

DEPARTMENT MUNICIPAL COMMISSION

STATE OF MINNESOTA

Office Memorandum

TO : Joseph L. Donovan - Secretary of State      DATE: June 12, 1962

FROM : F. Robert Edman

SUBJECT: Priority Proceedings

The Minnesota Municipal Commission has rejected for filing, Sunfish Lake annexation ordinances #10 and #11.

The attached letter from the Attorney General's office outlines the basis for this rejection. We understand that the Dakota County auditor also has refused to file these annexation ordinances.

Attached is a current list of all incorporations, detachment and annexation petitions, now before the Commission for decision. Hereafter, this office will provide a monthly listing of all such hearings, as a guide to your office, of territories that are considered temporarily frozen and protected against annexation by ordinance.

Enclosures: (2)

cc: Joseph Robbie  
Robert W. Johnson

#15830  
STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
JUN 15 1962

*Joseph L. Donovan*  
Secretary of State

WALTER F. MONDALE  
ATTORNEY GENERAL  
State Capitol  
St. Paul 1, Minnesota

April 6, 1962

Honorable Vance B. Grannis, Jr.  
Attorney for Town Board of Inver Grove Township  
F. J. Schult Building  
South St. Paul, Minnesota

Dear Sir:

We acknowledge receipt of your request for an opinion and have carefully reviewed the law in Minnesota on the question of priority of proceedings for the annexation or incorporation of an area of land.

Based on the facts you have given to us, it appears that State ex rel. Herrier vs. Village of Spring Lake Park, 245 Minn. 302, 71 N. W. (2d) 812, adopting the majority rule in this country is directly in point and is clearly dispositive of the question you ask.

This case holds that since two municipal authorities trying to exercise jurisdiction over the same area, cannot both prevail or exercise jurisdiction over the same area, exclusive jurisdiction vests in the municipal authority first acting and proceeding properly under the power granted.

We also invite your attention to State ex rel. Village of Orono v. Village of Long Lake, 247 Minn. 264, 77 N. W. (2d) 46, and State ex rel. Helling vs. Independent Consolidated School District No. 160, 253 Minn. 271, 92 N. W. (2d) 70.

In view of the foregoing, it is unnecessary to issue a formal opinion on the matter.

Very truly yours,

DRL:MM

DAVID R. LESLIE  
Assistant Attorney General

3 copies Municipal Commission  
CC Roger L. Ginkel  
Commerce Bldg.  
CC Robert F. Leach  
West First National Bank Building

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*Joseph R. Anderson*  
Secretary of State

4