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City of Tallahassee v. Thompson Trust, 771 So. 2d 587 (Fla. Dist. Ct. App. 2000)

## FLORIDA

**City of Tallahassee v. Thompson Trust, 771 So. 2d 587 (Fla. Dist. Ct. App. 2000)** (holding neither a property owner's riparian rights in, nor common boundary line with, property subject to annexation created "affected party" status and, thus, the owner lacked standing to challenge the annexation ordinance).

The City of Tallahassee ("City") annexed 109 acres of land pursuant to a petition by all owners within the annexed area. The J.R., Sr., and J.M. Thompson Trust ("Trust") challenged the annexation at issue based upon both lack of notice regarding the annexation and lack of representation at the public hearing. As a result, the circuit court granted final summary judgment in favor of the Trust. The City appealed the judgment, arguing the Trust lacked standing, as it did not constitute an "affected party" under Florida law. The Trust, however, claimed standing as an "affected party" due to its riparian rights in the annexed lake and common boundary line with the annexed area.

The First District Florida Court of Appeal considered whether riparian rights in a lake created standing to challenge annexation of property with sixty-six feet of water frontage on the lake. The court viewed riparian rights not as proprietary in nature, but rather as a benefit to the riparian owner. Thus, the Trust's benefit remained intact in light of the annexation. Therefore, the court found that annexation of the lake did not constitute a taking of the Trust's riparian rights and, thus, the Trust did not establish itself as an "affected party."

The Trust also argued that since it shared a common boundary line with the annexed area, it was within the annexed area. However, the court rejected this line of reasoning due to lack of authority.

In conclusion, the court held that the Trust was not an "affected party" under Florida law and lacked standing to challenge the annexation ordinance. Accordingly, the court reversed the circuit court and remanded with instructions to enter judgment for the City.

*Kimberley E. Montanaro*

**Fla. Cities Water Co. v. Fla. PSC, 778 So. 2d 310 (Fla. Dist. Ct. App. 2000)** (holding the Florida Public Service Commission's use of average annual daily flow in calculating the "used and useful" portion of company's wastewater treatment plant for inclusion in the utility's rate base was proper based on competent and substantial evidence, even though the calculation was inconsistent with prior agency policies).

In an appeal from an order of the Florida Public Service