

November 16, 2000

Wayne Stein
Otter Tail County Auditor
Otter Tail County Courthouse
121 W. Junius
Fergus Falls, MN 5637

Re: A-6349 Underwood/Sverdrup Township

Dear Mr. Stein:

It has recently been brought to our attention by Cora of your office, that the annexation referenced above, and approved on August 13, 2000, may have more owners of record than were stated in the annexation ordinance filed by the City of Underwood.

The docket number listed above was filed under Minnesota Statutes 414.033 Subd.2(3), which requires among other things, that the city receive a petition from all the property owners of the land to be annexed. Such a requirement is jurisdictional and without a petition from all of the property owners, the City could not file its ordinance under Minnesota Statutes 414.033 Subd. 2(3).

The authority to adjust municipal boundaries does not extend to resolving issues of property ownership. The standing legal advice to this agency has been not to look behind the documents submitted and to accept as true and accurate, the representation of facts asserted therein. On occasion, initiating documents have been challenged prior to final action by the Director. In those instances, the burden falls to the parties to establish and defend their respective positions.

At the time this annexation was pending, the City's ordinance represented that Vernon Johansen was the sole owner of the property to be annexed. In approving this annexation, the Director relied upon the veracity of that representation, as well as other facts stated in the City's ordinance. The annexation was effective upon the Director's approval.

Thank you for bringing this matter to our attention. Please advise me of any further issues regarding this matter and do not hesitate to call if you have any

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questions.

Sincerely,

Office of Strategic and Long Range Planning

Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

CMS:ry