

IN THE CIRCUIT COURT OF THE 22nd JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

FIRST LEAP HOLDING, LLC, AN)
ILLINOIS LIMITED LIABILITY)
COMPANY,)

Petitioner,)

v.)

VILLAGE OF LAKEWOOD, an Illinois)
Municipal Corporation,)

Respondent.)

Case No. 2022 GC 1

2025
JAN 30 2025
CLERK OF COURT
JAN 30 2025

MEMORANDUM DECISION AND ORDER

This matter came before the Court for bench trial, which was conducted on November 13 and December 19, 2025. The Court has considered all the evidence, including exhibits admitted into evidence, and the written closing arguments of counsel, and has assessed the credibility of the witnesses. The Court is now ready to rule.

BACKGROUND

First Leap owns certain parcels of land within the territory of the Village of Lakewood, Respondent (“Lakewood”). The territory First Leap seeks to disconnect from Lakewood consists of the front and back nine of Turnberry golf course (First Leap is not seeking to disconnect the parking lot and clubhouse of the golf course). Lakewood objects to the requested disconnection.

ANALYSIS

Disconnection proceeding are governed by statute, specifically 65 ILCS 5/7-3-6. That statute has seven requirements for disconnection a petitioned must meet:

- “(1) contains 20 or more acres;
- (2) is located on the border of the municipality;

(3) if disconnected, will not result in the isolation of any part of the municipality from the remainder of the municipality;

(4) if disconnected, the growth prospects and plan and zoning ordinances, if any, of such municipality will not be unreasonably disrupted;

(5) if disconnected, no substantial disruption will result to existing municipal service facilities, such as, but not limited to, sewer systems, street lighting, water mains, garbage collection, and fire protection;

(6) if disconnected, the municipality will not be unduly harmed through loss of tax revenue in the future; and

(7) does not contain any territory designated as part of a redevelopment project area as that term is defined in subsection (p) of Section 11-74.4-3 of this Code or any territory otherwise subject to tax increment financing by the municipality.” **65 ILCS 5/7-3-6**

It is well settled that the disconnection statute is to be liberally construed in favor of disconnection. In re Petition to Disconnect Certain Territory from Vill. of Campton Hills, 386, Ill. App 355, 361 (2008).

Previously, First Leap filed a motion for summary judgment. The Court considered the motion, granting it as to factors, 1, 2, 3, and 7 and denying it as to factors 4, 5, and 6, finding genuine issue of fact as to those factors. Thus, trial was limited to factors 4, 5, and 6.

Factor 4 (if disconnected, the growth prospects and plan and zoning ordinances, if any of such municipality will not be unreasonably disrupted).

In support of its position on this factor First Leap called Steve Lenet, a planning and zoning consultant, stipulated to as an expert. Lenet opined that disconnection of the golf course would not disrupt Lakewood’s growth prospects.

Lakewood does not seem to dispute Lenet’s assertion that disconnection would not disrupt its growth prospects but rather contends it would disrupt its plans and zoning. Lakewood’s retained expert Michael Blue explained in his report (Exhibit W1):

“While disconnection would not block growth prospects of the Village in the sense that new areas of development on this large subject property could cause unreasonable

disruption to Village plans and zoning to preserve its open space character.” (Exhibit W1, p.1)

The Village Administrator, Jean Heckman, reiterated the concern that disconnection would jeopardize the open space character of the subject property. However, that concern ignores the existence of the restrictive covenant limiting its use to a golf course. Lakewood argues that First Leap could attempt to amend or ignore the restrictive covenant and points to present use inconsistent with the covenant (the covenant limits use to a private golf course – presently Turnberry is a public course). However, Blue acknowledged that the covenant is permanent unless all parties agree to remove it. Thus, any unilateral attempt by First Leap to amend the covenant would be ineffective. Likewise, Lakewood would have standing to seek injunctive relief should First Leap attempt to ignore the covenant and develop the property. (Notably, Lakewood has yet to seek legal enforcement off the “private golf course” covenant.) Lakewood’s concerns are speculative.

The Court finds that First Leap has met its burden to show that disconnection will not unreasonably disrupt Lakewood’s growth prospects and plan and zoning ordinances.

Factor 5 (if disconnected no substantial disruption will result to existing municipal service facilities, such as but not limited to sewer systems, street lighting, water mains, garbage collection, and fire protection).

First Leap’s expert, Steve Lenet, opines that Lakewood will continue to provide such services unimpeded by disconnection.

Lakewood’s expert, Michael Blue, does not dispute Lenet’s assertion, stating in his report:

“In considering Village services that may be disrupted, the Village must be concerned with preserving its ability to apply property maintenance and zoning regulations; understanding that these services are not ‘facility’ based (as would be associated with accessing sewer lines, trash pickup or fire protection services), the statute’s ‘not limited

to' language indicates an understating that essential municipal services extend beyond those listed." (Exhibit W1, p. 5)

Blue elaborates:

"Disconnection of the Turnberry Golf Course would eliminate the Village of Lakewood's ability to provide enforcement of these codes on the subject property, to the benefit of the owner and those on surrounding properties". (Exhibit W1, p.6)

Blue's report references Lakewood's concern that the County's codes and code enforcement are not as strict as its own. However, this concern, expressed by Heckman to Blue, was not supported by any competent evidence, just an antidote of a property abutting Lakewood with alleged zoning violations that the Village contends the County has not addressed properly. However, even assuming arguendo that Lakewood's zoning ordinances are more strictly enforced than the County's, such a conclusion would be irrelevant to the Court's analysis.

The Court disagrees with Lakewood's extremely broad interpretation of Factor 5 that would include zoning enforcement as municipal service facilities, especially considering plan and zoning ordinances are addressed in Factor 4. The purpose of Factor 5 is to ensure that disconnection of a property will not disrupt the municipality's ability to provide municipal services to those properties remaining in the municipality. It is not to ensure that the municipality maintain zoning control over the property to be disconnected – that would defeat the purpose of disconnection.

Lakewood also argues that municipal services could be disrupted because sewer and storm water lines run through the Subject Property and First Leap may block access to it. However, Gary Zickuhr, Lakewood's Director of Public Works admitted there is a blanket easement which allows Lakewood those lines. Again, Lakewood would have legal remedies should First Leap restrict that access, whether or not the Subject Property remained in Lakewood.

The Court finds that First Leap has met its burden to show that disconnection will not unreasonably disrupt Lakewood's existing municipal service facilities.

Factor 6 (if disconnected, the municipality will not be unduly harmed through loss of tax revenue in the future)

First Leap called David Miller, stipulated to as an expert, on this factor. Miller opines that disconnection would reduce Lakewood's corporate property tax revenues by \$1,817 or one-tenth of one percent and that the applicable special services property tax revenues would be reduced by \$172 or forty-six hundredths of one percent.

Lakewood's witnesses on this factor, Heckman and Village President, David Stavropoulos, do not dispute the \$1,817 figure but nevertheless contend the loss of that amount annually would unduly harm Lakewood. Heckman pointed to Lakewood's limited ability to generate tax revenue due a 3.57% tax increase cap and Lakewood's small commercial tax base. Stavropoulos contended that if current trends continue Lakewood will have a 1.4 million deficit within four years.

Regardless of Lakewood's financial stability, the loss of \$1,817 or one-tenth of one percent must be considered *de minimus*. As such, Illinois courts have consistently found the loss of such revenues is not considered unduly harmful. See Sun Electric v. Village of Prairie Grove, 59 Ill. App. 3d 608 (2nd Dist. 1978) (overturning trial court's finding that loss of 26% of tax revenue was undue harm); City of DeKalb v. Town of Cortland, 233 Ill. App. 3d 307 (2nd Dist. 1992) (disconnection of land that had \$3,000 per year in property taxes not undue harm); In re Disconnection of Certain Property from Village of Machesney Park v Village of Machesney Park, 122 Ill. App. 3d 960 (\$6,300 loss in tax revenue considered an insignificant portion of the total budget of a village when its fiscal year budget was \$845,000 and its next fiscal year appropriation was \$1,245,000).

If Lakewood's President's projection comes to pass, that would indeed be unfortunate, but under such circumstances retention of \$1,817 would do nothing to erase a seven figure deficit. Regardless, Lakewood has provided no case law supporting its theory that its alleged financial insecurity bars disconnection of properties that generate minimal tax revenues.

Rather, case law demonstrates the high bar that "unduly harm" is in regard to loss of tax revenue as explained in City of DeKalb:

"[w]e find it significant that, just as the statute specifies that disconnection will be disallowed only if it 'unreasonably' disrupts a municipality's growth prospects the statute also establishes that disconnection will be disallowed only when it 'unduly' harms a municipality through the loss of tax revenue. The legislature thus recognized that same detriment to a municipality due to revenue loss is anticipated, and even inevitable, when property is disconnected. At the very least, the municipality will no longer receive the property tax generated by the parcel." Ibid, p. 313-14

Under that standard, the loss of one tenth of one percent cannot by an objective analysis be considered to be unduly harmful, especially when that loss is limited to the property tax generated by the Subject Property.

The Court finds that First Leap has met its burden to show that disconnection will not unduly harm Lakewood's future tax revenues.

ORDER

IT IS HEREBY ORDERED:

The Petition for Disconnection is granted and the Territory described in Exhibit "A" to the Petition for Disconnection filed January 11, 2022 is disconnected from the Village of Lakewood.



KEVIN G. COSTELLO
JUDGE