



Ohio Revised Code

Section 709.032 Annexation hearing.

Effective: July 1, 2009

Legislation: House Bill 525 - 127th General Assembly

(A) As used in this section, "necessary party" means the municipal corporation to which annexation is proposed, each township any portion of which is included within the territory proposed for annexation, and the agent for the petitioners.

(B) The hearing provided for in section 709.03 of the Revised Code shall be public. The board of county commissioners may, or at the request of any necessary party shall, issue subpoenas for witnesses or for books, papers, correspondence, memoranda, agreements, or other documents or records relevant or material to the petition, directed to the sheriff of each county where the witnesses or documents or records are found, which subpoenas shall be served and returned in the same manner as those allowed by the court of common pleas in criminal cases. The fees of sheriffs shall be the same as those allowed by the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 1901.26 of the Revised Code. The fee and mileage expenses incurred at the request of a party shall be paid in advance by the party, and the remainder of the expenses shall be paid out of fees charged by the board for the annexation proceedings. In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which the disobedience, neglect, or refusal occurs, or any judge of that court, on application of the board, any member of the board, or a necessary party, may compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. An owner of a company, firm, partnership, association, or corporation that is subpoenaed may have an agent or attorney appear before the board on that owner's behalf in response to the subpoena.

The board of county commissioners shall make, by electronic means or some other suitable method, a record of the hearing. If a request, accompanied by a deposit to pay the costs, is filed with the board not later than seven days before the hearing, the board shall provide an official court reporter to record the hearing. The record of the hearing need not be transcribed unless a request, accompanied by an amount to cover the cost of transcribing the record, is filed with the board.



(C) Any person may appear in person or by attorney and, after being sworn, may support or contest the granting of the petition. Affidavits presented in support of or against the petition shall be considered by the board, but only if the affidavits are filed with the board and served as provided in the Rules of Civil Procedure upon the necessary parties to the annexation proceedings at least fifteen days before the date of the hearing; provided that the board shall accept an affidavit after the fifteen-day period if the purpose of the affidavit is only to establish the affiant's authority to sign the petition on behalf of the entity for which the affiant signed. Necessary parties or their representatives are entitled to present evidence, examine and cross-examine witnesses, and comment on all evidence, including any affidavits presented to the board under this division.

(D) At the hearing, any owner who signed the petition for annexation may appear and, after being sworn as provided by section 305.21 of the Revised Code, testify orally that the owner's signature was obtained by fraud, duress, misrepresentation, including any misrepresentation relating to the provision of municipal services to the territory proposed to be annexed, or undue influence. Any person may testify orally after being so sworn in support of or rebuttal to the prior testimony by the owner. Any witnesses and owners who testify shall be subject to cross-examination by the necessary parties to the annexation proceedings. If a majority of the county commissioners find that the owner's signature was obtained under circumstances that did constitute fraud, duress, misrepresentation, or undue influence, they shall find the signature to be void and shall order it removed from the petition as of the time the petition was filed.