

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Annexation of Certain Real
Property to the City of Lindstrom from Chisago
Lake Township (MBAU Docket A-8175)

**ORDER DENYING
ANNEXATION**

This matter involves an attempt by the City of Lindstrom (City) to annex certain land currently located in Chisago Lake Township (Township).

The City is represented by Amy B. Schutt, Campbell Knutson, PA. The Township has not formally appeared in the matter.

Upon review of all the files and proceedings herein, the Chief Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On September 20, 2018, the City adopted Ordinance No. 20180920-02 whereby it sought to annex certain real property located within the Township.¹

2. Pursuant to Minn. Stat. § 414.033, subd. 2(2) (2018), the City filed the Ordinance, plus a copy of the plat map for Shady Rest Addition and Currie Beach Subdivision, with the Office of Administrative Hearings on October 2, 2018.²

3. The Ordinance pertains to the following described real property (Property):

Lot 3, Block 1, Shady Rest Addition, according to the plat thereof on file and of record in the office of the County Recorder in and for Chisago County, Minnesota. **(PID 02-01603-00)**

AND

That part of the north half of the Public Highway, also known as Lake Lane, as dedicated per CURRIE BEACH, according to the plat on file and of record in the office of the County Recorder, Chisago County, Minnesota, which lies easterly of the southerly extension of the westerly line of Lot 3, Block 1, SHADY REST ADDITION and westerly of the southerly extension of the easterly line of said Lot 3, Block 1, SHADY REST ADDITION, according to the plat on file and of record in the office of the County

¹ City of Lindstrom, Ordinance No. 20180920-02 (Ordinance) (Sept. 20, 2018).

² Supplemental Memo (Memorandum) (Mar. 5, 2019).

Recorder, Chisago County, Minnesota.

4. In the Ordinance, the City makes the following assertions:
 - A. The Property is “completely surrounded by land within the municipal limits of the City”;
 - B. The City held a public hearing on September 20, 2018 following 30 days written notice, sent by certified mail, to the Township and all landowners within and contiguous to the Property; and
 - C. At an unspecified time, the City provided notice to the Property owner pursuant to Minn. Stat. § 414.033, subd. 13.³

5. In a supplemental filing received by the Office of Administrative Hearings on March 5, 2019, the City, through counsel and not supported by sworn testimony or other admissible evidence, asserts that the Property consists of a specified parcel identification number “and the bordering right of way to the centerline of the road.”⁴

6. According to the recorded roadway, right-of-way and other property records of the Minnesota Department of Transportation, the described Property is that area outlined in red in the illustration below, in which property within the boundaries of the City are noted in purple and properties within the boundaries of the Township are noted in green.⁵



³ Ordinance.

⁴ Memorandum.

⁵ Minnesota Department of Transportation documentation submitted Jan. 14, 2019.

7. On June 19, 2019 the undersigned issued an Order for Supplementation of the Record (June 19th Order) wherein the City was ordered to submit sworn testimony or otherwise admissible evidence consistent with the requirements of statute and rule to establish the following averments of fact:

- A. The Property is completely surrounded by land within the municipal limits of the City;
- B. The City held a public hearing on September 20, 2018 following 30 days written notice, sent by certified mail to the Township and all landowners within or contiguous to the Property; and
- C. On a specified date, the City provided complete notice to the Property owner as required by Minn. Stat. 414.033, subd. 13.

8. On June 26, 2019, the City submitted a Supplemental Memo stating that it has no additional evidence to submit.

9. The preponderance of evidence in the record establishes that the Property is not completely surrounded by land within the municipal limits.

Based upon these Findings of Fact, the Chief Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Chief Administrative Law Judge of the Office of Administrative Hearings has jurisdiction over this matter pursuant to the Minnesota Boundary Adjustment Act (Act), Minn. Stat. ch. 414 (2018).

2. Minnesota Statutes section 414.033, subd. 2(2), authorizes a city to annex by ordinance land that is completely surrounded by land within the municipal limits.

3. The Act requires a petitioning city to establish the boundaries of the area it seeks to annex by filing "maps which are necessary to support and identify the land description. The maps shall include copies of plats."⁶ More specifically, duly adopted rules applicable to boundary adjustment matters require petitioners to file:

A map showing the subject area and its relationship to any adjacent municipality or town. All distance references should be given by length. Beginning points should be land survey monuments and the description must close the boundaries. References to roads or railroads should be to survey lines such as centerline or known right-of-way line. The intent to include or exclude highway, railroad, and street rights-of-way surrounding

⁶ Minn. Stat. § 414.012, subd. 2.

platted blocks or lots should be clearly stated.⁷

4. The City has not proved all relevant facts that authorize a city to annex by ordinance land that is completely surrounded by land within the municipal limits.

Based upon these Conclusions of Law, the Chief Administrative Law Judge issues the following:

ORDER

1. The request for annexation **DENIED**.

Dated: June 26, 2019



TAMMY L. PUST
Chief Administrative Law Judge

NOTICE

This Order is the final administrative order in this case under Minn. Stat. §§ 414.033, .07, .09, .12 (2018). Pursuant to Minn. Stat. § 414.07, subd. 2, any person aggrieved by this Order may appeal to Chisago County District Court by filing an Application for Review with the Court Administrator within 30 days of this Order. An appeal does not stay the effect of this Order.

Any party may submit a written request for an amendment of this Order within seven days from the date of the mailing of the Order pursuant to Minn. R. 6000.3100 (2017). However, no request for amendment shall extend the time of appeal from this Order.

⁷ Minn. R. 6000.0800, subp. C (2017).