

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Orderly Annexation  
of Certain Real Property to the City of  
Carver from Dahlgren Township  
(MBAU OA-1428-10)

**ORDER APPROVING  
ANNEXATION**

This matter came before the Office of Administrative Hearings pursuant to a request for annexation of certain identified property pursuant to Minn. Stat. § 414.0325 (2016).

Based upon a review of the files and proceedings herein, the Chief Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. On or about February 11, 2009, the City of Carver (City) and Dahlgren Township (Township) executed a “Joint Resolution for Orderly Annexation Between the Town of Dahlgren and the City of Carver, Carver County, Minnesota” (Orderly Annexation Agreement).<sup>1</sup> By its terms, the Orderly Annexation Agreement designates certain real property for orderly annexation pursuant to Minn. Stat. § 414.0325 (2008).

2. Section 6 of the Orderly Annexation Agreement provide as follows:

A. Tax Reimbursement. Unless otherwise agreed, to allow the Township to be reimbursed for the permanent loss of taxable property (determined by Carver County’s GIS system net of existing roads) from Township tax rolls for property in the Orderly Annexation Area, the City agrees that it will not initiate annexation or forward a resolution for annexation of any portion of the property described on **Exhibit 1** to the Office of Administrative Hearings, or its successor agency, until such time as the Township has received reimbursement for the loss of such taxable property in the amount of \$500 for each acre described in the City resolution to be annexed to the City. Tax exempt property at time of annexation is not subject to tax reimbursement.

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Other than the reimbursement outlined above in paragraphs B and C, no

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<sup>1</sup> Orderly Annexation Agreement (Feb. 11, 2009), No. OA-1428, filed with the Office of Administrative Hearings Feb. 17, 2009.

other reimbursement or taxes shall be owed to the Township from the City.<sup>2</sup>

3. Dahlgren Township Resolution Number 84-17 and City of Carver Resolution Number 145-17 (Joint Resolution to Annex) was adopted by the Township on August 23, 2017, and the City on October 16, 2017.

4. The Joint Resolution to Annex requests annexation of certain real property (Property) legally described as follows:

That part of the Southwest Quarter of the Southeast Quarter of Section 24, Township 115 North, Range 24 West of the 5th Principal Meridian described as follows:

Commencing at the northwest corner of said Southwest Quarter of the Southeast Quarter; thence on an assumed bearing of South 0 degrees 10 minutes 51 seconds West; along the west line of said Southwest Quarter of the Southeast Quarter a distance of 374.31 feet; thence South 47 degrees 28 minutes 35 seconds East a distance of 306.68 feet; thence South 62 degrees 42 minutes 18 seconds East a distance of 198.30 feet, to the centerline of County Road No. 40; thence North 27 degrees 17 minutes 42 seconds East along the centerline of said road, a distance of 89.00 feet; thence northeasterly along the centerline of said road, a distance of 90.90 feet along a tangential curve concave to the southeast having a radius of 1400.00 feet and a central angle 3 degrees 43 minutes 12 seconds, to the point of beginning of the land to be described; thence North 45 degrees 04 minutes 17 seconds West, not tangent to said curve, a distance of 206.32 feet; thence North 33 degrees 59 minutes 43 seconds East a distance of 163.02 feet; thence South 43 degrees 52 minutes 17 seconds East a distance of 207.95 feet to the intersection with the northeasterly extension of the above described 1400.00 foot radius curve; thence southwesterly; along the centerline of said road, along said above described 1400.00 foot radius curve, a distance of 158.53 feet and a central angle of 6 degrees 29 minutes 17 seconds to the point of beginning. The above described property contains 0.74 acres and is subject to an easement for public right-of-way purposes over the southeasterly 33.00 feet of the above described property in Country Road No. 40.

5. The Joint Resolution to Annex contains the following relevant terms:

a. “[T]he City and Township wish to depart from the strict compliance with Section 8 of the Joint Agreement” pertaining to “Conditions for Orderly Annexation” set forth therein, and agree to immediate annexation of the Property.

b. “There shall be no tax reimbursement to the Township as a result of the annexation of the Property. Further, there are no outstanding special

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<sup>2</sup> Orderly Annexation Agreement at 3 § 6, emphasis in original.

assessments or bonded indebtedness of the Property.”

Based upon a review of the Orderly Annexation Agreement and the Joint Resolution to Annex, the Chief Administrative Law Judge makes the following:

### **CONCLUSIONS OF LAW**

1. Orderly annexations are governed by the provisions of Minn. Stat. ch. 414 (2016) (Municipal Boundary Adjustment Act) and, most specifically, by Minn. Stat. § 414.0325.

2. The Chief Administrative Law Judge is authorized to review and approve an orderly annexation pursuant to Minn. Stat. ch. 414 and Minn. R. 6000 (2017).

3. Minn. Stat. § 414.036 sets forth the following with regard to statutorily authorized payments to townships as compensation for the lost value of property annexed into an adjoining municipality:

Unless otherwise agreed to by the annexing municipality and the affected town, when an order or other approval under this chapter annexes part of a town to a municipality, the order or other approval must provide a reimbursement from the municipality to the town for all or part of the taxable property annexed as part of the order. The reimbursement shall be completed in substantially equal payments over not less than two nor more than eight years from the time of annexation. The municipality must reimburse the township for all special assessments assigned by the township to the annexed property, and any portion of debt incurred by the town prior to the annexation and attributable to the property to be annexed but for which no special assessments are outstanding, in substantially equal payments over a period of not less than two or no more than eight years.

4. As the Joint Resolution to Annex provides that the City and the Township have agreed that no reimbursement is due from the City to the Township, the requirements of Minn. Stat. § 414.036 with respect to the provision for reimbursement from the City to the Township have been sufficiently addressed for purposes of this Order.<sup>3</sup>

5. Pursuant to Minn. Stat. § 414.12, subd. 3, the Chief Administrative Law Judge must apportion the Office of Administrative Hearings’ costs of contested case proceedings in boundary adjustment matters to the parties in an equitable manner if the parties have not otherwise agreed to a division of the costs.

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

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<sup>3</sup> Joint Resolution to Annex at 2 ¶ 7.

## ORDER

1. Pursuant to the terms of the Orderly Annexation Agreement, the Joint Resolution to Annex, and this Order, the Property is **ANNEXED** to the City.

2. Pursuant to the agreement of the City and Township, and as allowed by Minn. Stat. § 414.036, no reimbursement shall be made by the City to the Township.

3. As the filings were made jointly by the parties and there being no evidence in the record upon which to base a differentiated allocation, the costs of this matter, billed as required by law at the approved hourly rates of the Office of Administrative Hearings, shall be borne by the parties as follows: to the City - 50%; and to the Township - 50%. An itemized invoice for costs will be sent under separate cover.

Dated: November 20, 2017



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TAMMY L. PUST  
Chief Administrative Law Judge

## NOTICE

This Order is the final administrative order in this case under Minn. Stat. §§ 414.0325, .07, .09, .12. Pursuant to Minn. Stat. § 414.07, subd. 2, any person aggrieved by this Order may appeal to Carver 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. However, no request for amendment shall extend the time of appeal from this Order.

For questions concerning this Order, please contact Star Holman at the Office of Administrative Hearings at [star.holman@state.mn.us](mailto:star.holman@state.mn.us) or 651-361-7909.