

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
MUNICIPAL BOUNDARY ADJUSTMENT UNIT

In the Matter of OA-1198-5  
Avon/Avon Township  
Pursuant to Minnesota Statutes 414

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

The city resolution for orderly annexation submitted by the City of Avon was reviewed for conformity with applicable law. By delegation, the Chief Administrative Law Judge hereby makes and files the following Findings of Fact, Conclusions of Law, and Order.

**FINDINGS OF FACT**

1. A joint resolution for orderly annexation was adopted by the City of Avon and Avon Township pursuant to Minnesota Statutes § 414.0325 and duly filed with the Office of Administrative Hearings-Municipal Boundary Adjustment Unit.
2. A resolution adopted and submitted by the City of Avon, requests annexation of part of the designated area described as follows:

All that part of the Easterly 124 feet of Government Lot One (1), in Section Twenty-one (21), Township one Hundred Twenty-five (125) North, Range Thirty (30) West, lying Northerly of the Avon - Holdingford road, Stearns County, PID # 03.00946.000.
3. Minnesota Statutes § 414.0325, subd. 1(h) states that in certain circumstances the Chief Administrative Law Judge may review and comment, but shall within 30 days order the annexation pursuant to the terms of a joint resolution for orderly annexation.
4. The joint resolution contains all the information required by Minnesota Statutes § 414.0325, subd. 1(h), including a provision that the Chief Administrative Law

Judge may review and comment but shall order the annexation within 30 days in accordance with the terms of the joint resolution.

### CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has duly acquired and now has jurisdiction of the within proceeding.
2. An order should be issued by the Chief Administrative Law Judge or authorized designee annexing the area described herein.

### ORDER

1. The property described in Findings of Fact 2 is annexed to the City of Avon, the same as if it had originally been made a part thereof.
2. Pursuant to Minnesota Statutes §414.035, the tax rate of the City of Avon on the property herein ordered annexed shall be increased in substantially equal proportions over a period of five years to equality with the tax rate of the property already within the city.
3. Pursuant to Minnesota Statutes §414.036, Avon Township will be reimbursed by the City of Avon in accordance with the terms of the Joint Resolution signed by the City of Avon and Avon Township on August 17, 2005.

Dated: July 2, 2013

  
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Timothy J. O'Malley  
Assistant Chief Administrative Law Judge  
Municipal Boundary Adjustment Unit

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1198-5 the Chief Administrative Law Judge finds and makes the following comment:

Paragraph No. 19 states unless the parties have agreed to an extension, the agreement shall terminate on December 31, 2015. End dates or ending mechanisms are problematic in that they appear to run afoul of the act of conferring jurisdiction to the Chief Administrative Law Judge. Once jurisdiction is conferred, it cannot be taken away by written consent of the parties. Jurisdiction ends when all the designated area is annexed. The issue whether jurisdiction could be "given back" by the Chief Administrative Law Judge upon written request of the parties to the agreement to mutually end their agreement has not been addressed.

The parties are encouraged to consider this comment in light of any further amendments that may be otherwise necessary to this agreement for orderly annexation.

T.J.O.