

1 The issues presented had their origin in two annexation
2 ordinances adopted by the City of Bristol in 1989. The ordinances
3 undertook to annex the right-of-way of Highway 11E extending
4 approximately four miles south from the city limits of Bristol into
5 the Piney Flats area. The area included no property other than the
6 highway right-of-way.

7
8 In 1991, Bluff City adopted an ordinance annexing the
9 Piney Flats area, including a portion of Highway 11E included in the
10 1989 Bristol ordinances. Bristol filed suit against Bluff City
11 contesting the latter's action. In that suit, Bristol relied upon
12 Tenn. Code Ann. § 6-51-110(b), which gives a larger municipality
13 priority with respect to competing claims to annex the same area.
14 Bluff City counterclaimed on the grounds that Bristol's 1989
15 ordinances were void. The trial court, under the Declaratory
16 Judgment Act, held that Bristol's annexation was illegal and void.
17 The Court of Appeals decided the issue on a third legal basis, Bluff
18 City's claim was not filed within 30 days of the date Bristol's
19 ordinance was adopted. The application for permission to appeal was
20 denied.

21
22 On January 11, 1995, Bristol adopted 24 annexation
23 ordinances, pursuant to which it undertook to annex 24 separate
24 parcels of property adjacent to that portion of Highway 11E included
25 in Bristol's 1989 ordinances. The right-of-way of portions of Egypt
26 Road and Highway 390 which intersect with Highway 11E were included
27 also. Within 30 days, the plaintiffs, owners of 15 of the 24 parcels

1 filed a quo warranto and declaratory judgment suit contesting the
2 annexations. Owners of one of the parcels voluntarily dismissed
3 their claims, leaving 14 parcels at issue. The complaint, which
4 originally charged that the ordinances were unreasonable within the
5 meaning of Tenn. Code Ann. § 6-51-103(a)(1)(A) (1992) was amended to
6 charge that 16 of the ordinances, the 14 ordinances previously named
7 as well as two additional ordinances, were illegal on the grounds
8 that they constituted prohibited corridor annexations and that the
9 1989 highway right-of-way annexation was "null and void" under Tenn.
10 Code Ann. § 6-51-102 (1992) because it did not annex people, private
11 property or commercial activities. The amended complaint also
12 alleged that the illegality of the 1989 ordinances rendered all of
13 the 1995 ordinances illegal because the tracts were not contiguous t
14 the municipal boundary. In a separate case, which was consolidated
15 with the case before the Court for trial, Bluff City attacked the
16 validity of five of the ordinances, including three which were not
17 challenged by the plaintiffs, bringing the total of the challenged
18 1995 ordinances to 19.

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20 The jury considered the ordinances separately and found
21 that 14 of the 19 annexations were reasonable. However, the trial
22 judge found that nine of those 14 were void as a matter of law. Two
23 of the ordinances found to be void were those undertaking to annex
24 the rights-of-way of Egypt Road and Highway 390, and the other seven
25 affected parcels did not adjoin the City of Bristol "except by
26 benefit of the right-of-way of U.S. Highway 11E." The court held
27 that an annexation ordinance which does not include people or private

1 property and, therefore, cannot be challenged because no one has
2 standing to sue, "has no force" and is "void." That court further
3 held that the validity of such ordinances "can be attacked any time,"
4 and that the 1989 right-of-way by the City of Bristol was void. The
5 court stated: "Using a road right-of-way to boot strap the city into
6 a position of saying that the newly annexed area adjoins the old area
7 is a mere subterfuge." Despite these findings, the trial court
8 granted Bristol's motion for a new trial and a different judge as to
9 the 14 ordinances found to be invalid, stating as authority State ex
10 rel. Sullivan County v. City of Bristol (Tenn. App. August 30, 1995).
11 The five ordinances challenged by Bluff City were disposed of by
12 settlement. At a new trial held in January 1996, the jury found all
13 9 remaining ordinances to be reasonable. The trial court approved
14 the jury's findings, found that the plaintiffs were not entitled to
15 declaratory relief, and declined to issue a declaratory judgment
16 regarding the validity of the 1989 ordinances.

17

18 On appeal, the Court of Appeals affirmed the jury verdict
19 as to each ordinance and held that the trial court did not abuse its
20 discretion in declining to issue a declaratory judgment regarding the
21 validity of the 1989 ordinances. The court stated, however, that the
22 validity of the 1989 ordinances could be challenged as a void act of
23 a municipality.

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II

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The order granting the application for permission to

1 appeal limited the appeal to two issues:

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3 Whether the Court of Appeals correctly permitted
4 the appellant to collaterally challenge the 1989
5 annexation ordinance outside of the quo warranto
6 procedures as set forth in Tenn. Code Ann. § 6-
7 51-103, and whether the Court of Appeals
8 correctly ruled that the trial court did not
9 abuse its discretion in declining to issue a
10 declaratory judgment concerning the 1989
11 annexation.
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14 In finding that the validity of the 1989 ordinances, as
15 opposed to their reasonableness, could be attacked at any time, the
16 Court of Appeals rejected Bristol's argument that an annexation
17 ordinance may be challenged only by quo warranto pursuant to Tenn.
18 Code Ann. § 6-51-103. That court reasoned that "the statute
19 presupposes a valid ordinance, which, if void, can be challenged as
20 any other void act of the municipality."
21

22 In response, Bristol contends that an annexation ordinance
23 becomes immune to direct or collateral attack upon the expiration of
24 30 days after its adoption if no contest is filed within that time by
25 an "affected landowner." Its rationale is that the validity of the
26 ordinance is "subsumed" in the question of its reasonableness.
27

28 This case demonstrates that, if Bristol's rationale is
29 accepted, there can be no effective judicial review of annexation
30 ordinances that utilize the highway right-of-way approach. Since the
31 1989 ordinances did not include any "people, private property, or

1 commercial activities,"¹ no one had standing to contest the
2 ordinances;² consequently, they became inviolate even if done by
3 "exercise of power not conferred by law."³ Subsequently, separate
4 ordinances annexing separate parcels of property could be adopted so
5 long as each parcel adjoins the highway right-of-way included in the
6 prior ordinances. In this case, additional rights-of-way along Egypt
7 Road and Highway 390 were annexed, allowing parcels adjoining those
8 roads to be annexed by subsequent ordinances. Then the only basis
9 for attack is whether the annexation of a particular parcel is
10 "reasonable." Under this annexation scenario, there could be no
11 attack on the overall plan because the original right-of-way
12 annexation ordinance cannot be questioned as to validity or
13 reasonableness. Even a flagrant usurpation of power by the city
14 under the guise of adopting an annexation ordinance could stand
15 unchallenged, according to Bristol's rationale.

16

17 Nevertheless, Bristol insists that the legal propositions
18 it espouses represent the intent of the legislature and have been
19 validated by this Court.

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III

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23 The first issue for review is whether the Court of Appeals

¹ See State ex rel. Collier v. City of Pigeon Forge, 599 S.W.2d 545, 547 (Tenn. 1980).

² See City of Gallatin v. City of Hendersonville, 510 S.W.2d 507, 509 (Tenn. 1974).

³ See Tenn. Code Ann. § 6-51-103 (a)(1)(A).

1 correctly permitted the plaintiffs to collaterally challenge the 1989
2 annexation ordinance outside of the quo warranto procedures set out
3 in Tenn. Code Ann. § 6-51-103.

4
5 The legislature has the authority to "extend or contract
6 municipal boundaries" and that power has not been delegated to the
7 courts. Witt v. McCanless, 200 Tenn. 360, 292 S.W.2d 392, 396
8 (1956). Article XI, § 9 of the Tennessee Constitution specifically
9 granted this authority to the legislature: "The General Assembly
10 shall by general law provide the exclusive methods by which
11 municipalities may be created, merged, consolidated and dissolved and
12 by which municipal boundaries may be altered." However, under the
13 statutes, the Court is "given the power to determine whether the
14 ordinance is reasonable or unreasonable," and whether the statutory
15 requirements have been complied with. Witt v. McCanless, 292 S.W.2d
16 at 396. In construing the applicable provisions to ascertain whether
17 the actions of the municipality are in compliance with the statute,
18 this Court must ascertain and give effect to the legislative intent
19 and the ordinary meaning of the language of the statutes. Carson
20 Creek Vacation Resorts, Inc. v. Dept. of Revenue, 865 S.W.2d 1, 2
21 (Tenn. 1993). Unambiguous statutes must be construed to mean what
22 they say. Montgomery v. Hoskins, 222 Tenn. 45, 47, 432 S.W.2d 654,
23 655 (1968). The "legislative intent or purpose is to be ascertained
24 primarily from the natural and ordinary meaning of the language used
25 . . . without any forced or subtle construction to limit or extend
26 the import of the language." Worrall v. Kroger Co., 545 S.W.2d 736,
27 738 (Tenn. 1977); State v. Sliger, 846 S.W.2d 262, 263 (Tenn. 1993).

1 But, statutes "are not to be construed so strictly as to defeat the
2 obvious intention of the legislature." State v. Netto, 486 S.W.2d
3 725, 728 (Tenn. 1972) (citing Southern Ry. v. Sutton, 179 F. 471
4 (1910)).

5
6 The original statutes authorizing a municipality's
7 annexation of property by ordinance were enacted in 1955. "Before
8 their passage, annexation of property by municipality could be
9 accomplished only under Private Act of the Legislature." Joe M.
10 Looney, Municipalities - Judicial review of Annexation, 36 Tenn. L.
11 Rev. 825 (1969). The statutes extended a limited authority to annex
12 territory to municipalities, providing that a municipality "by
13 ordinance, may extend its corporate limits by annexation of such
14 territory adjoining its existing boundaries as may be deemed
15 necessary for the welfare of the residents and property owners of the
16 affected territory as well as the municipality as a whole"
17 Tenn. Code Ann. § 6-51-102(a)(1) (1992). This may be done "when
18 petitioned by a majority of the residents and property owners of the
19 affected territory, or upon its own initiative" Id. If
20 annexation is the result of the municipality's own initiative, it can
21 be justified only if "it appears that the prosperity of such
22 municipality and territory will be materially retarded and the safety
23 and welfare of the inhabitants and property endangered . . ." unless
24 the area is annexed. Id. This section also provides "that the
25 ordinance shall not become operative until thirty (30) days after
26 final passage thereof." Id.

27

1 At the same time the authority to annex territory was
2 delegated to municipalities, the provision allowing owners of
3 property in the annexed area to challenge the reasonableness of the
4 annexation was enacted. That provision, currently found at section 6-
5 51-103, (after deleting the language of the 1984 amendment which has
6 been held to be unconstitutional⁴) provides:

7
8 (a)(1)(A) Any aggrieved owner of property lying
9 within territory which is the subject of an
10 annexation ordinance prior to the operative date
11 thereof, may file a suit in the nature of a quo
12 warranto proceeding in accordance with this part
13 . . . to contest the validity thereof on the
14 ground that it reasonably may not be deemed
15 necessary for the welfare of the residents and
16 property owners of the affected territory and
17 the municipality as a whole and so constitutes
18 an exercise of power not conferred by law. . . .

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22 Tenn. Code Ann. § 6-51-103 (1980).
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26 Under the clear language of the statute, suits for quo
27 warranto on the grounds that the annexation is not reasonably
28 necessary to the safety and welfare of the inhabitants and property
29 involved, are limited to persons owning property within the
30 territory; and, once a quo warranto suit is appealed and found valid,
31 the judgment of the appellate court is final and "not . . . subject
32 to contest" Tenn. Code Ann. § 103(d) (1992). Generally,
33 "[a] judgment in quo warranto, like other judgments, is conclusive
34 upon the parties and their privies." 65 Am. Jur. 2d Quo Warranto §
35 121 (1972). "By requiring that the State bring such a proceeding, we

⁴See Hart v. City of Johnson City, 801 S.W.2d 512, 516 (Tenn. 1990).

1 avoid the specter of numerous successive suits by private parties
2 attacking the validity of annexations. . . . These problems are
3 avoided by requiring quo warranto proceedings because the judgment
4 settles the validity of the annexation on behalf of all property
5 holders in the affected area." Alexander Oil Co. v. City of Seguin,
6 825 S.W.2d 434, 437 (Tex. 1991).

7
8 But, where the quo warranto proceeding is not available,
9 alternative equitable remedies are not barred. "[W]here the remedy
10 by quo warranto is available, it is usually held that there is no
11 concurrent remedy in equity, unless by virtue of statutory provision.
12 But if quo warranto is not an adequate remedy, it will not be a bar
13 to alternative remedies." 65 Am. Jur. 2d Quo Warranto § 7 (1972).
14 The availability of other remedies is specifically acknowledged in
15 section 6-51-113 (1992), which provides, "Except as specifically
16 provided in this part, the powers conferred by this part shall be in
17 addition and supplemental to, and the limitations imposed by this
18 part shall not affect the powers conferred by any other general,
19 special or local law." The Tennessee Declaratory Judgment Act is
20 just such another general law conferring the power to challenge the
21 validity and construction of statutes and municipal ordinances.
22 Under the Declaratory Judgment Act,

23
24 Any person . . . whose rights, status, or other
25 legal relations are affected by a statute, [or]
26 municipal ordinance, . . . may have determined
27 any question of construction or validity arising
28 under the . . . statute, [or] ordinance, . . .
29 and obtain a declaration of rights, status or
30 other legal relations thereunder.
31

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2 Tenn. Code Ann. § 29-14-103 (1980).

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6 Bristol presents no authority for the proposition that
7 persons who did not own property within the territory annexed are
8 bound by the 30 day rule of Tenn. Code Ann. § 6-51-103(c). The cases
9 they present concerning the 30 day requirement involve plaintiffs who
10 had standing to sue under the statutes because they owned property
11 within the territory being annexed, but neglected to file suit within
12 the time allowed. See e.g., City of Oak Ridge v. Roane County, 563
13 S.W.2d 895 (Tenn. 1978); Brent v. Town of Greeneville, 203 Tenn. 60,
14 309 S.W.2d 121 (1957). Bristol relies on City of Gallatin v. City of
15 Hendersonville, 510 S.W.2d 507 (Tenn. 1974) and State ex rel. Kessel
16 v. Ashe, 888 S.W.2d 430 (Tenn. 1994), for the proposition that a
17 person or entity who does not own property being annexed has no
18 standing to challenge the annexation. The holdings in these cases
19 affirm the clear meaning of the statute, and it is that law which
20 prevented the plaintiffs from challenging Bristol's 1989 ordinance by
21 quo warranto. However, that law does not deny standing to the
22 present plaintiffs to contest the 1989 ordinances or the 1995
23 ordinance. The distinguishing fact is that the plaintiffs before
24 this Court, do own property in territory presently being annexed as
25 an offshoot of the 1989 ordinance which could not be challenged.

26
27 This Court has stated that the statute "authorizes a court
28 contest on only one ground - whether the annexation is reasonably
29 necessary for the welfare of the residents and property owners of the
30 affected territory and the municipality as a whole." City of Oak

1 Ridge v. Roane County, 563 S.W.2d at 897. However, in that case, the
2 Court did not discuss the remedies available under "other general,
3 special or local law." Tenn. Code Ann. § 6-51-113. It merely
4 considered the right to file a quo warranto suit established under
5 the statute:

6
7 We hold that the right to bring a suit
8 pursuant to the authority of Tenn. Code Ann. §
9 [6-51-103] to review any issue arising out of
10 the adoption of an annexation ordinance
11 authorized in Tenn. Code Ann. § [6-51-102]
12 expires thirty days after the operative date of
13 the ordinance, the courts have no jurisdiction
14 of such suits thereafter.

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18 Id. at 898 (emphasis added).
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22 Other states have allowed challenges to municipal
23 annexation ordinances outside of a quo warranto action. In the case
24 of Alexander Oil Co. v. City of Sequin, 825 S.W.2d 434, 436 (Tex.
25 1991), the court stated "The only proper method for attacking the
26 validity of a city's annexation of territory is by quo warranto
27 proceeding, unless the annexation is wholly void." The Texas court
28 found the ordinance valid, but recognized several instances in which
29 annexation ordinances were held void through a private challenge,
30 stating, "The common trait in these cases is whether the municipality
31 exceeded the annexation authority delegated to it by the
32 Legislature." Id. at 438.
33

34 A similar situation was presented in the case of People ex
35 rel. Coojar Realty Corp. v. Village of Burr Ridge, 225 N.E.2d 39

1 (Ill. App. Ct. 1967), in which a quo warranto proceeding was filed
2 challenging not only the annexation of the relator's property, but
3 also a prior annexation of a highway which was used as the
4 "contiguous" property for the subsequent annexation. The court held,
5 "The annexation of relator Coojar's property here is dependent on the
6 validity of the prior annexation of the portion of Route 66
7 We hold that such roadway annexation as here attempted is invalid."
8 Id. at 41.

9
10 The majority of courts have interpreted the requirement
11 that the annexed land be "contiguous," to not allow the annexation of
12 thin strips of land to connect a larger parcel of land to a
13 municipality. State ex Rel. Dept. of Transp. v. City of Milford, 576
14 A.2d 618, 622 (Del. Ch. 1989) (see cases cited therein). These
15 decisions articulate the principle implicit in the Tennessee statute.
16 The validity of an annexation ordinance alleged to exceed the
17 authority delegated by the legislature is subject to challenge under
18 the Declaratory Judgment Act. And whereas Bristol is correct in
19 contending that objections to reasonableness under section 6-51-102
20 must be filed within 30 days, that limitation does not apply to suits
21 contesting the validity of an ordinance which purports to annex an
22 area that does not include people, private property, or commercial
23 activity. See State ex rel. Collier v. City of Pigeon Forge, 599
24 S.W.2d 545 (Tenn. 1980).

25
26 Accordingly, the Court of Appeals correctly permitted the
27 plaintiffs to challenge the 1989 annexation ordinance outside of the

1 quo warranto procedures of Tenn. Code Ann. § 6-51-103.

2

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IV

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5 The second issue is whether the trial court abused its
6 discretion in declining to issue a declaratory judgment concerning
7 the 1989 annexation. Under the statute, the trial judge does have
8 discretion as to a declaratory judgment ruling:

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10 The court may refuse to render or enter a
11 declaratory judgement or decree where such
12 judgment or decree, if rendered or entered,
13 would not terminate the uncertainty or
14 controversy giving rise to the proceedings.

15

16

17 Tenn. Code Ann. § 29-14-109 (1980). This Court has stated that
18 whether to entertain a declaratory judgment action is, in certain
19 situations, largely discretionary with the trial judge. In a case
20 where there was "very voluminous testimony," the court held that the
21 "judge had discretion not to undertake a detailed delineation of
22 priorities between liens asserted." East Sevier County Utility
23 District v. Wachovia Bank and Trust Co., 570 S.W.2d 850, 852 (Tenn.
24 1978). In that case, however, the Court held that after refusing to
25 determine the priority of the liens, the suit should have been
26 dismissed without prejudice so that the petitioner could have
27 asserted its liens in a proper hearing. The trial court's discretion
28 in refusing a declaration is "very wide," Standard Accident Insur.
29 Co. v. Carvin, 217 Tenn. 662, 400 S.W.2d 235, 236 (1966), and will
30 not be disturbed on appeal unless the trial judge has acted

1 arbitrarily. Southern Fire and Cas. Co. v. Cooper, 200 Tenn. 283,
2 292 S.W.2d 177, 178 (Tenn. 1956). In Carvin, the action was brought
3 to determine who was driving a car at the time of the accident. The
4 Court found that a declaration of rights "may properly be refused if
5 it can be made only after a judicial investigation of disputed
6 facts," and that it is "contrary to the spirit and purpose of the
7 Declaratory Judgments Law that a party should be delayed in the
8 prosecution of an accrued cause of action until the termination of a
9 proceeding brought for a declaratory judgment." Id. at 236-37
10 (quotations omitted). And in Cooper, where again a tort action was
11 pending, the Court was asked whether the trial court's refusal to
12 declare whether an insurance company was required to defend an action
13 where the insured had delayed giving the insurance company notice of
14 the accident, was an abuse of discretion. The Court found that "the
15 refusal of the Court to declare the insurer's obligations within the
16 premises need not prejudice whatever right, if any, it has by reason
17 of the alleged delay of insured in giving notice of the accident."
18 Southern Fire and Casualty Co. v. Cooper, 292 S.W.2d at 178. The
19 Court held that because the equitable remedy was not necessary to
20 prevent irreparable loss, and because such an action would delay the
21 prosecution of the underlying cause of action, the trial court had
22 not acted arbitrarily in its refusal. Id. at 178-79.

23

24 At issue here, is whether Bristol's somewhat ingenious
25 annexation scheme is consistent with the purpose sought to be
26 accomplished by the statutes authorizing municipalities to determine
27 their own boundaries. That purpose was discussed by the Court in

1 State ex rel. Collier v. City of Pigeon Forge, 599 S.W.2d 545 (Tenn.
2 1980):

3

4 The whole theory of annexation is that
5 it is a device by which a municipal
6 corporation may *plan for its orderly*
7 *growth and development*. Heavily
8 involved in this is control of *fringe*
9 *area developments* and zoning measures
10 to the end that areas of unsafe,
11 unsanitary and substandard housing may
12 not "ring" the City to the detriment of
13 the City as a whole. In a word,
14 annexation gives a city some *control*
15 *over its own destiny*. The preservation
16 of property values, the prevention of
17 the development of incipient slum
18 areas, adequate police protection
19 within a metropolitan area, and the
20 extension of city services to those who
21 are already a part of the city as a
22 practical proposition, are the
23 legitimate concern of any progressive
24 city. (Emphasis supplied).

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28 Id. at 547 (quoting City of Kingsport v. State ex rel. Crown
29 Enterprises, Inc., 562 S.W.2d 808, 814 (Tenn. 1978)). The focus of
30 the Court's statements was the validity of an annexation of a strip
31 of land along a highway:

32

33 We should emphasize that this is
34 not, as appellants insist, merely a
35 "strip" or "shoestring" or "corridor"
36 annexation, although it is long and
37 lean. Such annexations, so long as
38 they take in people, private property,
39 or commercial activities, and rest on
40 some reasonable and rational basis, are
41 not per se to be condemned. We do not
42 deal with an annexation wherein a city
43 attempts to run its corporate limits
44 down the right-of-way of an established
45 road without taking in a single citizen
46 or a single piece of private property.

1 Such an annexation is perhaps
2 questionable and is not here involved.
3 As in any annexation, and more
4 particularly one wherein a
5 geometrically irregular parcel of land
6 is annexed, the Court must scrutinize
7 the stated and ostensible purpose of
8 the annexation.
9
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11 Id. at 546-47. The purpose of the statute and the procedure
12 available for implementing that purpose also were discussed in Hart
13 v. City of Johnson City, 801 S.W.2d 512 (Tenn. 1990). There, the
14 plaintiffs challenged an amendment to Tenn. Code Ann. § 6-51-103,
15 which was adopted by the legislature in 1984, and provided standing
16 to file quo warranto actions to residents and owners of property
17 adjoining a proposed annexation in certain counties based on a
18 population classification. That act was declared unconstitutional
19 because the Court found there was no rational basis for the
20 population classifications. The Court stated: "The legislative
21 debate indicates that the announced purpose [of the amendment] was to
22 prevent strip annexation." Hart v. City of Johnson City, 801 S.W.2d
23 at 517. The purpose of the original statute would not have been
24 affected by the amendment, which only expanded the class of affected
25 persons authorized to file quo warranto proceedings. Consequently,
26 even though the statute was found to be unconstitutional, the
27 determination by the Court that the purpose of the statute was to
28 prevent "strip annexation" is relevant to the inquiry before the
29 trial court of whether the 1989 annexation was void because it
30 exceeded the authority of the municipality.

31
32 This question does not concern disputed facts or the delay

1 of another cause of action. Therefore, the cases relied upon by
2 Bristol do not support the trial court's decision to refuse to issue
3 a declaratory judgment. In the case before the court, a declaratory
4 judgment would "terminate" the controversy. Where there is presented
5 a significant issue that needs resolving, as in this case, refusing
6 to issue a declaratory judgment cannot be excused on the basis of
7 discretion. This case involves an important issue of law affecting
8 the growth of cities throughout the state which needs to be resolved.
9 The same considerations which prompted this Court to grant permission
10 to appeal require that the issue be addressed at the trial level.
11 Consequently, the trial court erred in declining to consider the
12 issue.

13

14 The case is remanded to the trial court for further
15 proceedings.

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17 Costs are taxed to the City of Bristol.

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Reid, J.

Concur:

Anderson, C.J., Birch and Holder, JJ.

Drowota, J. - Not participating.