

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE ORDERLY ANNEXATION)	
AGREEMENT BETWEEN THE CITY OF ROGERS)	<u>FINDINGS OF FACT</u>
AND HASSAN TOWNSHIP PURSUANT TO)	<u>CONCLUSIONS OF LAW</u>
MINNESOTA STATUTES 414)	<u>AND ORDER</u>

On September 5, 2008, the City of Rogers submitted a resolution for orderly annexation to the Chief Administrative Law Judge for review and comment, and approval pursuant to Minnesota Statute §414.0325. Thereafter, on September 25, 2008, the undersigned Assistant Chief Administrative Law Judge, acting under a delegation from the Chief Administrative Law Judge, reviewed the city resolution for conformity with applicable law.

Based upon all of the files and records herein, the Assistant Chief Administrative Law Judge makes the following:

FINDINGS OF FACT

1. A joint resolution for orderly annexation was adopted by the City of Rogers and Hassan Township pursuant to Minnesota Statute §414.0325 and duly filed with the Office of Administrative Hearings-Municipal Boundary Adjustments in November 2003.
2. The joint resolution provides, among other things, that in certain circumstances the City may annex by resolution. A resolution adopted by the City of Rogers requesting annexation of part of the designated area was submitted.
3. The city resolution requests immediate annexation of certain property to the City

of Rogers described as follows:

That part of Burlington Northern Sante Fe Railway right-of-way located within that part of the Northeast Quarter of Section 16 and those parts of the Southwest Quarter of the Northwest Quarter, Southeast Quarter of the Northwest Quarter and the Northeast Quarter of the Southwest Quarter of Section 15, all in Township 120, Range 23, Hennepin County, Minnesota.

Railroad right-of-way.

13.2 acres

4. The joint resolution contains all the information required by Minnesota Statutes §414.0325 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 for orderly annexation.

5. Minnesota Statutes §414.0325 states that in certain circumstances the Chief Administrative Law Judge may review and comment, but shall within 30 days order the annexation pursuant to said subdivisions.

6. On September 25, 2008, the Assistant Chief Administrative Law Judge reviewed and accepted the city resolution for orderly annexation.

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 Assistant Chief Administrative Law Judge annexing the area described herein.

ORDER

1. The property described in Findings of Fact 3 is annexed to the City of Rogers, the same as if it had originally been made a part thereof.

2. Pursuant to Minnesota Statutes §414.036, Hassan Township will be reimbursed by the City of Rogers in accordance with the terms of the Joint Resolution signed by the City of Rogers and Hassan Township on October 22, 2003.

Dated this 25th day of September, 2008.

For the Assistant Chief Administrative Law Judge
P. O. Box 64620
St. Paul, Minnesota 55164-0620



Christine M. Scotillo
Executive Director
Municipal Boundary Adjustment

MEMORANDUM

In ordering the annexation contained in Docket No. OA-992-33, the Chief Administrative Law Judge finds and makes the following comment:

Section 13.01 states in part, "This agreement will terminate on August 15, 2030 in all respects..." End dates or ending mechanisms are problematic in that they appear contrary to 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. *Cms*