FIRST DIVISION
September 29, 2025

No. 1-24-1346

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

HUSKY TRANS, INC., an Illinois corporation, and HUSKY TRUCK REPAIR, INC., an Illinois corporation, Plaintiffs-Appellees, v. THE VILLAGE OF BARRINGTON HILLS, an Illinois municipality, Defendant-Appellant.	)	Appeal from the Circuit Court of Cook County, Chancery Division. No. 2024 CH 01302 Honorable Thaddeus L. Wilson, Judge Presiding.

PRESIDING JUSTICE FITZGERALD SMITH delivered the judgment of the court.
Justices Howse and Lavin concurred in the judgment.

ORDER

¶ 1 This cause of action stems from an attempt by the defendant, the Village of Barrington (the Village) to forcibly annex, by ordinance, territory in unincorporated Cook County (the territory), which includes properties owned by the plaintiff, Husky Trans, Inc. and used by its affiliate, the plaintiff, Husky Repair Truck, Inc. (collectively Husky). Following the Village's adoption of the ordinance annexing the territory, Husky filed a lawsuit arguing that annexation was invalid

because the territory was not "wholly bounded" by "one or more municipalities and a forest preserve district or a park district," as is required under section 7-1-13(a)(e) of the Illinois Municipal Code (Municipal Code) pursuant to which the Village proceeded with the annexation. See 65 ILCS 5/7-1-13(a)(e) (West 2022). After the parties filed cross-motions for summary judgment, the circuit court granted judgment in favor of Husky and against the Village, finding that annexation was improper because the territory was not "wholly bounded" as is required under the statute. The sole issue raised in this appeal is whether the annexation ordinance is valid under section 7-1-13(a)(e) of the Municipal Code (*Id.*) where, in two, small, 100-foot sections, the territory borders unincorporated Cook County because of a railroad right-of-way, which permits a railroad line to run north-south through the eastern edge of the territory. For the following reasons, we find that annexation was proper and, therefore, reverse the circuit court's grant of summary judgment in favor of Husky and enter summary judgment in favor of the Village.

¶ 2 I. BACKGROUND

¶ 3 The record before us reveals the following undisputed facts and procedural history. Husky owns and/or uses two parcels of real property in unincorporated Cook County, located at 15 Old Sutton Road, and 545 Penny Road (hereinafter the Husky property). On December 19, 2023, the Village's Board of Trustees (the Board) discussed the possible annexation of the Husky property and other nearby properties in unincorporated Cook County into the Village. On February 9, 2024, the Village sent an annexation notice to Husky, informing it that on February 26, 2024, the Board would consider and vote on an ordinance to annex the Husky property to the Village. The notice also provided that, upon adoption of the annexation ordinance, the Husky property would be "rezoned to R1 Single Family Resident District." Husky received the annexation notice on February 15, 2024.

¶ 4 Immediately upon its receipt, Husky's counsel sent a letter to the Village objecting to the forcible annexation of the Husky property. The letter asserted that under section 7-1-13(a)(e) of the Municipal Code (65 ILCS 5/7-1-13(a)(e) (West 2022)), the territory earmarked for annexation was not "wholly bounded" by one or more municipalities and a forest preserve or park district, but rather partially bordered a railroad right-of-way. The letter then stated that Husky would agree to the annexation of the Husky property if, upon annexation, the Village allowed the property to be used as a recreational paintball facility or some other commercially viable use. The letter explained that in October 2023, Husky had entered into a contract to sell the Husky property to Paintball Explosion Partners, L.L.C. for use as a recreational paintball facility and that under the Village's R1 Single Family Residence District zoning, referred to in the Village's notice of annexation, this use would not be permitted.

¶ 5 On February 26, 2024, the Board voted to approve Ordinance No. 24 forcibly annexing the territory, including the Husky property, to the Village. The proposed effective date of the ordinance was 12:01 a.m. on March 8, 2024.

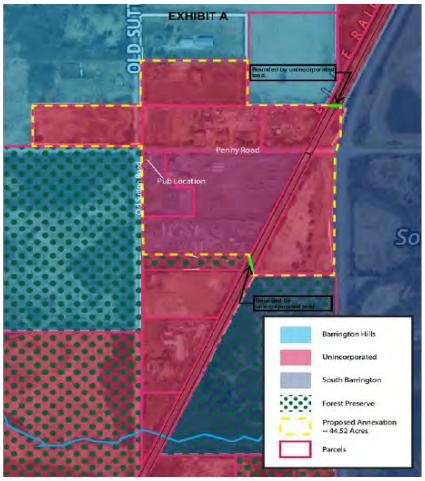
¶ 6 On February 27, 2024, Husky filed a one count complaint for injunctive relief and declaratory judgment. Therein, Husky asserted that the Village lacked authority to annex the Husky property because: (1) the territory was not "wholly bounded" by one or more municipalities or a forest preserve or park district as is required by section 7-1-13(a)(e) of the Municipal Code pursuant to which the Village had proceeded with annexation (65 ILCS 5/7-1-13(a)(e) (West 2022)); and (2) the Village had failed to provide Husky with timely notice of its intent to annex (65 ILCS 5/7-1-13(b) (West 2022)).

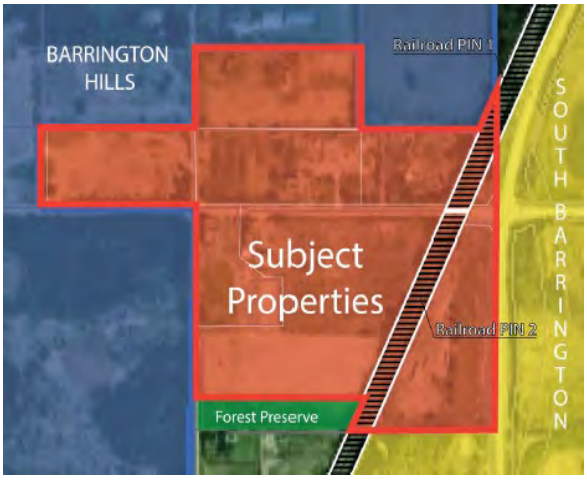
¶ 7 On March 1, 2024, Husky also filed an emergency motion for a temporary restraining order (TRO) to enjoin the annexation. The circuit court granted the TRO staying the annexation pending

a ruling on the merits of Husky's complaint.

¶ 8 On March 5, 2024, Husky filed an amended complaint adding an alternative *quo warranto* claim (735 ILCS 5/18-101 (West 2022)), which is the proper remedy for testing the legality of the proceedings by which territory has been annexed to a municipality.[1] The *quo warranto* claim challenged the validity of the annexation ordinance on the same basis articulated in Husky's injunctive relief and declaratory judgment action (735 ILCS 5/2-701 (West 2022)).

¶ 9 The parties subsequently filed cross-motions for summary judgment disputing the validity of the annexation ordinance. In doing so, the parties agreed that because a railway line passes north-south through the territory, in two 100-foot sections, where the railroad exits the territory and continues in both directions, the territory's border is comprised of the width of the railway line, which is unincorporated property. The parties further agreed that the territory is otherwise bounded in the north by the Village, in the west and south by a forest preserve and in the east by the Village of South Barrington, as reflected by the images below:





¶ 10 In their respective cross-motions for summary judgment, the parties solely disputed the

[1] After the Village adopted the annexation ordinance, Husky contacted both the Illinois Attorney General and the Cook County State's Attorney asking that they initiate a *quo warranto* action to determine whether the Village had legal authority to annex the territory. Both declined, allowing Husky to pursue a *quo warranto* action itself. See 35 ILCS 5/18-102 (West 2022).

impact of the two 100-foot sections created by the railway right-of-way on the Village's annexation. Husky argued that these two gaps resulted in the territory not being "wholly bounded" by one or more municipalities and a forest preserve or park district as is required under section 7-1-13(a)(e) of the Municipal Code. 65 ILCS 5/7-1-13(a)(e) (West 2022). The Village, on the other hand, asserted that railway rights-of-way have always been treated differently for purposes of annexation, and that regardless, the two minor gaps in the boundary were *de minimis* and, as such, alone could not invalidate annexation. In support, the Village cited the April 2012 findings of the Unincorporated Cook County Task Force (Task Force), which made recommendations regarding annexation of unincorporated areas within the county based on a study that revealed that providing services to such areas strained Cook County's financial resources. The Task Force expressed the county's long-term aspirational goal as the elimination of all unincorporated land within it and recommended that the immediate goal be encouraging municipalities to annex unincorporated parcels, with a specific focus on parcels under 60 acres, *i.e.*, those subject to involuntary annexation under the Municipal Code. See www.cookcountyil.gove/news/taks-force-reccomends-eventual-elimination-unincorporated-cook.

¶ 11 On June 12, 2024, the circuit court granted summary judgment in Husky's favor, and against the Village. In doing so, the court first noted that Husky's *quo warranto* claim was unripe because the TRO enjoining annexation was entered before the annexation ordinance went into effect and before the Village could exercise control over the Husky property. The court therefore addressed the merits of Husky's claim in the context of its injunctive relief and declaratory judgment action.[2] In this respect, the court held that annexation was improper because the two

[2] The court, however, noted that the relief granted "would be identical" even if it were to consider the merits under the *quo warranto* claim.

gaps created by the railway right-of-way resulted in the territory failing to meet the requirement of being "wholly bounded" by a municipality or a forest preserve or park district, as is required by the plain language of section 7-1-13(a)(e) of the Municipal Code (65 ILCS 5/7-1-13(a)(e) (West 2022). In doing so, the court rejected the Village's contention that these two segments should be ignored either as *de minimis* or because of the unique nature of railroad rights-of-way. The court therefore declared the annexation ordinance "null and void" and issued a permanent injunction prohibiting the Village "from taking any actions to effectuate, perfect or enforce" the annexation ordinance.[3] The Village now appeals from the circuit court's grant of summary judgment in favor of Husky.

¶ 12 II. ANALYSIS

¶ 13 Summary judgment is proper when the pleadings, depositions, and admissions on file, together with any affidavits, show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. See *Pielet v. Pielet*, 2012 IL 112064, ¶ 29; *Morris v. Margulis*, 197 Ill. 2d 28, 35 (2001). Where, as here, the parties file cross-motions for summary judgment, they agree that only a question of law is involved and "invite the court to decide the issues based on the record." *Pielet*, 2012 IL 112064, ¶ 28; accord *Bremer v. City of Rockford*, 2016 IL 119889, ¶ 20; see also *Rock Island Boatworks, Inc. v. Rib Holding Co.*, 2017 IL App (3d) 150709, ¶ 94 (the filing of cross-motions for summary judgment concedes the absence of genuine issues of material fact). Our review of the circuit court's summary judgment

[3] We note that in granting summary judgment in favor of Husky, the circuit court rejected Husky's alternative argument that the ordinance was invalid because the Village had failed to provide Husky with sufficient notice of the annexation. See 65 ILCS 6/7-1-13(b) (West 2022). The court, however, stated that that this issue was immaterial in light of its holding that the territory was not "wholly bounded." See 65 ILCS 6/7-1-13(a) (West 2022). On appeal, Husky abandons the notice argument and therefore forfeits review of this issue for purposes of appeal. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (points not argued in an appellant's brief are forfeited); see also *Olson v. Ferrara Candy Co.*, 2025 IL App (1st) 241126, ¶ 57 (holding that the plaintiff forfeits an issue for review by not raising it on appeal).

rulings is *de novo*. See *Bremer*, 2016 IL 119889, ¶ 20; accord *Pielet*, 2012 IL 112064, ¶ 30.

¶ 14 In this appeal, the parties solely dispute the validity of the Village's annexation ordinance forcibly annexing the Husky property pursuant to section 7-1-13(a)(e) of the Municipal Code. 65 ILCS 5/7-1-13(a)(e) (West 2022). As before the circuit court, the parties agree that the existence of a railway line, which runs north-south along the eastern edge of the territory, creates two 100-foot sections in the railway right-of-way where the territory is bounded by unincorporated Cook County instead of a municipality, forest preserve, or park district as required under section 7-1-13(a)(e) of the Municipal Code (65 ILCS 5/7-1-13(a)(e) (West 2022)). They dispute, however, whether the existence of these two gaps alone is sufficient to invalidate the annexation ordinance under the statute. For the following reasons, we find that it is not.

¶ 15 When construing a statute, our primary objective is to ascertain and give effect to the legislature's intent, keeping in mind that the best and most reliable indicator of that intent is the statutory language itself, given its plain and ordinary meaning. *People v. Perez*, 2014 IL 115927, ¶ 9; see also *People v. Lloyd*, 2013 IL 11350, ¶ 25. The statute must be viewed as a whole, and the words are to be construed in light of other statutory provisions. See *Perez*, 2014 IL 115927, ¶ 9. Significantly, we "may consider the reason for the law, the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the statute one way or another." *Id*. Finally, we presume that the legislature "did not intend absurdity, inconvenience or injustice." *Id*.

¶ 16 The Illinois "legislature alone, has the authority to allow or require the alteration of municipal boundaries." *People ex rel. Graf v. Village of Lake Bluff*, 206 Ill. 2d 541, 553-54 (2003). To that effect, the Municipal Code provides various methods by which municipalities may annex adjoining unincorporated land, thereby including that land within its municipal borders. See 65 ILCS 5/7-1-1 (West 2022) ("Any territory that is not within the corporate limits of any

municipality but is contiguous to a municipality may be annexed to the municipality as provided in this Article.") Section 7-1-13(a) of the Municipal Code permits involuntary annexation of territories that are: (1) under 60 acres; and (2) "wholly bounded" by the municipality or one of nine specified land types. 65 ILCS 6/7-1-13(a) (West 2022). Relevant here, subsection (a)(e) provides that:

> "[w]henever any unincorporated territory containing 60 acres or less, is wholly bounded by *** (e) one or more municipalities and a forest preserve district or park district *** that territory may be annexed by a municipality by which it is bounded in whole or in part, by the passage of an ordinance to that affect[.]" 65 ILCS 6/7-1-13(a)(e) (West 2022).

¶ 17 On appeal, Husky asserts that under the plain language of this subsection, the annexation ordinance is invalid because the territory is not "wholly bounded" by a municipality or a forest preserve or park district but, instead, borders unincorporated Cook County in two 100-foot sections along the railroad right-of-way. The Village, on the other hand, argues that because the annexation ordinance comports with the intent of the statute, under the *de minimis* doctrine, the two small, and unavoidable, gaps created by the railroad right-of-way, cannot, alone, invalidate the annexation. We agree.

¶ 18 The *de minimis* doctrine, which stems from the Latin maxim *de minimis non curat lex* and translates to "the law does not concern itself with trifles" (Black's Law Dictionary 443 (7th ed. 1999), "retains force in Illinois." *People v. Durham*, 391 Ill. App. 3d 1100, 1103 (2009). This doctrine is wholly applicable in the instant case. The purpose behind the doctrine is to place outside the scope of legal relief the sorts of "injuries" that are so small that they " 'must be accepted as the price of living in society rather than made a federal case out of.' " *Pacini v. Regopoulos*, 281 Ill. App. 3d 274, 280 (1996) (quoting *Swick v. City of Chicago*, 11 F.3d 85, 87

(7th Cir. 1993)); see also *Durham*, 391 Ill. App. 3d at 1103; *Smith Oil and Refining Co. v. Department of Finance*, 371 Ill. 405, 408-09 (1930); *Freese v. Glos*, 248 Ill. 280, 284-85 (1910)). In other words, the law will disregard legal actions based on technicalities whose impact is negligible. *Id.*

¶ 19 In this respect, we find the decision in *People ex rel. Chicago Title & Trust Co. v. City of Des Plaines*, 76 Ill. App. 2d 243, 249 (1966), to be instructive. In that case, the City of Des Plaines forcibly annexed territory, including a railway right-of-way, pursuant to section 7-1-13 of the Municipal Code. The annexed territory was completely encircled by the city except for a 49-foot gap in the southern boundary of the property where it met unincorporated land. *Id*. The gap equaled "eight tenths of one percent of the boundary between [the territory] in question and the municipality." *Id*. Invoking the *de minimis* doctrine, the appellate court held that the gap was trivial and, therefore, insufficient to defeat the "wholly bounded" requirement of the statute. *Id*. at 249-50.

¶ 20 Just as in *Des Plaines*, the territory here is entirely surrounded by two municipalities and a forest preserve, except for two small gaps created by the railroad right-of way, where the railroad leaves the territory. These two gaps, which are comprised of the width of the railroad, are each only 100 feet wide, and together represent only 4.7 percent of the total perimeter of the territory's border. As such, just as in *Des Plaines*, they, too, are inconsequential and insufficient to defeat the "wholly bounded" requirement of the statue, so as to invalidate the annexation ordinance. See *Des Plaines*, 76 Ill. App. 2d at 249-50; see also *People v. Knapp*, 28 Ill. 2d 239, 244-45 (1963) (applying the *de minimis doctrine* to hold that an annexation petition by the City of Crest Hill was not fatally defective for including a strip of property about 250 feet long, which had already been incorporated by the city of Joliet, even though the statute allowed for only

unincorporated property to be included); *People ex rel. Village of Northbrook v. City of Highland Park*, 35 Ill. App. 3d 435, 442 (1976) (invoking the *de minimis* doctrine to hold that the Village of Northbrook's forcible annexation was not invalidated by the fact that the annexed territory included a 33-foot strip of road that had previously been annexed by Highland Park, and was subsequently eliminated from the annexation by the circuit court); see also *West Suburban Bank v. City of Chicago*, 366 Ill. App. 3d 1137, 1141-43 (2006) (rejecting the plaintiff's argument that pursuant to the plain language of section 7-1-13, the City's forcible annexation of 62.75 acres of territory was invalid because it exceeded the maximum 60 acres permitted under the statute where the additional acreage stemmed from a highway right-of-way, whose annexation was required by operation of law).

¶ 21 Our conclusion further comports and is in direct line with the legislative purpose behind forcible annexation. As our courts have previously held, "the legislature devised and intended section 7-1-13 [of the Municipal Code] as a mechanism whereby relatively small, unincorporated parcels, left over after the incorporation of surrounding property, could be easily annexed by a contiguous municipality." *Village of Mundelein v. Village of Long Grove*, 219 Ill. App. 3d 853, 867 (1991) ("[i]implicit in the 'wholly bounded' language used by the legislature is the intent that such annexations should swallow up all of the unincorporated land sandwiched in amongst already existing municipalities."); *Spaulding School District No. 58 v. City of Waukegan*, 18 Ill. 2d 526, 529 (1960) (noting that the purpose of the forcible annexation statute is to permit unincorporated islands of property to be absorbed by contiguous municipalities). Invalidating the Village's annexation of just such a small parcel solely on the basis of the two insignificant gaps in its boundary created by the existence of the railroad right-of-way that transverses it would directly contravene that legislative purpose. What is more, in practical terms, it would stymie the

elimination of all unincorporated land within Cook County, which was explicitly recommended by the county's Task Force, with the focus being on the involuntary annexation of unincorporated parcels under 60 acres. See www.cookcountyil.gove/news/taks-force-reccomends-eventual-elimination-unincorporated-cook.

¶ 22 In this respect, we find germane that, in this particular circumstance, to comport with the intent of section 7-1-13, the Village had to incorporate the railroad within its territory, inevitably creating the two gaps equal to the width of the railway line in its border. Under section 7-1-13, for purposes of forcible annexation of territories in Cook County, a railway line cannot bound a territory. *But see* 65 ILCS 5-7-1-13(a)(g) (in some circumstances, permitting a railroad to be used to establish the "wholly bounded" requirement for certain smaller counties). Accordingly, had the Village not included the railroad line within its annexed territory, neither the Village in the west nor South Barrington in the east could have subsequently forcibly annexed it. This would have resulted in the creation of a small pocket of unincorporated railroad tracks, something neither the legislature nor Cook County intended.

¶ 23 In coming to this conclusion, we have considered the decision in *Long Grove*, 219 Ill. App. 3d 853, cited by Husky in an attempt to discourage us from applying the *de minimis* doctrine, and find it inapposite.

¶ 24 In that case, the court was asked to consider a dispute between two municipalities, the Village of Long Grove and the Village of Mundelein, both of which simultaneously attempted to annex the same territory (Mundelein through voluntary and Long Grove through involuntary annexation). *Id*. at 856. Mundelein, joined by the Village of Vernon Hills and Commonwealth Edison (Edison), objected to Long Grove's forcible annexation of the territory, accomplished pursuant to section 7-1-13, which, at that time, provided, in pertinent part, that " '[w]henever any

unincorporated territory containing 60 acres or less, is wholly bounded by (a) one or more municipalities[,]' " the territory " 'may be annexed by any municipality by which it is bounded in whole or in part.' " *Id.* at 860 (quoting Ill. Rev. Stat. 1987, ch. 24, par. 7-1-13). With one exception, the disputed annexed territory, which included a large section of Edison's right-of-way, was surrounded by Long Grove, Mundelein, and Vernon Hills. *Id.* at 857. The exception was a 210-foot-wide section where the territory bounded the remainder of Edison's right-of-way, which Long Grove had intentionally excluded from its annexation. *Id.* The non-annexed portion of that right-of-way extended 830 feet and consisted of 4.0048 acres. *Id.* The following depiction of the annexed area at issue in *Long Grove* shows the gap in the boundary (*Id.*):

¶ 25 On appeal, Long Grove argued, *inter alia*, that under the *de minimis* doctrine, the court should disregard the 210-foot-wide section of the territory that bounded the remainder of Edison's right-of way (which was unincorporated) because it constituted less than 1.5 percent of the total perimeter of the territory. *Id.* at 865. In refusing to apply the *de minimis* doctrine, the appellate court, among other things, acknowledged the decision in *Des Plaines*, but found that unlike in that case, the gap here comprised the entire southern edge of the territory. *Id.* 865-67. Furthermore, the

court found that Long Grove's intentional exclusion of a small portion of Edison's right-of-way contravened the purpose of the statute, which was to include all adjacent unincorporated areas in the involuntary annexation and "swallow up all of the unincorporated land sandwiched in amongst already exiting municipalities." *Id*. at 863, 866-67. As the court held, Edison's right-of-way "consisted of less than five acres[,]" such that it "would have been easy enough for [Long Grove] to include in its annexation." *Id*. at 863.

¶ 26 In the present case, the two insignificant gaps created by the railroad right-of-way, which allow the railroad to exit the territory and then continue in both directions, are by no means comparable to the entirety of the southern border in *Long Grove*. Nor did the Village in the instant case gerrymander the borders of the territory to create a slender corridor with a break that included only a portion of the right-of-way, ultimately resulting in the creation, rather than the elimination, of an island of unincorporated property. Instead, as already discussed above, here, the annexation furthered both the legislative purpose and the recommendations of the county's Task Force by eliminating a small pocket of unincorporated territory remaining in Cook County.

¶ 27 For these reasons, we find that the gaps created by the railroad right-of-way are *de minimis* and that the circuit court erred in invalidating the Village's annexation ordinance.

¶ 28 III. CONCLUSION

¶ 29 We therefore reverse the circuit court's grant of summary judgment in favor of Husky and enter summary judgment in favor of the Village.

¶ 30 Reversed; summary judgment entered in favor of the Village.