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NO. 84-CI-04963

JEFFERSON CIRCUIT COURT Kentucky

TENTH DIVISION

IN RE: CITY OF GLENVIEW,
JEFFERSON COUNTY, KENTUCKY
EX PARTE

CERTIFIED COPY OF RECORD
OF JEFFERSON CIRCUIT COURT
#84CI04963
PAULIE MILLER, CLERK
BY Dr. Jones D.C.

OPINION, FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
JUDGMENT

* * * * *

This matter is before the Court on the Petition of over three hundred individuals to incorporate an unincorporated area as a sixth class city in Jefferson County, Kentucky, to be known as "Glenview."

After the Petition was filed with this Court on June 29, 1984, this Court set the matter for hearing on August 6, 1984. Legal notice of this hearing was published in The Louisville Times, the newspaper of greatest circulation in the affected area, on July 24, 1984, as specified in KRS Chapter 424,

At the time set for the hearing, the City of Louisville attempted to intervene in the proceedings. This Court considered the contentions of the City of Louisville in favor of intervention as well as the arguments of the Petitioners in opposition thereto. After a hearing in depth, this Court determined that only "inhabitants" could make a defense to the Petition, as specified in KRS 81.060(3).

A single inhabitant of the area sought to be incorporated, one

45

Robert A. Donald, petitioned the Court for leave to intervene, which was duly granted by the Court. Donald presented two witnesses in opposition to the incorporation petition: one, John Vahaly, an expert employed by the City of Louisville; and one Larry Lenahan, the Director of Financial Planning for the City of Louisville.

The Petitioners presented twelve witnesses and introduced a number of exhibits, including a large plat map of the area to be incorporated; a metes and bounds perimeter description of the area sought to be incorporated; numerous photographs; correspondence which substantiated their position that neither the City nor the County could provide services to the area; a sophisticated budget proposal; a list of the assessed property values, tax rates and revenues; a 1980 census boundary map; and a letter from the mayor of a contiguous city indicating that city's lack of objection to the incorporation.

During the hearing of August 6, 1984, as aforementioned, a question was raised as to whether or not the Petitioners constituted more than two-thirds of the registered voters in the area proposed for incorporation. This Court referred the matter to the Commissioner of the Jefferson Circuit Court to collaborate with the Jefferson County Voters Registration Department to conduct evidentiary hearings and to make a recommendation to the Court concerning whether the Petitioners had constituted the requisite two-thirds of the registered voters in the area proposed for incorporation.

A second hearing was held on November 27, 1984. Although during both hearings the courtroom was packed with interested spectators, no inhabitant including the intervenor, Robert A. Donald, spoke in opposition to the Petition for Incorporation.

At the conclusion of the second day of hearings, the parties were directed to submit memoranda to the Court on the factual and legal questions involved. Both parties have submitted such memoranda, and the Court has considered same.

The Court having considered the Petition, its supporting and opposing exhibits, the Master Commissioner's Report and Exceptions filed thereto, memoranda and all evidence received and testimony heard during the hearings of August 6 and November 27, 1984, and all documents filed herein, makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

The Court finds as a matter of fact that the following standards have been met.

1. The Petitioners constitute more than two-thirds (2/3) of the registered voters in the area proposed for incorporation.
2. Attached to the Petition and incorporated herein is a statement of the proposed boundaries of the City of Glenview. Don Morton, a licensed civil engineer, testified that the statement was the "perimeter description of the property shown on that plat, which is the City of Glenview." Respondent did not object or otherwise attack the validity of the statement of proposed boundaries. Therefore, this Court finds the boundaries of the proposed City of Glenview are so established.
3. The number of registered voters inhabiting the proposed City of Glenview is 523.

4. The Court finds that the map attached to the Petition filed with this Court on June 29, 1984, accurately reflects the boundaries of the City of Glenview such that all residents were put on notice of the area proposed for incorporation.

5. The Petitioners seek to incorporate the proposed City in order to provide certain services for the area through the medium of a city government. The Court heard testimony regarding the residents' need of services such as general cleanliness, street lighting, street maintenance, snow removal and garbage removal, and finds that these services could best be provided by the proposed city government.

The Petitioners desire to incorporate in order to form their own governmental unit so that they may preserve the cohesive neighborhood character of a unique community, provide a public forum for the use of the residents and enact ordinances for the common good. This Court finds that such interests are best provided by the proposed City of Glenview.

6. At the present time, the following facilities exist within the proposed City:

(a) A United States Post Office has been maintained since 1871; that this Post Office is a Kentucky Landmark and is listed on the National Registry by the National Trust for Historic Places; that this Post Office is active since area residents pick up mail daily. This Post Office is most convenient for the residents of the proposed City of Glenview.

(b) The Harrod's Creek Volunteer Fire Department maintains a station at the intersection of River Road and Lime Kiln Lane, which

is most convenient to the area.

7. The following services are currently provided within the territory:

(a) Police protection is provided by the Jefferson County Police Department. There appears no crime problem in the area. Captain Carol Hickman testified to the provision of police protection and EMS services in the Glenview area.

(b) Fire protection is provided by the Harrod's Creek Volunteer Fire Department.

(c) Road maintenance is provided by Jefferson County and by private homeowners' associations with respect to those roads constituting part of the county road system and by the State of Kentucky for those roads constituting part of the state road system, and other public roads are maintained by private homeowners' associations.

(d) Garbage removal is available only through private contractors.

(e) Water is provided by the Louisville Water Company.

(f) Gas and electricity are furnished by Louisville Gas & Electric Company.

(g) Telephone service is furnished by South Central Bell Telephone Company.

8. The proposed City of Glenview shall operate under the commission plan form of government as described by KRS 83A.140. The Court heard the testimony of the proposed mayor of Glenview, Jack Kannapell, regarding the form of government and received in evidence a preliminary city budget prepared by Mr. Kannapell.

9. The following persons, all residents of the proposed City, are appointed to hold the following offices, until the next regular election at which city officers may be elected, at which time officers shall be elected by residents of the City.

<u>NAME & ADDRESS</u>	<u>OFFICE</u>
Jack Kannapell Glenview Glenview, KY 40025	Mayor
Lars O. Frey 5843 Brittany Woods Circle Louisville, KY 40222	City Commissioner
John H. Caperton 3114 Boxhill Court Louisville, KY 40222	City Commissioner
Charles W. Hebel, Jr. 5806 Orion Road Louisville, KY 40222	City Commissioner
Henning Hilliard 4506 Upper River Road Louisville, KY 40222	City Commissioner

10. The Petition was filed on June 29, 1984, and the first hearing in this matter was set for August 6, 1984. Accordingly, the Court finds that the Petition was docketed for hearing not less than 20 days from the date of filing of the Petition. Notice of the filing of the Petition and of its object was given by publication pursuant to KRS Chapter 424 by means of publication in the Louisville Times, which is the newspaper published in Jefferson County, Kentucky, meeting the qualifications of KRS 424.120. This publication occurred on July 24, 1984, which is not less than 7 nor more than 21 days prior to the last date to file objections to the Petition, August 2, 1984, and to the hearing date of August 6, 1984.

11. The Court finds as a fact that incorporation constitutes a reasonable way of providing the public services sought by the voters or property owners of the territory, and there is no other reasonable way of providing the services. The Court has considered testimony regarding fire protection, garbage services and street maintenance; testimony regarding fire protection services; regarding road maintenance and snow removal; and further, the Court finds that there is no reasonable way of providing certain road services with regard to the city-county traffic department's refusal to provide such services.

12. The territory is contiguous.

13. The territory is able to provide necessary city services to its residents within a reasonable period after its incorporation based on the proposed city budget. Police protection and EMS services, regarding road maintenance and on fire protection, likewise can be furnished within a reasonable time.

14. The interests of other areas and adjacent local governments are not unreasonably prejudiced by the incorporation. The Court heard testimony from Jean Beam, the mayor of Indian Hills, on this point and in the absence of proof to the contrary, finds no such prejudice.

15. The character of the territory is urban.

16. No existing city, county or district has the ability of providing needed services such as fire protection, police protection, and EMS Services, and as well as road maintenance.

17. The territory is not interdependent or part of one community with any existing city.

18. The territory needs street lighting; street maintenance, such as paving and patching; snow removal and garbage removal; as well as other city services which will be best provided by the incorporation of the City of Glenview.

19. The development scheme of applicable land use plans is consistent with incorporation of the territory. The Court bases this conclusion on the area photographs introduced into evidence as well as the testimony of Don Morton, Roger Coleman, Jack Kannapell, and Charles Hebel. There is no evidence presented to the contrary.

20. According to the evidence, the area and topography of the region is consistent with incorporation of the territory. There was no evidence presented to the contrary.

21. The incorporation of the territory should have an advantageous effect upon population growth and the assessed valuation of the real property.

CONCLUSIONS OF LAW

The Court concludes as a matter of law, that all standards and conditions for incorporation of the proposed City of Glenview, Jefferson County, Kentucky, as set forth in KRS 81.050 and KRS 81.060 have been met, and further concludes that the publication requirements of KRS Chapter 424 have likewise been complied with.

JUDGMENT

WHEREFORE, IT IS CONSIDERED ORDERED AND ADJUDGED AS FOLLOWS:

1. There is hereby incorporated and established in Jefferson County, Kentucky, the City of Glenview.

2. The metes and bounds description of the City of Glenview is as follows:

BEGINNING at the intersection of the southeasterly water's edge as of June 7, 1984, of the Ohio River with the northeasterly line of the tract conveyed to the Knights Corporation by deed of record in Deed Book 3967, Page 329, in the Office of the Clerk of the County Court of Jefferson County, Kentucky; thence with said northeasterly line, South 48 degrees 36 minutes East 631, more or less feet to its intersection with the southeasterly line of said Knights Corporation tract; thence with said southeasterly line and same, if extended, South 41 degrees 24 minutes West 438.87 feet to its intersection with the southwesterly line of the tract conveyed to Arthur J. Eve by deed of record in Deed Book 5359, Page 126, in the Office aforesaid; thence with same, South 40 degrees 41 minutes East 631.19 feet to its intersection with the most northwesterly line of Price Estates, a plat of record in Plat and Subdivision Book 33, Page 62, in the Office aforesaid; thence with same, North 39 degrees 36 minutes 38 seconds East 347.75 feet to its intersection with the east line of Lot 1 of said Price Estates; thence with the east line of Lot 1 of said Price Estates, South 33 degrees 20 minutes 46 seconds East 161.70 feet to a point in same; thence continuing with said east line and same, if extended, South 32 degrees 05 minutes 46 seconds East 775.44 feet to its intersection with the north line of Interstate 71; thence with said north line in an easterly and southeasterly direction 4,876 more or less, feet to its intersection with the west line of Glenview Estates, a plat of record in Plat and Subdivision Book 32, Page 85 in the Office aforesaid; thence with the west and north lines of said Glenview Estates, following courses and distances: North 32 degrees 39 minutes 08 seconds West 422.74 feet, North 57 degrees 04 minutes 30 seconds East 874.28 feet; North 34 degrees 26 minutes 43 seconds West 105.00 feet, North 57 degrees 33 minutes 17 seconds East 353.27 feet, North 13 degrees 22 minutes 13 seconds East 303.33 feet, North 6 degrees 22 minutes 13 seconds West 436.81 feet, North 33 degrees 37 minutes 18 seconds West 250.11 feet, South 79 degrees 36 minutes 58 seconds East 159.85 feet, North 10 degrees 23 minutes 03 seconds East 107.50 feet, and South 79 degrees 36 minutes 58 seconds East 424.96 feet to its intersection with the centerline of Glenview Avenue as shown on the plat of Brittany Valley Woods Subdivision, Section 2, of record in Plat and Subdivision Book 18, Page 46 in the Office aforesaid; thence with said centerline the following courses and distances: South 36 degrees 16 minutes East 30.61 feet, South 24 degrees 01 minute East 66.00 feet, South 22 degrees 30 minutes 30 seconds East 66.00 feet, South 31 degrees 31 minutes East 66.00 feet, and South 36 degrees 10 minutes East 14.07 feet to its intersection with the south line of said Brittany Valley Woods

Subdivision; thence with said south line and with a line common to the north line of this City of Glenview Hills, North 58 degrees 55 minutes East 2,015.73 feet to its intersection with the original east line of Lime Kiln Lane, 30 feet wide; thence with said east line, North 32 degrees 55 minutes East 3,183.00, more or less, feet to its intersection with a south line of Lime Kiln Lane; thence with said south line, North 56 degrees 50 minutes East 551.60 feet to its intersection with another east line of Lime Kiln Lane; thence with said east line the following courses and distances: North 26 degrees 45 minutes West 656.05 feet, North 35 degrees 00 minutes 04 seconds West 161.41 feet, North 37 degrees 30 minutes West 247.16 feet, North 36 degrees 15 minutes West 504.02 feet, North 29 degrees 10 minutes West 563.12 feet, North 34 degrees 15 minutes West 513.59 feet, North 70 degrees 35 minutes West 132.17 feet, and North 42 degrees 30 minutes West 910.00, more or less, feet to a point in the northwesterly line of River Road, 50 feet wide; thence with said northwesterly line, South 33 degrees 55 minutes West 683.36 feet and South 33 degrees 37 minutes West 161.22 feet to its intersection with the northeasterly line of the tract conveyed to William Lancaster by deed of record in Deed Book 4706, Page 10 in the Office aforesaid; thence with said northeasterly line, North 56 degrees 23 minutes West 470.00, more or less, feet to its intersection with the Southeasterly water's edge of the Ohio River aforesaid; thence with same and its meanders in a southerly and southwesterly direction 7,390 more or less, feet to the point of beginning, containing 970 acres more or less.

3. The population contained in the City of Glenview is 561 and by reason of its population, the City of Glenview shall be and is hereby assigned to the sixth class of cities.

4. The City of Glenview shall operate under the commission plan form of government as described by KRS 83A.140, and the following persons are hereby appointed to hold the following offices, until the next regular election at which City officers may be elected, at which time officers shall be elected by residents of the City:

<u>NAME & ADDRESS</u>	<u>OFFICE</u>
Jack Kannapell Glenview Glenview, KY 40025	Mayor

Lars O. Frey
5843 Brittany Woods Circle
Louisville, KY 40222

City Commissioner

John H. Caperton
3114 Boxhill Court
Louisville, KY 40222

City Commissioner

Charles W. Hebel, Jr.
5806 Orion Road
Louisville, KY 40222

City Commissioner

Henning Hilliard
4506 Upper River Road
Louisville, KY 40222

City Commissioner

5. The Clerk of the Jefferson Circuit Court is hereby ORDERED, within ten days from the date of entry of this Judgment, to certify a copy of this Judgment to the Secretary of State of the Commonwealth of Kentucky, whose duty it shall be to properly index and file this Judgment as a permanent record in that office, in accordance with KRS 81.060(5).

This a final judgment, and there is no just reason for delay.

CERTIFIED COPY OF RECORD
OF JEFFERSON CIRCUIT COURT
#84 CI 04963

PAULIE MILLER, CLERK
BY Paulie Miller D.C.

George B. Ryan
GEORGE B. RYAN, JUDGE
TENTH DIVISION
JEFFERSON CIRCUIT COURT

May 9th, 1985
DATE

cc) Mr. Charles H. Zimmerman, Jr.
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ENTERED IN COURT

MAY 9 1985
PAULIE MILLER, Clerk
By D. J.
Deputy Clerk