W.2d 634 (Ky. 1999). However, the court provided no direct quotes and no citations other than to the first page of each opinion. Any study of the test's origins requires perusal of the cases for the court's reasoning. The search is ultimately fruitless.

Ridings involved a classic "corridor" annexation, in which a city annexes a thin strip of land to achieve contiguity with sought-after territory. The court identified two questions of first impression: Whether contiguity is required for a legal annexation, and if so, whether a corridor is sufficient to provide contiguity. Id. at 510. After finding that contiguity is mandatory, the court held that corridor annexations do not result in the necessary contiguity "unless the corridor or finger itself has a municipal value, i.e., unless it alone serves some municipal purpose." Id. at 512.

In Griffin, the court relied on Ridings to address whether a corridor connection was sufficient to satisfy the statutory contiguity requirement for municipal incorporation. The

court noted the judicial disfavor of using corridors to establish contiguity, unless the “corridor itself ha[d] some municipal value or serve[d] some municipal purpose.” *Id.* at 640, citing *Ridings* at 512. The court expanded on the “municipal purpose” test for corridors by adding that the purpose should be “concrete and tangible.” *Id.* at 640.

Painstaking scrutiny of both relatively short decisions reveals no mention of the “natural or regular boundaries” component that the Court of Appeals tacks on as a second prong to the basic principle that boundaries must touch, and identifies as the stepping stone that leads a court to consider municipal value or purpose. It is difficult to imagine how the Court of Appeals attributed this new step to the *Ridings* and *Griffin* courts, made more difficult by failure to cite to the specific locations where the reasoning might be extracted.

**A. Whether the boundaries of annexed territory are “natural or regular” is not a legal component of contiguity.**

To illustrate the illogical consequences that would occur if the Court of Appeals’ opinion is upheld, imagine city officials planning a nonconsensual, corridor-free annexation and trying to comply with the new contiguity test. The city must determine if the common boundaries it shares with the area to be annexed are “natural or regular.” Unfortunately, the Court of Appeals failed to provide any guidance for compliance with this new requirement, other than disapproval of the “sixteen directional boundary changes” of the Lebanon annexation. (Court of Appeals Opinion, p. 7). This leaves a city counting boundary changes in search of the magic number which would win court approval.

For assistance, a city might look to filed case documents supporting the court’s position, such as the Respondents’ Response to the Motion for Discretionary Review before this Court. The motion references the circuit court’s identification of the specific physical boundaries the City should have drawn to meet the “natural or regular”

requirement, and focuses on the “straight line[s]” that would have resulted. (Response, p. 5). If limited directional changes and straight lines are the standard, it is perplexing why each state in the nation is not shaped like Colorado.

The misplaced emphasis on shape leaves a city with no indication of whether its boundaries will satisfy a reviewing court. Failure to define “natural or regular” results in a new standard as prone to judicial analysis as “adjacent or contiguous.” The difference is that KRS 81A.410 mandates the latter requirement. The former is mentioned nowhere in the annexation statutes, just as it is mentioned nowhere in Ridings or Griffin.

As the Kentucky Supreme Court reaffirmed recently in Fox v. Grayson, 317 S.W.3d 1, 8 (Ky. 2010), “[i]t is well settled law that a court may not add language to the written law to achieve a desired result.” In fact, one need look no further than Griffin to find an excellent example of this rule. The Griffin court addressed not only the contiguity requirement for incorporation, but also the validity of the incorporation petition. The court stated that whether the procedure advocated by the opponents to incorporation was “a good idea” was “not the appropriate test to be applied. Our job is to interpret the statutes, not amend or enhance them. Since there is no discussion of how the signatures are to be acquired, we cannot engraft one on top of the existing statute.” Id. at 638.

Similarly, there is no discussion in the Kentucky annexation statutes of the shape – natural, regular or otherwise – of territory to be annexed. Whether the Court of Appeals believed this additional requirement was a good idea does not justify an unwarranted enhancement of KRS 81A.410 to produce boundaries drawn to the court’s liking.

**B. The “municipal purpose” test focuses on land within a corridor and has no application outside of this narrow context.**

With no clear direction, a city must assume its annexation might fail the “natural or regular” prong of the new contiguity test, and thus must consider the test’s next step: whether a court could determine that a “concrete or tangible municipal value or purpose exists to justify the unnatural or irregular boundaries.” (Court of Appeals Opinion, p. 7). This is where the Court of Appeals completely parted ways with Ridings and Griffin.

As Ridings held, and Griffin confirmed, “the corridor itself” must have “some municipal value” or serve “some municipal purpose.” Ridings at 512; Griffin at 640. Ridings and Griffin were specifically addressing the unique problems that arise when there would be no contiguity *but for* a strip of land used to reach desirable territory, and thus the logical focus is the municipal purpose found in the corridor to justify this obviously manufactured link. In an annexation involving no corridor, such as the City’s, there is no connecting link to the annexed land, and no connecting link to the corridor contiguity test. Application of the test outside of the narrow context of corridors is unfeasible.

The Court of Appeals specifically acknowledged that the municipal purpose must be “concrete or tangible.” This was Griffin’s contribution to the municipal purpose test, and is appropriate when evaluating *land itself*. In a corridor, water mains are a perfect example of a physical purpose. Material, quantifiable things such as utility structure, industry location, or population density automatically come to mind.<sup>1</sup>

Although a test meant only for corridors has no bearing on other nonconsensual annexations, any attempt at reconciliation would at the very least require a focus on *land itself*, and *concrete and tangible* evidence of a municipal purpose within that land, which

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<sup>1</sup> In fact, the second statutory requirement for extension of boundaries located in KRS 81A.410(1)(b) is conveniently instructive, as examples for finding the area has a “concrete municipal purpose” bear notable similarities to finding the area is “urban in character or suitable for development for urban purposes.” The statutory reasons are: “population density, commercial, industrial, institutional, or governmental use of land, or subdivision of land.”

the City's annexed territory had in abundance. The City's intent-to-annex ordinance specifically stated the annexation was "...for purposes of economic growth and development of the City and to accomplish provision of services throughout the annexed territory and to take advantage of the industrial and economic growth proposed for the City by the proposed bypass roadway." (Lebanon Ordinance 05-13). Case law and statutes establish economic development as one of the most critical municipal purposes.<sup>2</sup> If searching for a concrete municipal purpose in land, one need look no further than the concrete being poured for a new Walmart and state highway connector. However, the Court of Appeals missed any chance at reconciliation by erroneously focusing on whether a valid municipal purpose could be found in the City's *intent* in drawing its boundaries.

**C. Legislative intent in drawing boundaries has no bearing on the statutory contiguity requirement for corridor-free nonconsensual annexations.**

In corridor annexations, legislative intent is unquestionable: A city *intends* to use a strip of land to connect to territory that is urban or suitable for urban development, per KRS 81A.410(1)(b). There is no need to waste time on this conceded issue when assessing the legality of the annexation. Yet from the beginning, the focus of this case has been the intentions of city officials when they drew the boundaries of the annexed territory.

In a list of "facts," the circuit court attributed to the City extraordinary prediction abilities: Because the City *knew* which property owners approved annexation and who did not, it had *predetermined* the result of the election and *guaranteed* the annexation's success. These "facts," according to the Court of Appeals, proved no concrete or

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<sup>2</sup> See Dannheiser v. City of Henderson, 4 S.W.3d 542 (Ky. 1999) in which the Kentucky Supreme Court recognized a broad concept of what constitutes a public purpose by upholding the sale of municipal property to private companies for less than fair market value in order to enhance economic development. See exceptions to the statutory general bidding requirements for surplus property when the property is being transferred for economic development purposes. KRS 82.083(3)(b).

municipal purpose, and thus no contiguity, existed. (Court of Appeals Opinion, p. 8, 9).

The flaw in this reasoning is that these findings are not facts, but *speculations*.

Along with a surveyor's annexation map showing the boundary shapes, depositions of city officials containing their perspectives on the city's strategy for a successful annexation were admitted for review. Also included were the ordinances proposing and effecting annexation. The circuit court and Court of Appeals opinions, however, indicate an insular concentration on shape and strategy, with no consideration of the municipal purpose of the land itself, as identified in the city's official intent-to-annex ordinance. Consequently, the courts bypassed two crucial factors for judicial analysis: the Supreme Court's focus on land value to establish a municipal purpose, as discussed above, and the basic legal tenet that cities can "speak only through their authorized records." Louisville Civil Service Bd. v. Blair, 711 S.W.2d 181, 184 (1986).

This longstanding rule was applied years ago in City of Hazard v. Duff, 154 S.W.2d 28 (Ky.App. 1941). In determining whether the purpose of city property was governmental or proprietary, the court held that official city records necessarily trump testimony:

[City officials] testified as to the purpose for which the building is being held by said city at the present time and to which (in their opinions) it would be devoted in the future. None such testimony, however, is competent to establish facts at variance with those shown by the official records of the city. Where a city has spoken through its official records, it may not in a collateral attack dispute the veracity of the records by introducing parol evidence to the contrary. Id. at 30.

City officials' opinions as to future occurrences, whether use of a building or success of an annexation, are not facts. Even if thoroughly studied and supported, they are but speculations. City legislative bodies do not have crystal balls that *guarantee* or

*predetermine* how citizens will exercise their free will and right to vote. The City could, however, research, deduct, and strategize, and act officially through its annexation ordinances, which is precisely what it did. Depositions in which city officials discuss intentions should not override annexation ordinances through which cities officially speak.

In explaining why plans for adding potential municipal services within a corridor were irrelevant, the Griffin court stated that “mere speculation that such services might be provided is not a sufficient basis for a finding of contiguity ...” Id. at 640. The Supreme Court thus recognized that speculation has no place in a quest for tangibility. Unfortunately, the Court of Appeals failed to do the same. If speculation is not enough to prove contiguity, it also should not be enough to disprove it.

The contiguity test established by the corridor cases does not apply to the regularity of the boundaries drawn, but instead to the suitability of the land included. It is not about appropriate government intentions; it is about appropriate land value. The Court of Appeals’ new contiguity test misinterprets Kentucky Supreme Court precedent and leaves cities with an undefined, unsupported, and unattainable annexation standard.

**D. The Court of Appeals application of its new contiguity test ignores a city’s ability under established law to aim for success when drawing boundaries of territory to be annexed.**

When the Court of Appeals applied its new contiguity test, the City’s annexation failed to pass. If the opinion stands, all cities are now on notice that they cannot draw boundaries with the intent of succeeding in their annexation quest, but instead must be blind to support and sensitive to opposition. This new reality is in contradiction to established law governing annexations and cities in general.

Nonconsensual annexation, by its very name, implies that not everyone will consent to annexation. However, the General Assembly clearly wanted cities to be able to proceed despite opposition, by setting up the statutory procedures accordingly. Yet nonconsensual annexation in Kentucky is not a quick sprint to the finish line, bypassing concerns and considerations of affected persons at the speed of light. It is instead an exercise in paced hurdling, in which property owners and voters play an integral role.

The procedure in KRS Chapter 81A ensures a detailed process in which all relevant factors and interests are considered. As noted, the territory must meet the qualifications in KRS 81A.410. An “intent to annex” ordinance, with ample notice, must be enacted. KRS 81A.420. A petition signed by fifty percent of resident voters or property owners within the territory allows annexation to reach the ballot. KRS 81A.420(2).

As the court in Louisville Shopping Center, Inc. v. City of St. Matthews, 635 S.W.2d 307, 310 (Ky. 1982) stated, “... a party has no constitutional right to resist annexation. ... The right to present defenses to annexation is a statutory privilege.” Just as cities may annex property solely because the legislature, in its discretion, *chose* to give them this authority, property owners have a voice in the annexation process because the legislature *chose* to give them this opportunity.

Noticeably missing from the detailed statutory steps are any requirements for *how* a city should decide annexation is right for the city. The research, planning, and debate that must take place to ensure annexation serves a legitimate public purpose are not regulated by the state. Under the law as written, interpreted and applied, it is not unlawful for city officials to consider which property owners or voters might favor or oppose an annexation when deciding whether and how to proceed. Furthermore, as the Griffin court stated, the

speculated mindset of property owners, while “certainly informative, is also irrelevant” to any discussion of contiguity. *Id.* at 640. To decide otherwise would plunge cities into legislative blindness when making critical decisions regarding their boundaries.

Consider also the public purpose spending rule, which has its foundation in Section 171 of the Kentucky Constitution requiring taxes to “be levied and collected for public purposes only,” and dictates that the revenue collected largely from citizens through taxes should always be expended for the good of the citizens the government serves. There are many costs associated with the process of annexation. Planning and publication costs quickly add up, and new residents and property often mean the feasibility of new infrastructure and other services must be evaluated. Annexation brings many benefits to a city, including potential development and increased tax base, but it is illogical and irresponsible for a city to fail to consider the strain on public resources that also comes with contemplating and undertaking expansion.

**II. THE COURT OF APPEALS IMPERMISSIBLY EXPANDED THE SCOPE OF JUDICIAL REVIEW BY ANALYZING LEGISLATIVE INTENT AND ENCROACHING ON LEGISLATIVE AUTHORITY OVER ANNEXATIONS.**

If the Court of Appeals opinion is upheld, cities will see incomprehensible law and unsustainable paralysis. Courts will see unwanted responsibility and unlawful authority.

It is clear that the Court of Appeals opinion gave no credence to the circuit court’s finding of a violation of Section 2 of the Kentucky Constitution. However, when undertaking arbitrariness reviews, the Court of Appeals itself has recognized that in policy making, not only is total legislative impartiality not required, but also legislative motives are not a court’s concern. Upholding a city zoning ordinance, the Court has held:

A legislative decision-maker will not be disqualified simply because he or she has taken a public position on a policy issue related to the dispute, or demonstrated a bias or pre-disposition toward a certain result. Rather, the arbitrariness review is concerned primarily with the product of the legislative action, and not with the motive or method which produced it. Warren County Citizens for Managed Growth, Inc. v. Bd. of Com'rs of City of Bowling Green, 207 S.W.3d 7, 17 (Ky. Ct. App. 2006).

Stated more succinctly, "it is well settled that the courts will not inquire into the motives that impel legislative action." City of Louisville v. Bryan S. McCoy, Inc. 286 S.W.2d 546, 548, 549 (Ky. 1955).

A court must not delve into an analysis of local legislative motives to determine whether a municipal purpose could "save" a nonconsensual annexation. Within the annexation statutes, as well as KRS 82.082, lies recognition that local policy decisions are best made at the local level, and to judge why they are made would hamper the ability of city legislative bodies to effectively govern and expand as the General Assembly intended.

If a court should not evaluate legislative purpose behind annexation boundaries, it should definitely not specifically define the physical boundaries in all four directions, as the circuit court did in this case. (Circuit Court Opinion, p. 3). Such precision goes even beyond motive analysis in endangering the separation of powers doctrine central to our state and national government framework. Kentucky's constitution in fact goes further than the federal provision by including an express prohibition against usurpation of the powers of one branch by another. Section 28 of the Kentucky Constitution states "No person or collection of persons, being one of those departments, shall exercise any power properly belonging to either of the others . . ." In a seminal case preserving this separation, the Kentucky Supreme Court held that the

... precedents established by this court have been uniform in retaining the goals set out by the framers. The separation of powers doctrine is set in the concrete of

history and legal precedent. We will not overrule those cases and we will not, by the fiat of judicial legislation, change the clear and imperative meaning of our constitution. Legislative Research Commission v. Brown, 664 S.W.2d 907, 914 (Ky. 1984).

Kentucky courts have always fiercely guarded these divided powers, maintaining that “[t]hose which are judicial must not be permitted to encroach upon those which are legislative.” Manning v. Sims, 213 S.W.2d 577, 580 (Ky. 1948).

Annexation is clearly a legislative affair. For over a century, despite changes in annexation circumstances, laws, and the courts that review them, the Kentucky judiciary has consistently upheld the constitutional delegation of the annexation process exclusively to the legislative branch of state government. See Kelley v. Dailey, 366 S.W.2d 181, 183 (Ky. 1963), citing Sanitation Dist. No. 1 of Jefferson County v. City of Louisville, 1948, 308 Ky. 368, 213 S.W.2d 995, 999 (“Since the creation of municipalities and all matters in relation to annexation are political acts, whether they shall be done or not is within the power and discretion of the Legislature as the political department of the government...”); City of Louisville v. Kraft, 297 S.W.2d 39, 42 (Ky. 1956) (“The political and economic advisability of annexation, and the ‘policy’ questions involved in the problem of municipal expansion, are to be determined solely by the legislative branch of government.”); Louisville Shopping Center at 310 (“[W]e have re-affirmed the rule that annexation and all its ancillary procedures are creatures of the legislature.”).

Cities, too, are “creatures” of the General Assembly, delegated the ability to exercise much of the legislative power that could otherwise be exercised by the state. See generally Section 156a of the Kentucky Constitution, and KRS 82.082, which permits cities to exercise “any power and perform any function within its boundaries . . . that is in furtherance of a public purpose of the city and not in conflict with a constitutional

provision or statute.” The General Assembly made annexation a legislative function of cities under KRS 81A.410, *et. seq.*

When a court draws city boundaries that should instead be designed by local policy considerations, a legislative pen is placed in a judicial hand. The Court of Appeals ruling takes a dangerous step toward judicial mandates of the exact pieces of land that make up a city. If the General Assembly had wanted city boundaries to take a specific shape, it could – and would – have done so.<sup>3</sup> “[T]he state Legislature has the unlimited right to pass such laws for the annexation of territory to municipal corporations as in its judgment will best accomplish the desired end...” Yount v. City of Frankfort, 255 S.W.2d 632, 635 (Ky. 1953). What the legislature has lawfully given to cities, the courts cannot take away.

If they do, cities will be immobilized as property owners realize their expanded rights to challenge annexation. Why share ideas for growth with citizens if intentions invalidate expansion? Why draw boundaries if courts will simply redraw them? Why plan economic development projects or infrastructure grants requiring boundary certification, if they will stall indefinitely as lawsuits drag on? Money will run out, opportunities will pass by, and progress will recede.

In Moorman v. Wood, 504 F.Supp. 467, 474 (E.D.Ky.1980), the U.S. District Court upheld the constitutionality of the statute limiting the right to vote in annexations to residents of the annexation area, and provided an excellent history of hostile annexation brawls that led the legislature to allow voters instead of courts to resolve these issues:

*The procedure of committing annexation problems to the judiciary had not worked. The judiciary, the legislature apparently concluded, was not suited for the task of regulating annexations... .. Experience demonstrated that such an immediate,*

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<sup>3</sup> In fact, a statute once came close to doing so: KRS 81.040 required city boundaries at the time of incorporation to “not exceed one-half (1/2) mile in each direction, the form of the city being square . . . .” This law was repealed over thirty years ago, in favor of the series of standards in KRS 81.060, of which contiguity is but one.

certain solution, which would avoid years of litigation and uncertainty as to the status of a given area, was more desirable than one which nicely balanced all the relevant theoretical considerations of political science, but at the cost of decade-long, bitterly divisive court battles. *Id.* at 475 (emphasis added).

This description, written over thirty years ago, rings alarmingly true today. The Court of Appeals' decision will clog dockets with local disputes as courts evaluate each government motive and individual tract of land, ultimately sending Kentucky back in time to the unworkable process of the past.

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### CONCLUSION

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The Court of Appeals ruling has not only misinterpreted but misapplied state statutes and the Supreme Court contiguity test meant only for corridor annexations, and has impermissibly expanded the scope of judicial review. In doing so, it affects not just the boundaries of Lebanon, but the boundaries of all cities attempting annexation and the boundaries between the legislative and judicial branches. For the reasons set forth above, *Amicus Curiae*, KLC, respectfully urges this Court to restore the integrity of the judiciary and the annexation process by declining to uphold the Court of Appeals decision.

Respectfully submitted,

KENTUCKY LEAGUE OF CITIES



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