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*Oak Park  
Stellwater*

HAROLD LEVANDER  
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HAROLD LEVANDER, JR.  
PAUL H. ANDERSON

February 2, 1973

Mr. Arlen I. Erdahl  
Secretary of State  
State of Minnesota  
180 State Office Building  
St. Paul, Minnesota 55101

Dear Sir:

Enclosed herewith and served upon you by mail is a copy of Appeal and Notice of Appeal duly filed with the District Court of Washington County, Minnesota appealing from the order of the Minnesota Municipal Commission.

Very truly yours,

LeVander, Gillen, Miller & Magnuson

*Paul H. Anderson*  
Paul H. Anderson

PHA/jb

encl

*Q. 2056-1573*  
*Count reversed*  
*See court report judgment*  
*Commission to decide*  
*whether to re-appeal*  
*hearings.*

#24755  
O.D.

STATE OF MINNESOTA  
COUNTY OF WASHINGTON

DISTRICT COURT  
TENTH JUDICIAL DISTRICT

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IN THE MATTER OF THE PETITION FOR  
ANNEXATION OF CERTAIN LAND TO THE  
CITY OF STILLWATER A-2056  
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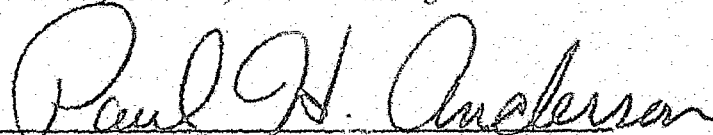
APPEAL AND  
NOTICE OF APPEAL

Notice is hereby given that the Village of Oak Park Heights does hereby appeal from the order of the Minnesota Municipal Commission dated January 5, 1973 and amended January 30, 1973 granting the annexation of certain land to the City of Stillwater; that the order of said Commission is arbitrary, fraudulent, capricious and oppressive and is in the unreasonable disregard of the best interests of the territory affected; that the order of said Commission exceeds the jurisdiction of the Commission; and that said order is not based upon evidence adduced at the hearings of the Commission.

Dated this 2nd day of February, 1973.

LeVander, Gillen, Miller & Magnuson

By



Paul H. Anderson  
Attorneys for Oak Park Heights  
201 Concord Street  
South St. Paul, Minn. 55075

A-2056 Stillwater  
(Feeley-Hooley)

BEFORE THE MUNICIPAL COMMISSION  
OF THE STATE OF MINNESOTA

Robert W. Johnson	Chairman
Robert J. Ford	Vice Chairman
Harold J. Dahl	Member
Peter E. Tibbetts	Ex-Officio Member
Don L. Cafferty	Ex-Officio Member

-----  
IN THE MATTER OF THE PETITION FOR  
THE ANNEXATION OF CERTAIN LAND TO  
THE CITY OF STILLWATER      A-2056

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER  
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THIS PROCEEDING under Minnesota Statutes, Chapter 414, as amended, for annexation to the City of Stillwater of certain property located in the Township of Stillwater, Washington County, Minnesota, more particularly described in the Petition on file herein, came duly on for hearing before the Minnesota Municipal Commission in the City of Stillwater in the County Office Building on the 24th day of February, 1972, after due notice and service and publication of the same, at which time said proceeding was continued to March 21, 1972. In attendance at said continued hearing were Chairman Robert W. Johnson, and Commissioners Robert J. Ford, Harold J. Dahl, Peter E. Tibbetts and Don L. Cafferty.

Said Petition dated August 10, 1971 and a Resolution approving the same by the City Council of the City of Stillwater dated August 19, 1971 were received by the Commission and determined, with amendments to the same, to be regular and complete and in compliance with the Statutes of the State of Minnesota and the Rules of the Minnesota Municipal Commission.

At said hearing the Commission moved to expand the area and consideration of said Petition to include all of Township of Stillwater located in Township 30, Range 20, south of Minnesota thru Highway 96, Washington County, within the scope of the proceeding. Thereupon the proceeding was continued until May 24, 1972, at which time it was combined for purposes of hearing with Proceeding A-1985, and by stipulation of all parties, all evidence in that Proceeding and Proceeding A-1981 could be considered as evidence in this Proceeding.

Appearances were made by the City of Stillwater and the Town of Stillwater. The City of Stillwater was represented by Harold D. Kimmel and the Town of Stillwater was represented by James D. Gibbs.

The Commission, having considered the testimony of the witnesses, the exhibits received in evidence, and all of the evidence, files and records herein, being fully advised in the premises, makes the following Findings of Facts, Conclusions of Law and Order:

FINDINGS OF FACTS:

1. That due, timely and adequate legal notices of the Petition and subsequent amendments to the same, and hearings thereon and continuances of the same, were duly published and served in accordance with law.
2. That due, timely and adequate objections to the proposed annexation of property described in said objections was filed by the Town of Stillwater, Washington County, Minnesota by authority of its Town Board.
3. That the area proposed for annexation in the original Petition herein is located adjacent to and abuts the corporate limits of the City of Stillwater, Washington County, Minnesota, as does that portion of the Town of Stillwater lying south of Highway No. 96, which, by the terms of the Commission Order, were included in this proceeding as an amendment to the initial Petition.
4. That thirteen property owners, being all of the property owners in the area initially included in the Petition, joined in the petition for annexation.
5. That pursuant to the Order of this Commission dated October 30, 1972 the population of the City of Stillwater is 10,203 people; and that the property included in the original annexation petition in this proceeding contained a population of five persons.
6. That all of the property located in Stillwater Township lying south of Highway No. 96, and particularly those portions of Stillwater Township lying in the southerly and westerly sections thereof, that is, Sections 30, 31 and 32, are experiencing a great deal of pressure for urban development; that the Long

Lake area, which is located in Sections 30 and 31, while sparsely developed at present, is experiencing pressure for urban residential growth and is about to become and, to a limited extent, is urban and suburban in character; that a portion of the Long Lake area located within Section 31 has for a number of years been within the jurisdiction of the City of Stillwater and that an additional portion of Long Lake was, by order of this Commission dated October 30, 1972, annexed to the City of Stillwater; and that Long Lake is a natural resource, the protection of which is required, and that this protection can be better achieved if development around the perimeter is controlled by one municipality. That such control is required to protect the public health, safety and welfare in reference to plat control and land development and construction which may be reasonably expected to occur within a reasonable time. That the property included in the original petition which commenced this proceeding, hereinafter referred to as Hooley-Feely property, is owned primarily by persons who are actively seeking to develop the same or sell the same for development for urban purposes and is about to become urban in character and that municipal government of the property is required to protect the public health, safety and welfare in reference to plat control or land development and construction which may be reasonably expected to occur within a reasonable time. That the Hooley-Feely property is, to a large extent, devoted to industrial zoning. The assessed valuation per capita of the City of Stillwater indicates that new industrial, commercial and residential growth is required if the City is to continue to function effectively.

7. That the municipal services available through the City of Stillwater, including sewer, water, fire, police and recreational facilities are adequate to provide services to the area in question and that a comprehensive sewer plan has been approved by the Metropolitan Sewer Board for the whole area.

8. That the zoning of the area in Stillwater Township lying south of

Highway 96 is presently controlled by Washington County and the pattern of development of property located within the City of Stillwater is consistent with that zoning, the Hooley-Feely area being primarily industrial and the Long Lake area being residential.

9. That the City of Stillwater has adequate zoning, housing and building codes and subdivision regulations which would be operational if any portion of the property in question were annexed to the City of Stillwater, and under the terms of that ordinance the zoning would remain unchanged.

10. That the 1971 valuation of the City of Stillwater was \$5,315,660.00 and the municipal mill rate for the City of Stillwater for that year was 120.23.

11. That the 1971 mill rate for the Town of Stillwater was 29.22.

12. That all of that portion of Stillwater Township located south of Highway No. 96, as well as all of the City of Stillwater, is located within School District No. 834 and, assuming normal patterns of development and no substantial change in zoning, the annexation to the City of Stillwater and development within the City of Stillwater would have the same impact as development of the property in Stillwater Township.

13. That it is to the best interests of the annexing municipality and the property hereinafter described that said property be annexed to the City of Stillwater, to-wit:

Hooley-Wecker Area

Parcel No. 1:

The South Half of the Northeast Quarter of the Southeast Quarter (S $\frac{1}{2}$  of NE $\frac{1}{4}$  of SE $\frac{1}{4}$ ) of Section Thirty-two (32), Township Thirty (30) North, Range Twenty (20) West, and Blocks Three (3), Four (4), Seven (7) and Eight (8) of Ramsey & Carter's Addition to Stillwater, as surveyed and platted and now on file and of record in the office of the Register of Deeds in and for Washington County, Minnesota.

Parcel No. 2:

The Southerly 1045 feet of the Easterly 990 feet of the Southeast Quarter of the Southwest Quarter of Section 32, Township 30 North, Range 20 West, except that part thereof conveyed to Glenn M. Bell and Lucile M. Bell, husband and wife, by warranty deed dated August 24, 1964, recorded September 4, 1964 in Book 271 of Deeds, page 233, and except that part thereof conveyed to Glenn M. Bell and Lucile M. Bell, husband and wife, by deed dated January 23, 1956, recorded February 7, 1956 in Book 198 of Deeds, page 635-636, subject to the right of way of Minnesota Highway 212 as the same now exists.

The Southerly 1045 feet of the Southwest Quarter of the Southeast Quarter of Section 32, Township 30 North, Range 20 West, subject to the right of way of Minnesota Highway 212 as the same now exists.

The Southerly 645 feet of the Southeast Quarter of the Southeast Quarter except the East 10 acres of said Southeast Quarter of the Southeast Quarter of Section 32, Township 30 North, Range 20 West, subject to the right of way of Minnesota Highway 212 as the same now exists, except Parcel No. 4.

Parcel No. 3:

The Easterly 990 feet of the Southwest Quarter of Section 32, Township 30 North, Range 20 West, except the Southerly 1045 feet thereof, and the West Half of the Southeast Quarter of Section 32, Township 30 North, Range 20 West, except the Southerly 1045 feet thereof.

Parcel No. 4:

All that part of the Southeast Quarter of the Southeast Quarter of Section 32, Township 30 North of Range 20 West, Stillwater Township, Washington County, Minnesota described as follows: Commence at the south quarter corner of Section 32, Township 30, Range 20; thence east along the south line of said Section 32 for 2310 feet more or less to the southeast corner of a tract of land conveyed by Warranty Deed from Moelter to Hooley dated May 2, 1966 and recorded May 11, 1966 in Book 288 of Deeds, page 641, in the office of the Register of Deeds in and for Washington County, Minnesota; thence north 245 feet more or less to the north right-of-way line of Minnesota Highway No. 212, also being the point of beginning of this description; thence continuing north 400 feet more or less; thence west and parallel with the said north right-of-way line of Minnesota Highway No. 212 for 95 feet, more or less; thence south for 400 feet to said north right-of-way line of Minnesota Highway No. 212; thence east along said north right-of-way line of Minnesota Highway No. 212 for 95 feet more or less to the point of beginning; according to the United States Government survey thereof.

Long Lake Area

The Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$  of SW $\frac{1}{4}$ ) of Section 29;  
The North Half of the Southeast Quarter (N $\frac{1}{2}$  of SE $\frac{1}{4}$ ) of Section 30;  
The Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$  of SE $\frac{1}{4}$ ) of Section 30;  
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The North Half of the Northeast Quarter of the Southeast Quarter (N $\frac{1}{2}$  of NE $\frac{1}{4}$  of SE $\frac{1}{4}$ ) of Section 31; and  
The North Half of the Northwest Quarter of the Southwest Quarter (N $\frac{1}{2}$  of NW $\frac{1}{4}$  of SW $\frac{1}{4}$ ) of Section 32;  
all of the foregoing being located in Stillwater Township, Township 30 North, Range 20 West, Washington County, Minnesota.

14. That precise data as to population, assessed valuation and property ownership within the Long Lake Area are not available in evidence and that a supplementary hearing will be necessary to gather this information only.

15. That the remainder of Stillwater Township can continue to carry on the functions of government after annexation of the above described property without undue hardship.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Commission duly acquired and now has jurisdiction of this annexation proceeding.

2. That the boundaries of the area proposed for annexation in the original petition should be increased to include additional property which is or is about to become urban or suburban in character and in order to improve the symmetry of the area.

3. The area proposed for annexation is so conditioned and so located as to be properly subject to the municipal government of the City of Stillwater, Washington County, Minnesota.



4. There is no need for the continuance of any township government within the area proposed for annexation.

5. The City of Stillwater, Washington County, Minnesota is capable and is best situated to provide the governmental services presently needed and those services which will become necessary in the future in the area proposed for annexation.

6. The proposed annexation to the City of Stillwater, Washington County, Minnesota will not materially affect the capability of the Township of Stillwater to continue its normal operation.

7. The annexation of the area to the City of Stillwater, Washington County, Minnesota would be in the best interests of the area affected.

8. An Order should be issued by the Minnesota Municipal Commission annexing to the City of Stillwater the real estate located in Washington County, Minnesota and described herein.

#### ORDER

IT IS HEREBY ORDERED: That the real estate situated in the County of Washington, State of Minnesota, described as follows be and the same is hereby annexed to the City of Stillwater, Minnesota, the same as if it had been originally made a part thereof:

#### Hooley-Feely Area

##### Parcel No. 1:

The South Half of the Northeast Quarter of the Southeast Quarter (S $\frac{1}{2}$  of NE $\frac{1}{4}$  of SE $\frac{1}{4}$ ) of Section Thirty-two (32), Township Thirty (30) North, Range Twenty (20) West, and Blocks Three (3), Four (4), Seven (7) and Eight (8) of Ramsey & Carter's Addition to Stillwater, as surveyed and platted and now on file and of record in the office of the Register of Deeds in and for Washington County, Minnesota.

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dated January 23, 1956. recorded February 7, 1956 in Book 198 of Deeds, page 6350636. subject to the right of way of Minnesota Highway 212 as the same now exists.

The Southerly 1045 feet of the Southwest Quarter of the Southeast Quarter of Section 32. Township 30 North. Range 20 West, subject to the right of way of Minnesota Highway 212 as the same now exists.

The Southerly 645 feet of the Southeast Quarter of the Southeast Quarter except the East 10 acres of said Southeast Quarter of the Southeast Quarter of Section 32. Township 30 North Range 20 West, subject to the right of way of Minnesota Highway 212 as the same now exists, except Parcel No. 4.

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Long Lake Area

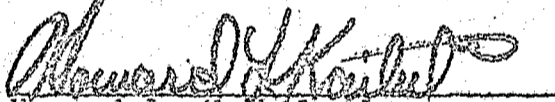
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The North Half of the Northeast Quarter of the Southeast Quarter (N $\frac{1}{2}$  of NE $\frac{1}{4}$  of SE $\frac{1}{4}$ ) of Section 31; and  
The North Half of the Northwest Quarter of the Southwest Quarter (N $\frac{1}{2}$  of NW $\frac{1}{4}$  of SW $\frac{1}{4}$ ) of Section 32;  
all of the foregoing being located in Stillwater Township, Township 30 North, Range 20 West, Washington County, Minnesota.


IT IS FURTHER ORDERED: That the Secretary of the Commission shall designate a time and place for a supplementary hearing in accordance with Minnesota Statutes Section 414.09, subdivision 1 within 30 days which hearing shall be limited to evidence as to the population, assessed valuation and property ownership of the Long Lake Area. A supplementary order shall be issued establishing these facts and fixing a day for an election if it is shown that this proceeding was not initiated by a majority of the property owners annexed.

IT IS FURTHER ORDERED: That all other assets and obligations of the Town of Stillwater shall remain the property and responsibility of the Township.

Dated this 5<sup>th</sup> day of January 1973

MINNESOTA MUNICIPAL COMMISSION  
304 Capitol Square Building  
St. Paul, Minnesota 55101

  
Howard L. Kaibel, Jr.  
Executive Secretary

# 24755  
STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
JAN 5 - 1973  
  
Arlen J. Edsall  
Secretary of State

MEMORANDUM

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED

JAN 5 - 1973

*Arden J. Erdahl*  
Secretary of State

In a commission memorandum, dated October 30, 1972, accompanying our order in the "Wild Pines" annexation (Commission Docket No. A-1985), we indicated that we were postponing final action on this petition for a period of thirty days "in order to give the governments involved one more opportunity to work out an agreement for orderly annexation". We noted in that memorandum that "The Stillwater City Council has enacted a proposal for orderly annexation. If that proposal is unacceptable to the town board, they have yet to submit a counter proposal". The township response is contained in a letter to the commission dated December 18, 1972, "You were misinformed. The township has said no!"

We have today decided that progress in the negotiations between the city and town has not been forthcoming and that further delay would be unwise and unjust. Our earlier memorandum indicated that, "We have expanded the hearing on this petition to consider all of the area south of Highway 96 and have thoroughly considered testimony as to how we might improve on the pending petition in some limited way". Today's order provides for that improvement by squaring off the boundaries of the city and by placing the lake of Long Lake and the land around it in one municipality to allow for unified land and lake use control.

While we have no statutory power to control zoning in the area annexed, we note the concerns expressed by the Washington County Planning Commission and urge, in the strongest way possible, that any changes in the zoning or comprehensive plan for this area should be made only with the full concurrence of the county planning commission and the Metropolitan Council.

We wish to emphatically re-emphasize our intention to discourage further piecemeal annexation in the Stillwater area. We remain hopeful that a comprehensive long range solution to boundary problems in this area may still be arranged. In this regard, we announce today our decision to grant the request of petitioners to postpone action on the consolidation petition between the township and the Village of Oak Park Heights (Commission Docket No. C11-mt) in order to thoroughly study what the long range solution should be. The Metropolitan Council has agreed to conduct a special study in this regard during that period.

24755