

LAW OFFICES OF
FLUEGEL, ANDERSON, McLAUGHLIN & BRUTLAG, Chartered

Michael M. Fluegel (1947-2013)
Warren C. Anderson
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Paul Brutlag*†
Robert V. Dalager
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MORRIS, MN 56267

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Wheaton Location
1112 First Avenue North
Professional Building
Wheaton, MN 56296
Phone: (320) 563-1414

June 9, 2014

Office of Administrative Hearings
Municipal Boundary Adjustment Unit
Attn: Ms. Star Holman
P. O. Box 64620
St. Paul, MN 55164-0620

VIA EMAIL ONLY

REC'D BY
MBA JUN 10 2014

RE: Petition for Detachment by Land Owners
Our File No: 113-4025

Dear Ms. Holman:

Our office submitted a Petition for Detachment dated 06/03/2014 and we wanted to clarify/update two things.


Our response in No. 1 listed five (5) property owners. There are in fact only four (4) property owners involved with this Detachment. You will see in Question No. 2 we listed 'All property owners have signed this petition' which is true, all 4 have signed and submitted the 06/03/2014 Petition.

Our response in No. 7 references Exhibit A-Map of the City Limits and properties requesting Detachment. Please substitute the attached Updated Exhibit A Map clarifying the properties requesting Detachment. You will note in Petition explanation in No. 7 we have correctly listed the real estate legal descriptions but the map needed to be clarified. Per your telephone conference with my office you noted the MN DOT has a different City Limit outline for Milan. Upon investigation with the Chippewa County Offices and the City of Milan they confirmed this is their correct City Limit boundaries.

Thank you.

Very truly yours,

FLUEGEL, ANDERSON, McLAUGHLIN
& BRUTLAG, CHARTERED


Amy J. Doll
adoll@westernmnlaw.com
AJD/af/encls

REC'D BY
MBA

JUN 10 2014

cc: *VIA US MAIL*
Clerk of the City of Milan
Clerk of Kragero Township
Chippewa County Recorder
George Kleven
Mark Kleven
Luther Opjorden

REC'D BY
MBA

JUN 10 2014

AFFIDAVIT OF SERVICE

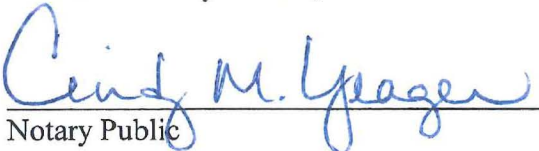
STATE OF MINNESOTA)
)ss
COUNTY OF STEVENS)

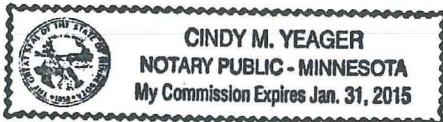
Amollia E. Fluegel of the City of Morris, County of Stevens, in the State of Minnesota, being duly sworn, says that on the 10TH day of June, 2014, she served the annexed: **ADDENDUM/CLARIFICATION OF PETITION FOR DETACHMENT AND REVISED EXHIBIT A** on the following named individuals by mailing to them a copy thereof, enclosed in an envelope, postage prepaid, and by depositing same with the post office at Morris, Minnesota, directed as follows:

cc: Clerk of the City of Milan, P.O. Box 162, Milan, MN 56262
Clerk of Kragero Township, 122 Lac Qui Parle Ave. Milan, MN 56262
Chippewa County Recorder, 629 N 11th St # 4, Montevideo, MN 56265


Amollia E. Fluegel

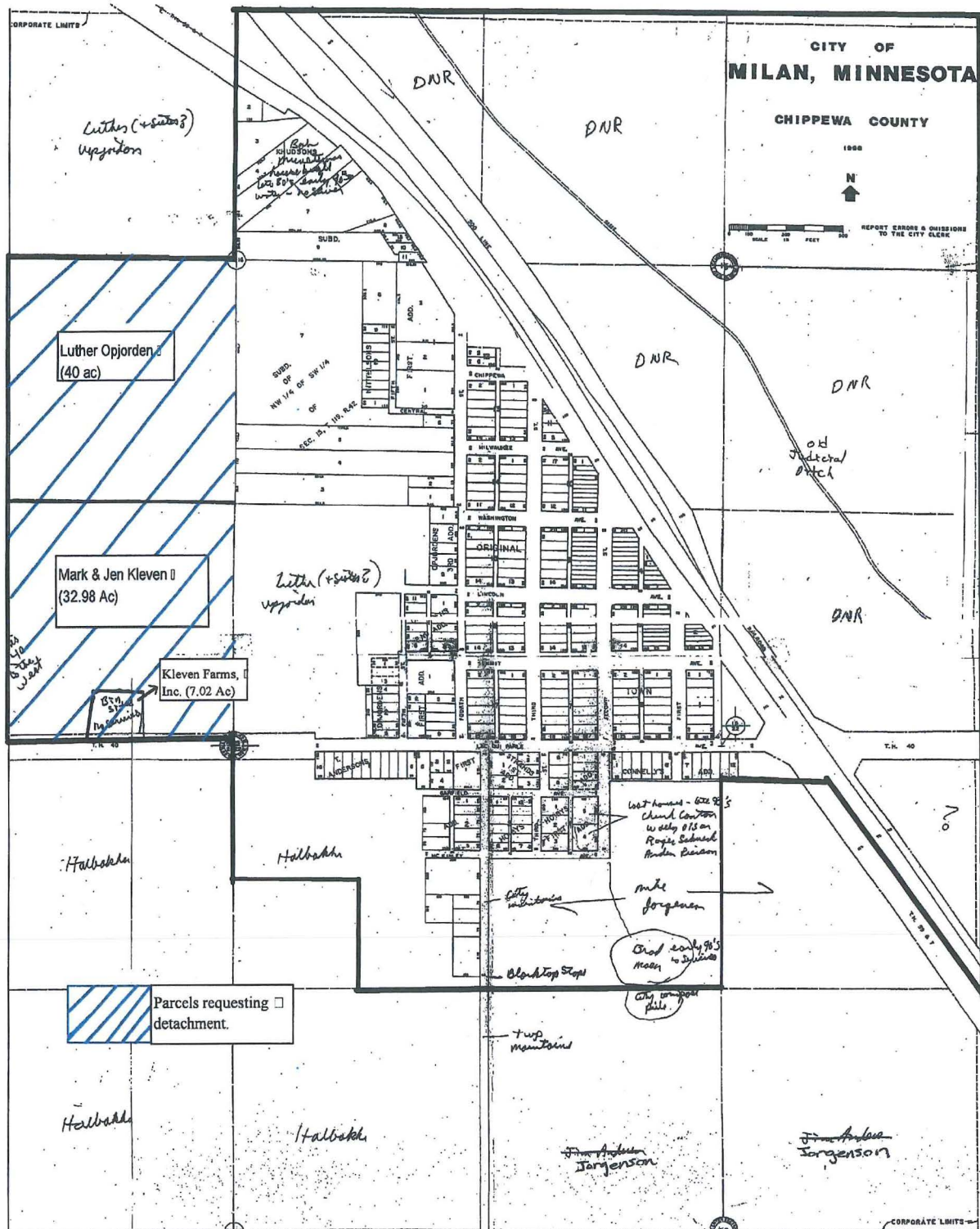
Subscribed and sworn to before
me this 10TH day of June, 2014.


Notary Public



REC'D BY
MBA

JUN 10 2014



UPDATED EXHIBIT A

**PROPERTY OWNER PETITION FOR DETACHMENT
OF PROPERTY FROM A CITY**

IN THE MATTER OF THE PETITION FOR DETACHMENT OF
CERTAIN LAND FROM THE CITY OF MILAN, MINNESOTA
PURSUANT TO MINNESOTA STATUTES § 414.06

June 3, 2014

TO: Office of Administrative Hearings
Municipal Boundary Adjustment Unit
P. O. Box 64620
St. Paul, MN 55164-0620

Pursuant to the 2012 amendment to Minn. Stat. § 414.06, the petitioner(s) shall also provide a copy of this petition to:

- 1) the city from which the land may be detached;*
- 2) all property owners who have not signed this petition;*
- 3) the clerk of the town to which the property may be attached if granted;*
- 4) the clerk of any other abutting town or city; and*
- 5) the county recorder in the county in which the land is located.*

PETITIONERS STATE: The number of petitioners required by Minnesota Statutes § 414.06, Subd. 1, to commence this proceeding is: all of the property owners if the area is less than 40 acres; or 75% or more of the property owners in number if the area is more than 40 acres.

It is hereby requested by:

 all of the property owners, the area is less than 40 acres; or
 X **75% or more of the property owners, the area is more than 40 acres;**
to detach certain properties described herein from the **City of Milan** and make a part of the Township of **Kragero North**.

1. There are **five (5)** property owners in the area proposed for detachment.
2. **All** property owners have signed this petition. (If the land is owned by both the husband and wife, both must sign the petition to represent all owners.)
3. The property is situated within the City of Milan, abuts the municipal boundary, and is located in the County of Chippewa.
The petitioned area abuts on the city's N S E **W** (circle one) boundary.
4. The property proposed for detachment is rural in character and not developed for urban residential, commercial, or industrial purposes. **The area proposed for detachment described below in Paragraph Seven (hereinafter referred to as the "Subject Area") below is zoned "A-O" Agricultural – Open Space" and is used exclusively for**

agricultural purposes. See Chapter Three: The Built Environment – Milan's Current Land Use, City of Milan Comprehensive Plan 2013 (hereinafter referred to as the "Plan").

5. The reason detachment is requested is:

The Subject Area is used exclusively for private agricultural purposes and serves no City purpose. There are no residents living in the Subject Area. The only buildings or structures within the Subject Area include a grain bin site privately owned and located on property owned by Kleven Farms, Inc.

There are no public services offered and no public utilities provided to the Subject Area. The Subject Area contains no street lights or sidewalks and there are no plowing services provided by the City. The Milan Fire Department responds to fire emergency calls from both the City and the surrounding Township. Since there are no fire hydrants located within the Subject Area, the Milan Fire Department would respond to a fire emergency within the Subject Area in the same manner as any other call from within a Township property. Law enforcement is provided by Chippewa County rather than the City; although the City does employ a "night watchman." This individual has never provided services to the Subject Area and has no reason to do so. Many years ago, the City did provide water services to the Subject Area when a house existed on the property owned by Kleven Farms, Inc. The house was later removed from the property and does not exist today. When the City put in new water lines some years ago, the water stopped at or before the Subject Area. There is no water services provided to the Subject Area.

The property does not include any public improvements, other than the Milan Beach Trail, which runs along a right of way granted by a highway easement along Highway 40 and the southern line of the Kleven properties. See the enclosed photographs (Exhibits B1, B2 and B3). The fact that the Milan Beach Trail runs along one of the parcels is not sufficient grounds to oppose detachment.

In its response to Petitioner's request for detachment, the City stated that it "has expended substantial sums to benefit this property in the form of a storm water project and tiling." These projects do not benefit the Subject Area. The storm sewer project was completed in 2012-2013 and it does not reach the Subject Area. Tiling was done to repair an existing tile on property owned by Luther Opjorden, but this is not property that is contained within the Subject Area that we are requesting to be detached from the City. This is property that is located within the City that will remain in the City.

Moreover, detachment of the Subject Area would not unreasonably affect the symmetry of the detaching municipality, and, in fact, would enhance it by creating a straight line along the western boundary of the City. See Exhibit A.

The Subject Area is not needed for reasonably anticipated future development. It is our understanding that the City's last expansion occurred nearly twenty years ago

and included the construction of a few homes within the residential area of the City. The Subject Area is used exclusively for agricultural purposes and is classified as Area 5 in the City's Plan. The City's Plan expressly provides that "Area 5 represents...land zoned as agricultural within the City...Milan should encourage future development within its other zoning districts in an effort to promote orderly and efficient growth and prevent the loss of prime agricultural land..." See Chapter Six of the City's Plan – Implementation, Milan's Future Land Use. There is ample land available within the other zoning districts for any future expansion of the City and detachment of the Subject Area would not affect any anticipated development.

If detachment of the Subject Area is approved, there is no doubt the City will be able to continue to carry on the functions of government without undue hardship. According to the 2012 Audit, the City actually has a large cash surplus. In 2012 the income to the City of Milan was \$543,103, expenditures were \$187,324 thus an excess fund balance of \$418,662 which is a 223% unrestricted fund balance. The City's 223% unrestricted fund balance far exceeds the Office of the Minnesota State Auditor's recommended 35-50% unrestricted fund balance.

It is our understanding that other agricultural property has been detached from the City and allowed to be taxed at a lower rate by the Township, including property owned by the Halbakken and Burns/Jorgenson families, which abuts the City's western and southern boundaries. The property owned by Burns/Jorgenson along the southern boundary of the City provides public access to the City's dumping grounds and yet it was still voluntarily detached. We respectfully request that the Subject Area be detached from the City and allowed to be taxed by the Township in the same manner.

6. Summarize what efforts were taken prior to filing this petition to resolve the issues:

Petitioners sent a letter to the City of Milan on January 31, 2014 requesting detachment of the above-described property. The City denied their request without providing sufficient grounds for opposing the detachment.

7. The number of acres in the property proposed for detachment is 80 acres described as follows:

**Luther Opjorden Property [approximately 40 acres]
Tax ID#60-816-4100**

The Northeast Quarter of the Southeast Quarter (NE1/4-SE1/4) of Section 16, Township 119, Range 42, Chippewa County, State of Minnesota.

**Mark A. and Jennifer A. Kleven Property [approximately 32.98 acres]
Tax ID#60-816-4400**

The Southeast Quarter of the Southeast Quarter (SE1/4-SE1/4) of Section 16, Township 119, Range 42, Chippewa County, State of Minnesota,

JUN 05 2014

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL:
commencing at the southeast corner of said Section Sixteen (16); thence North 90 degrees 00 minutes 00 seconds West, assumed bearing along the south line of said Section, a distance of 568.00 feet to the point of beginning of the tract to be described; thence continuing North 90 degrees 00 minutes 00 seconds west, along said south line, a distance of 538.00 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 568.00 feet; thence North 90 degrees 00 minutes 00 seconds East a distance of 538.00 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 568.00 feet to the point of beginning.

**Kleven Farms, Inc. Property [approximately 7.02 acres]
Tax ID#60-816-4401**

That part of the Southeast Quarter of the Southeast Quarter (SE1/4-SE1/4) of Section Sixteen (16) Township One Hundred Nineteen (119) North, Range Forty-two (42) West, Chippewa County, Minnesota described as follows:

Commencing at the southeast corner of said Section Sixteen (16); thence North 90 degrees 00 minutes 00 seconds West, assumed bearing along the south line of said Section, a distance of 568.00 feet to the point of beginning of the tract to be described; thence continuing North 90 degrees 00 minutes 00 seconds west, along said south line, a distance of 538.00 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 568.00 feet; thence North 90 degrees 00 minutes 00 seconds East a distance of 538.00 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 568.00 feet to the point of beginning.

See attached Exhibit A depicting these legal descriptions.


8. The number and character of buildings on said property is: **The only buildings or structures in the Subject Area include a grain bin site located on the property of Kleven Farms, Inc. The bin site is privately owned and strictly used for agricultural purposes.**
9. The number of residents in the area proposed for detachment is: **None.**
(The number of residents is not necessarily the same as number of owners.)
10. Public improvements on said property are: **None.**

[Signature page to follow]

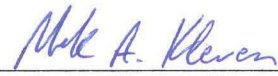
JUN 05 2014

Date:

June 3, 2014



Luther T. Opjorden, Property Owner




Mark A. Kleven, Property Owner



Jennifer A. Kleven, Property Owner

KLEVEN FARMS, INC.

By: 

George Kleven, President of Kleven
Farms, Inc., Property Owner

Municipal Boundary Adjustment Unit Contacts

Star Holman star.holman@state.mn.us 651-361-7909

Katie Lin katie.lin@state.mn.us 651-361-7911

(August 2012)

JUN 05 2014

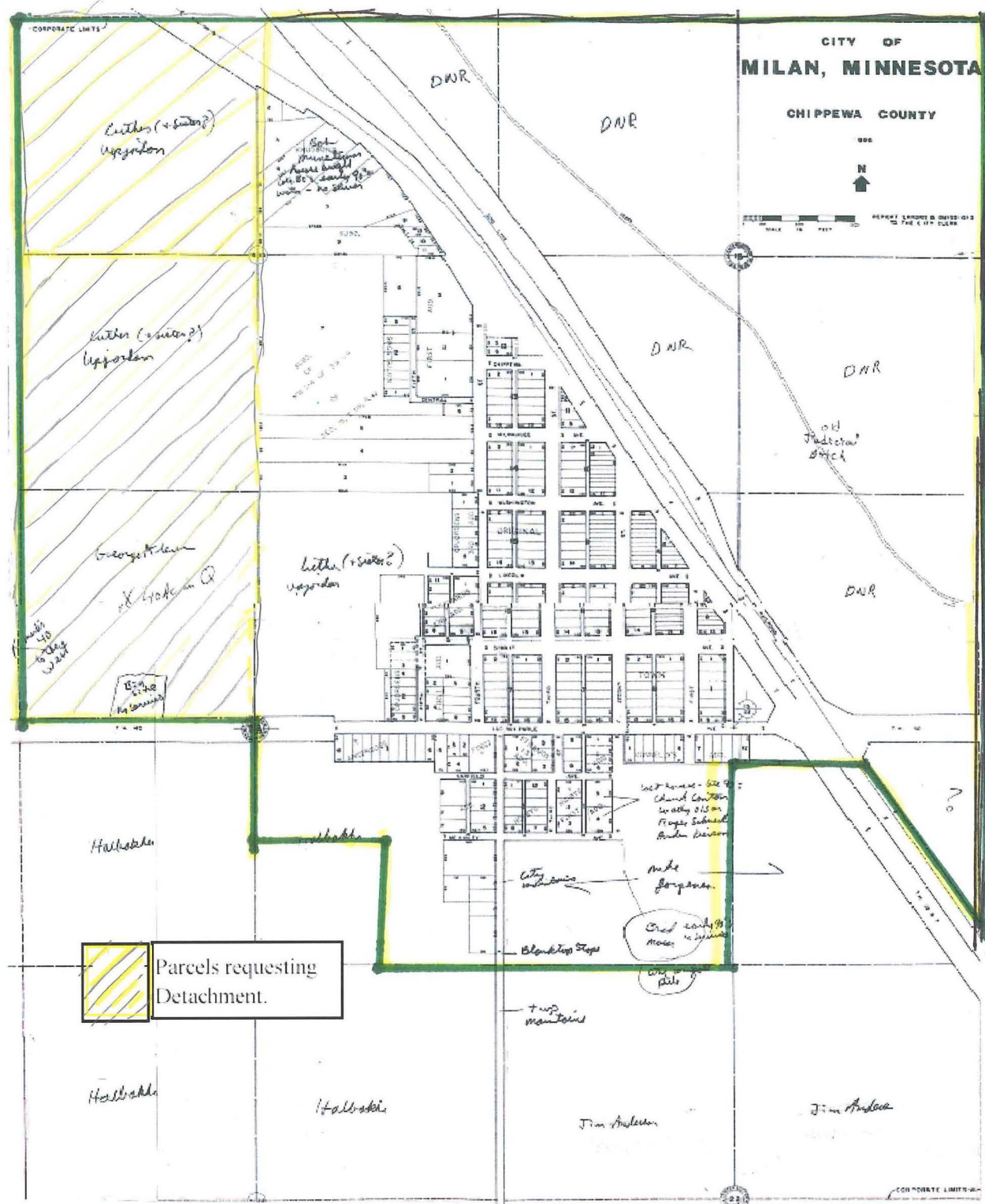


EXHIBIT A

LAW OFFICES OF
FLUEGEL, ANDERSON, McLAUGHLIN & BRUTLAG, Chartered

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Phone: (320) 839-2549
Fax: (320) 839-2540

Wheaton Location
1112 First Avenue North
Professional Building
Wheaton, MN 56296
Phone: (320) 563-1414

January 31, 2014

REC'D BY
MBA

JUN 05 2014

Milan City Clerk
City Council Members
P.O. Box 162
Milan, MN 56262

Re: Detachment of Agricultural Property from the City of Milan

Dear City Council Members:

Our office represents George Kleven, Kleven Farms, Inc., Mark A. and Jennifer A. Kleven and Luther T. and Martha J. Opjorden. Pursuant to Minn. Stat. § 414.06 (2013), we are requesting Detachment of property situated within the City of Milan (hereinafter referred to as "City"), located in County of Chippewa, and abutting the City's western boundary, described as follows:

Luther T. Opjorden and Martha J. Opjorden Property
Tax ID# 06-116-1200

The Southeast Quarter of the Northeast Quarter (SE1/4-NE1/4), Section Sixteen (16), Township One Hundred Nineteen (119), Range Forty-two (42), Chippewa County, State of Minnesota, subject to and less those tracts described in the Final Certificates dated November 17, 1933, and recorded in Book "R" of Miscellaneous, page 261; dated October 25, 1937, and recorded in Book "U" of Miscellaneous, page 103; dated March 7, 1966, and recorded in Book 42 of Miscellaneous, page 283, and subject to easements of record to Ottetail Power Company.

Luther Opjorden Property
Tax ID#60-816-4100

The Northeast Quarter of the Southeast Quarter (NE1/4-SE1/4) of Section 16, Township 119, Range 42, Chippewa County, State of Minnesota.



JUN 05 2014

Mark A. and Jennifer A. Kleven Property
Tax ID#60-816-4400

The Southeast Quarter of the Southeast Quarter (SE1/4-SE1/4) of Section 16, Township 119, Range 42, Chippewa County, State of Minnesota, EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL: commencing at the southeast corner of said Section Sixteen (16); thence North 90 degrees 00 minutes 00 seconds West, assumed bearing along the south line of said Section, a distance of 568.00 feet to the point of beginning of the tract to be described; thence continuing North 90 degrees 00 minutes 00 seconds west, along said south line, a distance of 538.00 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 568.00 feet; thence North 90 degrees 00 minutes 00 seconds East a distance of 538.00 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 568.00 feet to the point of beginning.

Kleven Farms, Inc. Property
Property: Tax ID#60-816-4401

That part of the Southeast Quarter of the Southeast Quarter (SE1/4-SE1/4) of Section Sixteen (16) Township One Hundred Nineteen (119) North, Range Forty-two (42) West, Chippewa County, Minnesota described as follows:

Commencing at the southeast corner of said Section Sixteen (16); thence North 90 degrees 00 minutes 00 seconds West, assumed bearing along the south line of said Section, a distance of 568.00 feet to the point of beginning of the tract to be described; thence continuing North 90 degrees 00 minutes 00 seconds west, along said south line, a distance of 538.00 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 568.00 feet; thence North 90 degrees 00 minutes 00 seconds East a distance of 538.00 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 568.00 feet to the point of beginning.

See attached Exhibit A depicting these legals.

We are requesting Detachment because it is our understanding that other agricultural property has been Detached from the City and allowed to be taxed at a lower rate by the Township, including property owned by the Halbakken and Burns/Jorgenson families, which abuts the City's western and southern boundaries. The above-described parcels should be taxed by the Township in the same manner.

The area proposed for Detachment is rural in character and not developed for urban residential, commercial or industrial purposes. The real property described above is zoned "'A-O" Agricultural – Open Space" and is used exclusively for agricultural purposes. See Chapter Three: The Built Environment – Milan's Current Land Use, City of Milan Comprehensive Plan 2013 (hereinafter referred to as the "Plan") enclosed for your reference.

JUN 05 2014

These parcels serve no City purpose and receive no public services. The only buildings or structures on these parcels include a grain bin site located on the property owned by Kleven Farms, Inc. There are no residents living in the area proposed for Detachment. The property described above does not include any public improvements, other than the Milan Beach Trail, which runs along a right of way granted by a highway easement along Highway 40 and the southern line of the Kleven properties. See the enclosed photographs (Exhibits B1, B2 and B3). The fact that the Milan Beach Trail runs along one of the parcels is not sufficient grounds to oppose Detachment. Property owned by Burns/Jorgenson along the southern boundary of the City provides public access to the City's dumping grounds and it was still voluntarily Detached.

Moreover, Detachment of these parcels would not unreasonably affect the symmetry of the detaching municipality, and in fact, would enhance it by creating a straight line along the western boundary of the City. See Exhibit A.

The area proposed for Detachment is not needed for reasonably anticipated future development. To our knowledge, the City's last expansion included a few homes built in the late 1990's within the residential area of the City. The area proposed for Detachment herein is Area 5 and used exclusively for agricultural purposes. The City's Plan expressly provides that "Area 5 represents...land zoned as agricultural within the City...Milan should encourage future development within its other zoning districts in an effort to promote orderly and efficient growth and prevent the loss of prime agricultural land..." See the enclosed Plan, Chapter Six – Implementation, Milan's Future Land Use. There is ample land available within the other zoning districts for any future expansion of the City and Detachment would not affect any anticipated development.

If Detachment of these parcels is approved, there is no doubt the City will be able to continue to carry on the functions of government without undue hardship. The State's recommended surplus cash reserve for a municipality is between 10-35% of the budget. According to the 2012 Audit, the City actually has a 220% surplus with an annual budget of \$180,000.00 and a fund balance of \$418,000.00.

We request that the above-described parcels be Detached from the City and allowed to be taxed as other Township agricultural property.

Should you have comments or questions do not hesitate to contact the undersigned.

REC'D BY
MBA

JUN 05 2014

Milan City Council
January 31, 2014
Page 4

Very truly yours,

FLUEGEL, ANDERSON, MCLAUGHLIN
& BRUTLAG, CHARTERED

A handwritten signature in blue ink, appearing to read "Warren C. Anderson".

Warren C. Anderson
warrenn@hometownsolutions.net
WCA/ja/encls

cc: Luther Upjordan
Mark & Jennifer Kleven
George Kleven
Jodi Asmus, Esq.

CORPORATE LIMITS

CITY OF

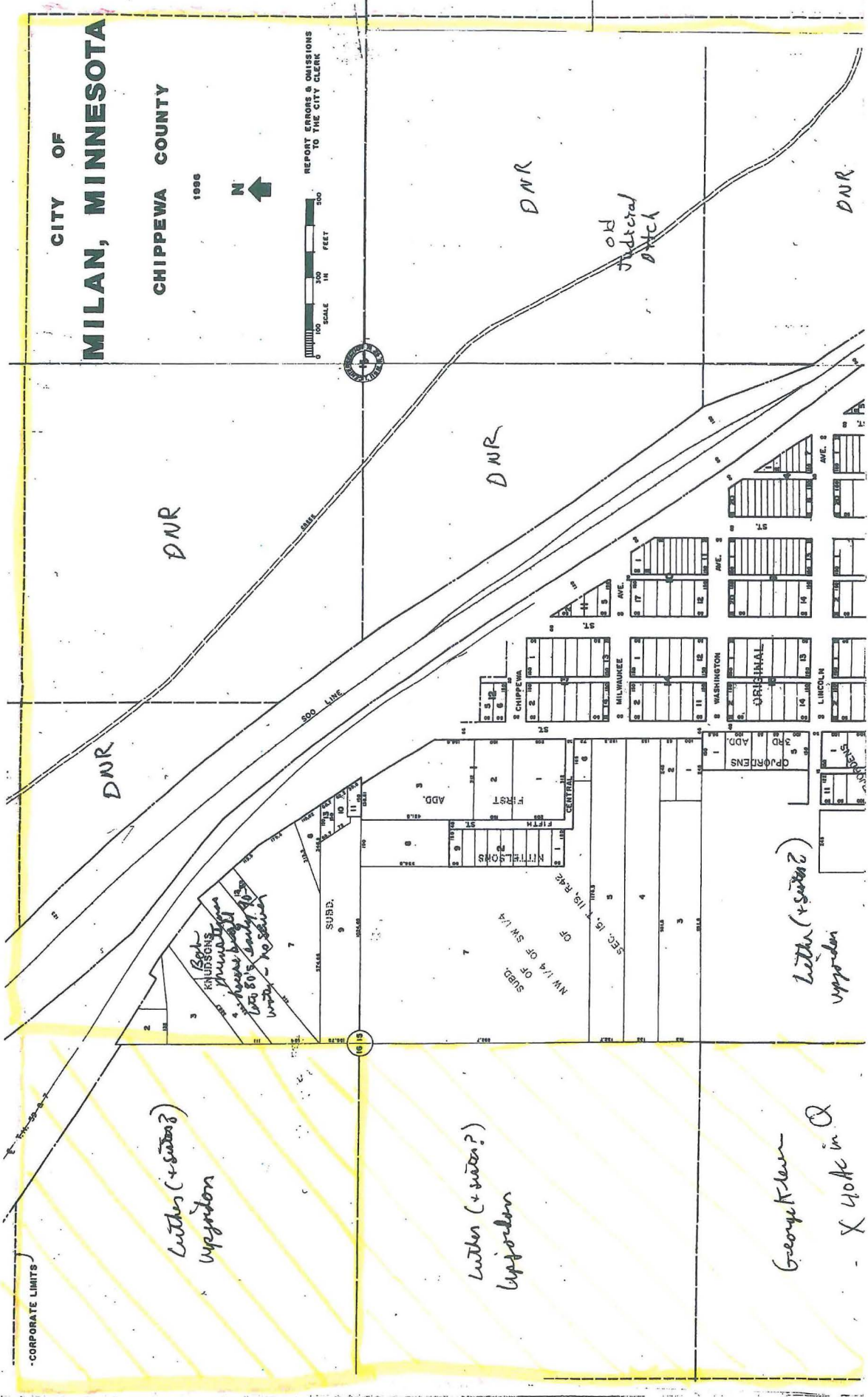
MILAN, MINNESOTA

CHIPPEWA COUNTY

1996



REPORT ERRORS & OMISSIONS
TO THE CITY CLERK



REC'D BY
MBA
JUN 05 2014

REC'D BY
MBA

JUN 05 2014



Looking East
from Hwy 40
B1



Looking West
from Hwy 40
B2



From west edge
of Milan
<---- Bike Trail
B3