

12-533. Action to compel city to provide services according to written agreement; order to exclude land, when; record of order by register of deeds; land not liable for certain taxes. (a) The owner of any land in an area annexed by a city who has entered into a written agreement as provided for by K.S.A. 12-534 may bring an action in the district court of the county in which the land is located to compel the governing body of such city to provide the services in accordance with the written agreement.

(b) The court shall hear testimony as to the city's extension of municipal services, or lack thereof, from both the owner of land and representatives of the city. If the court finds that the city has failed to provide the municipal services in accordance with the written agreement, the court shall order the city to comply with the agreement. If the city fails to comply within the time so ordered by the court, the court may enter an order excluding the land from the boundaries of the city. Any such order shall take effect in the same manner provided in K.S.A. 12-523, and amendments thereto. Such land shall not be annexed again for one year from the effective date of the order without the written consent of the owner of the land.

(c) The clerk of the district court shall certify a copy of the order to the register of deeds of the county. The register of deeds shall record the order in the deed records of the county, and, at the expense of the city, the register of deeds also shall record the order of exclusion on the margin of the recorded plat of such land, giving reference thereon to the page and book of records where the order is recorded in the register's office.

(d) Except as provided by this subsection, after the effective date of the order to exclude the land from the city, such land shall not be liable for any general taxes imposed by the city. Such land shall remain liable, however, for any taxes or special assessments levied by the city as are necessary to pay its proportionate share of the interest on and principal of such bonds or other indebtedness incurred by the city for improvements to the land which were approved by the city before the date on which the owner or owners filed the petition to compel the city to provide such services.

(e) The court shall not order exclusion of any land if:

(1) The agreement conditions the extension of certain improvements or services on the filing of a legally sufficient petition by the owners of the land for the creation of an improvement district and to levy special assessments therein to pay a portion of the costs of such improvements, and a sufficient petition has not been filed;

(2) since the annexation, the governing body of the city initiated the creation of an improvement or benefit district affecting such land to levy special assessments thereon to pay a portion of the costs of certain municipal improvements, and the formation of the district was blocked by the filing of a sufficient protest petition by some or all of the owners of any land in the proposed district;

(3) the exclusion would result in the land being completely surrounded by other tracts of land located within the city's boundaries; or

(4) the court finds the exclusion of the land would have an adverse impact on the health, safety and welfare of the residents of the city or such land.

(f) If the court finds that the city has failed to provide the municipal services in accordance with the agreement the court shall order the city to pay all attorney fees and court costs.

History: L. 1987, ch. 66, § 9; April 9.