

A - 773

BEFORE THE MUNICIPAL COMMISSION
OF THE STATE OF MINNESOTA

Robert W. Johnson	Chairman
Edward L. Henry	Vice-Chairman
Thomas R. Byrne	Member

IN THE MATTER OF THE PETITION OF ASSOCIATED BUILDERS, INC., A CORPORATION, JOHN E. HOLT AND JAMES GUSTAFSON FOR ANNEXATION OF PARTS OF TOWNSHIP OF NICHOLS TO THE CITY OF VIRGINIA, MINNESOTA.

Whereas, the Minnesota Municipal Commission on the 14th day of July, 1966, did issue an order dismissing said petition.

Whereas, the petitioners did then file a petition for Vacation of Findings of Fact, Conclusions of Law, Order and for Amendment to Petition.

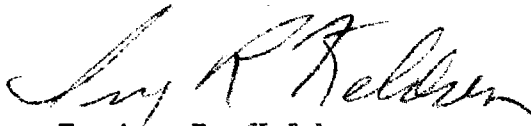
Whereas, the Minnesota Municipal Commission is of the opinion said motion should be denied.

O R D E R

Now, therefore, it is hereby ordered that said petition in all things be denied.

Dated this 1st day of August, 1966

MINNESOTA MUNICIPAL COMMISSION
459 Rice Street
St. Paul, Minnesota 55103



Irving R. Keldsen
S e c r e t a r y

M E M O R A N D U M

Petitioners have heretofore admitted ownership of one Arthur A. Beischjold in the area of land embraced in their petition. Abstracts of title were submitted to the Commission to this effect. Petitioners now allege in their motion that Beischjold is not such an owner. Nothing is submitted to support this allegation. The Commission cannot now reverse this finding on the basis of a mere allegation.

Petitioners allege that John E. Holt signed the petition for his undivided one-half interest in land jointly owned by Lillian R. Holt. The Commission agrees and the Findings of Fact are in accord. However, petitioners fail to note in their motion that Lillian R. Holt did not sign the petition for her undivided one-half interest. The lack of her signature establishes that the petition lacked a majority of signatures of owners as required by Minn. Stat. 1965, Sec. 414.03, Subd. 2.

The objectors are in no way guilty of laches, nor did they waive their rights as to the validity of the petition. The sufficiency of signatures on the petition was put in issue almost from the outset of the hearings and can only be considered as timely.

The Commission cannot grant the amendment of Lillian R. Holt's signature to the petition at this time, inasmuch as the record is now closed. See, Rule 5, Minnesota Municipal Commission Rules.