

1981

# Sweetwater Properties et al v. Town of Alta, Utah : Reply Brief of Amicus Curiae Salt Lake County Upon Rehearing

Utah Supreme Court

Follow this and additional works at: [https://digitalcommons.law.byu.edu/uofu\\_sc2](https://digitalcommons.law.byu.edu/uofu_sc2)

 Part of the [Law Commons](#)

Original Brief submitted to the Utah Supreme Court; funding for digitization provided by the Institute of Museum and Library Services through the Library Services and Technology Act, administered by the Utah State Library, and sponsored by the S.J. Quinney Law Library; machine-generated OCR, may contain errors.

Giauque, Holbrook, Bendinger & Gurmankin; Attorneys for Plaintiffs-Respondents;  
Robert S. Campbell, Jr.; James P. Cowley; Attorneys for Defendant-Appellant;

---

## Recommended Citation

Reply Brief, *Sweetwater Properties v. Town of Alta*, No. 17064 (Utah Supreme Court, 1981).  
[https://digitalcommons.law.byu.edu/uofu\\_sc2/2325](https://digitalcommons.law.byu.edu/uofu_sc2/2325)

This Reply Brief is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Supreme Court Briefs (1965 –) by an authorized administrator of BYU Law Digital Commons. For more information, please contact [hunterlawlibrary@byu.edu](mailto:hunterlawlibrary@byu.edu).

IN THE SUPREME COURT OF THE STATE OF UTAH

---

SWEETWATER PROPERTIES,  
SBC INVESTMENT COMPANY and  
BLACKJACK TRUST,

Plaintiffs and  
Respondents,

-vs-

TOWN OF ALTA, UTAH,  
a municipal corporation,

Defendant and  
Appellant.

Case No. 17064

---

REPLY BRIEF OF AMICUS CURIAE SALT LAKE COUNTY  
UPON REHEARING

---

Appeal From The Judgment Of The Third District Court  
In And For Salt Lake County  
The Honorable James S. Sawaya, District Judge

---

TED CANNON  
Salt Lake County Attorney  
DONALD SAWAYA  
Chief Civil Deputy County Attorney  
KENT S. LEWIS  
Deputy Salt Lake County Attorney  
151 East 2100 South  
Salt Lake City, Utah 84115  
Attorneys for Amicus Curiae

ROBERT S. CAMPBELL, JR.  
JAMES P. COWLEY  
310 South Main, 12th Floor  
Salt Lake City, Utah 84101  
Attorneys for Appellant

E. CRAIG SMAY  
GIAQUE, HOLBROOK, BENDINGER  
& GURMANKIN  
P. O. Box 2670  
Park City, Utah 84060  
Attorneys for Respondents

FILED

MAY 20 1981

IN THE SUPREME COURT OF THE STATE OF UTAH

---

SWEETWATER PROPERTIES,  
SBC INVESTMENT COMPANY and  
BLACKJACK TRUST,

Plaintiffs and  
Respondents,

-vs-

TOWN OF ALTA, UTAH,  
a municipal corporation,

Defendant and  
Appellant.

Case No. 17064

---

REPLY BRIEF OF AMICUS CURIAE SALT LAKE COUNTY  
UPON REHEARING

---

Appeal From The Judgment Of The Third District Court  
In And For Salt Lake County  
The Honorable James S. Sawaya, District Judge

---

TED CANNON  
Salt Lake County Attorney  
DONALD SAWAYA  
Chief Civil Deputy County Attorney  
KENT S. LEWIS  
Deputy Salt Lake County Attorney  
151 East 2100 South  
Salt Lake City, Utah 84115  
Attorneys for Amicus Curiae

ROBERT S. CAMPBELL, JR.  
JAMES P. COWLEY  
310 South Main, 12th Floor  
Salt Lake City, Utah 84101  
Attorneys for Appellant

E. CRAIG SMAY  
GIAQUE, HOLBROOK, BENDINGER  
& GURMANKIN  
P. O. Box 2670  
Park City, Utah 84060  
Attorneys for Respondents

## TABLE OF CONTENTS

	<u>Page</u>
ARGUMENT :	
POINT I :	
THE TOWN OF ALTA INCORRECTLY CHARACTERIZES THE PURPOSE OF A POLICY DECLARATION . . . . .	1
CONCLUSION. . . . .	3

## AUTHORITIES CITED

### Statutes

Section 10-2-414, Utah Code Annotated . . . . .	1, 2, 3
Section 10-2-415, Utah Code Annotated . . . . .	3
Section 10-2-416, Utah Code Annotated . . . . .	1, 3
Section 10-2-417, Utah Code Annotated . . . . .	3
Section 10-2-418, Utah Code Annotated . . . . .	2

1  
 2  
 3  
 4  
 5  
 6  
 7  
 8  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28  
 29  
 30  
 31  
 32  
 33  
 34  
 35  
 36  
 37  
 38  
 39  
 40  
 41  
 42  
 43  
 44  
 45  
 46  
 47  
 48  
 49  
 50  
 51  
 52  
 53  
 54  
 55  
 56  
 57  
 58  
 59  
 60  
 61  
 62  
 63  
 64  
 65  
 66  
 67  
 68  
 69  
 70  
 71  
 72  
 73  
 74  
 75  
 76  
 77  
 78  
 79  
 80  
 81  
 82  
 83  
 84  
 85  
 86  
 87  
 88  
 89  
 90  
 91  
 92  
 93  
 94  
 95  
 96  
 97  
 98  
 99  
 100  
 101  
 102  
 103  
 104  
 105  
 106  
 107  
 108  
 109  
 110  
 111  
 112  
 113  
 114  
 115  
 116  
 117  
 118  
 119  
 120  
 121  
 122  
 123  
 124  
 125  
 126  
 127  
 128  
 129  
 130  
 131  
 132  
 133  
 134  
 135  
 136  
 137  
 138  
 139  
 140  
 141  
 142  
 143  
 144  
 145  
 146  
 147  
 148  
 149  
 150  
 151  
 152  
 153  
 154  
 155  
 156  
 157  
 158  
 159  
 160  
 161  
 162  
 163  
 164  
 165  
 166  
 167  
 168  
 169  
 170  
 171  
 172  
 173  
 174  
 175  
 176  
 177  
 178  
 179  
 180  
 181  
 182  
 183  
 184  
 185  
 186  
 187  
 188  
 189  
 190  
 191  
 192  
 193  
 194  
 195  
 196  
 197  
 198  
 199  
 200  
 201  
 202  
 203  
 204  
 205  
 206  
 207  
 208  
 209  
 210  
 211  
 212  
 213  
 214  
 215  
 216  
 217  
 218  
 219  
 220  
 221  
 222  
 223  
 224  
 225  
 226  
 227  
 228  
 229  
 230  
 231  
 232  
 233  
 234  
 235  
 236  
 237  
 238  
 239  
 240  
 241  
 242  
 243  
 244  
 245  
 246  
 247  
 248  
 249  
 250  
 251  
 252  
 253  
 254  
 255  
 256  
 257  
 258  
 259  
 260  
 261  
 262  
 263  
 264  
 265  
 266  
 267  
 268  
 269  
 270  
 271  
 272  
 273  
 274  
 275  
 276  
 277  
 278  
 279  
 280  
 281  
 282  
 283  
 284  
 285  
 286  
 287  
 288  
 289  
 290  
 291  
 292  
 293  
 294  
 295  
 296  
 297  
 298  
 299  
 300  
 301  
 302  
 303  
 304  
 305  
 306  
 307  
 308  
 309  
 310  
 311  
 312  
 313  
 314  
 315  
 316  
 317  
 318  
 319  
 320  
 321  
 322  
 323  
 324  
 325  
 326  
 327  
 328  
 329  
 330  
 331  
 332  
 333  
 334  
 335  
 336  
 337  
 338  
 339  
 340  
 341  
 342  
 343  
 344  
 345  
 346  
 347  
 348  
 349  
 350  
 351  
 352  
 353  
 354  
 355  
 356  
 357  
 358  
 359  
 360  
 361  
 362  
 363  
 364  
 365  
 366  
 367  
 368  
 369  
 370  
 371  
 372  
 373  
 374  
 375  
 376  
 377  
 378  
 379  
 380  
 381  
 382  
 383  
 384  
 385  
 386  
 387  
 388  
 389  
 390  
 391  
 392  
 393  
 394  
 395  
 396  
 397  
 398  
 399  
 400  
 401  
 402  
 403  
 404  
 405  
 406  
 407  
 408  
 409  
 410  
 411  
 412  
 413  
 414  
 415  
 416  
 417  
 418  
 419  
 420  
 421  
 422  
 423  
 424  
 425  
 426  
 427  
 428  
 429  
 430  
 431  
 432  
 433  
 434  
 435  
 436  
 437  
 438  
 439  
 440  
 441  
 442  
 443  
 444  
 445  
 446  
 447  
 448  
 449  
 450  
 451  
 452  
 453  
 454  
 455  
 456  
 457  
 458  
 459  
 460  
 461  
 462  
 463  
 464  
 465  
 466  
 467  
 468  
 469  
 470  
 471  
 472  
 473  
 474  
 475  
 476  
 477  
 478  
 479  
 480  
 481  
 482  
 483  
 484  
 485  
 486  
 487  
 488  
 489  
 490  
 491  
 492  
 493  
 494  
 495  
 496  
 497  
 498  
 499  
 500  
 501  
 502  
 503  
 504  
 505  
 506  
 507  
 508  
 509  
 510  
 511  
 512  
 513  
 514  
 515  
 516  
 517  
 518  
 519  
 520  
 521  
 522  
 523  
 524  
 525

POINT I

Sponsored by the S.J. Quinney Law Library. Funding for digitization provided by the Institute of Museum and Library Services Library Services and Technology Act, administered by the Utah State Library.

Machine-generated OCR, may contain errors.

"(1) A map or legal description of the unincorporated territory into which the municipality anticipates or favors expansion of its boundaries...."

"(2) A statement of the specific criteria pursuant to which a municipality will favor or not favor a petition for annexation...."

Section (2) specifically mentions the petition as part of the annexation process.

Under Section 414 a policy declaration is required before a municipality may annex property exceeding five acres. However, the policy declaration has another purpose--the control of urban development beyond the boundaries of a municipality. For this purpose, a municipality has the incentive to enact a policy declaration on its own initiative. Enactment of such a policy declaration prohibits approval of urban development in the unincorporated area within one-half mile of a municipality in territory covered by the policy declaration. Utah Code Ann. 10-2-418. The effect of this provision has been to induce owners of territory proposed for urban development located within one-half mile of a municipality to petition for annexation in order to proceed with the development.

All of the municipalities located within Salt Lake County, with the exception of the Town of Alta, have enacted comprehensive policy declarations on their own initiative to take advantage of the protection given municipalities under Section 418. None have attempted to annex territory without receiving a petition from a majority of property owners. Thus, apparently

the other municipalities within Salt Lake County do not believe that enactment of a policy declaration on its own initiative is meaningless even though it does not create the right of involuntary annexation.

### CONCLUSION

Section 416 states that initiation of annexation is by a petition from a majority of property owners. Section 414 covering the adoption of a policy declaration is consistent with Section 416. Although Section 415 and Section 417 of the 1979 annexation act do not specifically mention the filing of a petition, they nowhere state or imply that initiation of annexation may occur by other than a petition. If there was any doubt in the matter, Salt Lake County would submit that the inclusion of the last sentence in Section 416 has resolved the matter and the Court should modify its opinion to delete language stating that the 1979 annexation act permits annexation by municipalities without a petition from property owners.

Respectfully submitted,

TED CANNON  
Salt Lake County Attorney

DONALD SAWAYA  
Chief Civil Deputy County Attorney

KENT S. LEWIS  
Deputy Salt Lake County Attorney

Attorneys for Amicus Curiae  
Salt Lake County