

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Petition of Spring
Prairie Township for Incorporation of
the City of Stirling (MBAU I-73)

ORDER FOR DISMISSAL

This matter is pending before Administrative Law Judge Jessica A. Palmer-Denig upon the Petition for Incorporation (Petition) filed by the Town Board of Spring Prairie Township (Township) on April 8, 2021. The Township seeks incorporation of an area within the Township under Minn. Stat. § 414.02 (2020), on behalf of the Spring Prairie Colony (Colony) of Hutterite Brethren.


Tami Norgard and Bailey J. Fuchs, Vogel Law Firm, represent the Township and the Colony.

Based upon the record and for the reasons explained in the accompanying Memorandum, the Administrative Law Judge issues the following:

ORDER

The Petition is **DISMISSED**.

Dated: April 20, 2021


JESSICA A. PALMER-DENIG
Administrative Law Judge

NOTICE

This Order is the final administrative order in this case under Minn. Stat. §§ 414.02, 414.07, 414.09, 414.12 (2020). Pursuant to Minn. Stat. § 414.07, subd. 2, any person aggrieved by this Order may appeal to Clay 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.

MEMORANDUM

The Township seeks incorporation of an area owned by the Colony and located in Clay County, Minnesota.¹ The Colony, which was founded in 1979, currently consists of over 180 individuals, and 45 households.² The Colony is governed by an elected governing board and operates as one economic unit.³ The Colony operates a pre-fabricated concrete manufacturing facility, trucking company, electrical motor and engine repair shop, and printing company, along with a community center and community garden and orchard, and it provides day care, housing, and dining services to residents.⁴ The Colony anticipates expanding its business operations and housing facilities and believes that development as a small municipality best serves its interests.⁵ The area to be incorporated includes approximately 2,880 acres within an area zoned as Agricultural, and members of the Colony collectively own another approximately 1,320 acres surrounding or near the subject area that provide capacity for expansion of the Colony's operations.⁶

Minn. Stat. § 414.02 establishes the exclusive method of incorporating a municipality in Minnesota. Under Subdivision 1, a petition for incorporation may be filed by 100 or more property owners or by resolution of the town board "within an area which is not included within the limits of any incorporated municipality and which area includes land that has been platted into lots and blocks in the manner provided by law." In its initial filings, the Township recognized that the Petition contains an irregularity, in that the area proposed for incorporation does not include land that has been platted.⁷ The Administrative Law Judge requested additional briefing to permit a determination as to whether the Petition complies with Minn. Stat. § 414.02.

The Colony contends that the area proposed for incorporation is zoned as Agricultural, and Clay County's Zoning Code for such land only allows platting for large, one-acre lots.⁸ Platting lots in this manner is not consistent with the Colony's development needs and would not be consistent with the municipal zoning it would utilize following incorporation.⁹ The Colony argues that it would be futile and unreasonable to plat land within its boundaries according to the requirements for

¹ The Colony is not formally a party in this matter because the Petition was filed by the Township. At this time, it is not necessary for the Colony to become a party, as the Colony participated in a prehearing conference on April 12, 2021, on its own behalf and through its counsel, and has been able to have its interests heard. See Prehearing Conference Digital Recording (Apr. 12, 2021) (on file with the Minn. Office Admin. Hearings); see also Minn. R. 6000.1200 (2019) (providing that persons other than parties may participate in boundary adjustment hearings by presenting facts and evidence).

² Resolution Incorporating the City of Stirling as a Municipality in Minnesota Pursuant to Minn. Stat. Ann. 414.02 (Resolution) at 1 (Feb. 9, 2021). The Administrative Law Judge has accepted as true all facts contained in the Township's submissions.

³ *Id.*

⁴ *Id.* at 2; Letter from Tami Norgard to Administrative Law Judge at 2 (Apr. 16, 2021).

⁵ Letter from Tami Norgard to Administrative Law Judge at 2 (Apr. 6, 2021).

⁶ *Id.*; Resolution at 1.

⁷ Letter from Tami Norgard to Administrative Law Judge at 2 (Apr. 6, 2021).

⁸ *Id.*

⁹ *Id.*

Agricultural zoning in the County Zoning Code or for its property to be re-zoned to permit platting in smaller lots.¹⁰ The Colony further argues that it is not necessary for the area proposed for incorporation to include platted land. The Colony cites *State ex rel. Childs v. Village of Minnetonka*, for the principal that the relevant consideration is whether the area includes a “compact center or nucleus of population.”¹¹ The Colony requests that the Petition be considered valid and that the matter proceed to a hearing.

This inquiry requires interpretation of Minn. Stat. § 414.02, subd. 1. The goal of statutory interpretation is to ascertain and effectuate the intent of the Legislature.¹² The first question regarding interpretation of a statute is whether the statute’s language is ambiguous.¹³ In determining whether a statute is ambiguous, a court must consider words and phrases according to the rules of grammar and their common and approved usage.¹⁴ All provisions of a statute must be read and interpreted as a whole and the Legislature is presumed to intend that the entire statute be effective and certain.¹⁵ When the Legislature’s intent is clear from the plain language of the statute, the court must interpret the statute according to the plain meaning.¹⁶

Applying these principles, the Administrative Law Judge concludes that the Petition does not satisfy Minn. Stat. § 414.02, subd. 1. In describing the area that may be subject to incorporation, the Legislature identified such land as being “within an area which is not included within the limits of any incorporated municipality and which area includes land that has been platted into lots and blocks in the manner provided by law.” The plain language of the statute requires that the petition for incorporation be for an area that includes some land that has been platted.

Further, the plain language prevents interpreting the reference to platted land as a requirement that the area instead contain a compact center or nucleus of operation. In *Village of Minnetonka*, the Minnesota Supreme Court considered a statute providing that “[a]ny district, sections or parts of sections which has been platted into lots and blocks, also the lands adjacent thereto” could be incorporated as a village if the area met certain population requirements.¹⁷ The Court assessed whether an area was properly incorporated where the majority of the 17 tracts of platted land were largely vacant and uninhabited, such tracts were separated from each other by “quite an extent of farm or uncultivated lands,” and the area to be incorporated included no clear compact center or nucleus of population.¹⁸ The Court concluded that incorporation of this area was not authorized by law. In that case, however, the statute at issue contained a requirement that the area to be incorporated include platted lands, and the

¹⁰ Letter from Tami Norgard to Administrative Law Judge at 2 (Apr. 16, 2021).

¹¹ 57 Minn. 526, 533, 59 N.W. 972, 974 (Minn. 1894).

¹² Minn. Stat. § 645.16 (2020); *Staab v. Diocese of St. Cloud*, 853 N.W.2d 713, 717 (Minn. 2014).

¹³ *State v. Riggs*, 865 N.W.2d 679, 682 (Minn. 2015).

¹⁴ *Id.*; Minn. Stat. § 645.08(1) (2020).

¹⁵ *State v. Pakhnyuk*, 926 N.W.2d 914, 920 (Minn. 2019); Minn. Stat. §§ 645.17(2) (2020).

¹⁶ *City of Brainerd v. Brainerd Investments P’ship*, 827 N.W.2d 752, 755 (Minn. 2013).

¹⁷ *Vill. of Minnetonka*, 57 Minn. at 531, 59 N.W. at 973; 1885 Minn. Laws ch. 145, § 3, at 148-49.

¹⁸ *Vill. of Minnetonka*, 57 Minn. at 531-32, 59 N.W. at 973-74.

area identified for incorporation did contain platted lands.¹⁹ The Court did not consider whether an area lacking any platted land could be incorporated and did not hold that the statutory requirement for the presence of platted lands was satisfied by other criteria.

The Legislature has established initial parameters for the type of area that may be considered for incorporation. The Administrative Law Judge may not read Minn. Stat. § 414.02, subd. 1, without the language requiring platted land or substitute different words for the language the Legislature has chosen. The Colony's circumstances are unique and do not neatly fit within the language of the statute. Notwithstanding that, "when the words of a law in their application to an existing situation are clear and free from all ambiguity, the letter of the law shall not be disregarded under the pretext of pursuing the spirit."²⁰

The Administrative Law Judge concludes that the Petition does not satisfy the requirements of Minn. Stat. § 414.02, subd. 1.²¹ Therefore, the Petition is **DISMISSED**.

J. P. D.

¹⁹ *Id.*

²⁰ Minn. Stat. § 645.16 (2020).

²¹ As this Order is based upon a threshold issue, the Administrative Law Judge has not considered, and makes no findings related to, the relevant factors for incorporation under Minn. Stat. § 414.02, subd. 3.