

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE ORDERLY ANNEXATION)
AGREEMENT BETWEEN THE CITY OF CARVER) FINDINGS OF FACT
AND DAHLGREN TOWNSHIP PURSUANT TO) CONCLUSIONS OF LAW
MINNESOTA STATUTES 414) AND ORDER

The city resolution for orderly annexation submitted by the City of Carver was reviewed for conformity with applicable law. By delegation, the Chief Administrative Law Judge's designee 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 Carver and Dahlgren Township pursuant to Minnesota Statutes § 414.0325 and duly filed with the Office of Administrative Hearings-Municipal Boundary Adjustments.

2. A resolution adopted and submitted by the City of Carver, requests annexation of part of the designated area described as follows:

Outlot A, Creekridge, Second Addition, according to the plat recorded in the office of the County Recorder for Carver County, less that portion deeded to the State of Minnesota for right of way for TH 212 and shown as Parcel 5 on Minnesota Department of Transportation Right of Way plat number 10-30.

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

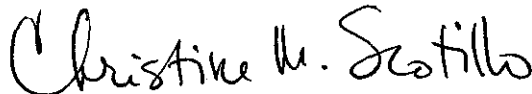
1. The Office of Administrative Hearings has duly acquired and now has jurisdiction of the within proceeding.
2. An order should be issued by the Chief Administrative Law Judge annexing the area described herein.

ORDER

1. The property described in Findings of Fact 2 is annexed to the City of Carver, the same as if it had originally been made a part thereof.
2. Pursuant to Minnesota Statutes §414.036, Dahlgren Township will be reimbursed by the City of Carver in accordance with the terms of Joint Resolution No. 61-09/102-09 signed by the City and Township on February 11, 2009; and City Resolution No. 136-10.

Dated this 19th day of October, 2010.

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



Christine M. Scotillo
Executive Director
Municipal Boundary Adjustments

MEMORANDUM

In ordering the annexation contained in Docket No. OA-1428-2, the Chief Administrative Law Judge finds and makes the following comment:

Section 16 states the agreement shall terminate on December 31, 2030. 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.

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