



STATE OF MINNESOTA
MUNICIPAL BOARD

Suite 165 Metro Square
7th & Robert Streets
St. Paul, Minnesota 55101

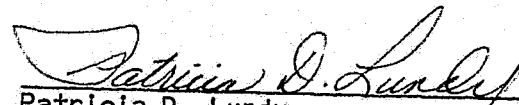
October 12, 1984

Secretary of State
c/o Donna Scott
State Office Building
St. Paul, Minnesota 55155

Re: Municipal Board Docket Number: D-184 Island View

The subject order of the Minnesota Municipal Board makes no changes in the population of the City of Island View.

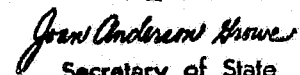
Official date of the Order is October 12, 1984.


Patricia D. Lundy
Assistant Director

PDL:sg

cc: Commissioner
Department of Revenue
c/o Wallace Dahl, Director
Tax Research Division
205 Centennial Building

R. Thomas Gillaspy, Ph.D.
State Demographer
101 Capitol Square Building

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 22 1984

Secretary of State

135572

D-184 Island View

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Robert J. Ferderer
Kenneth F. Sette
Richard A. Sand

Chairman
Vice Chairman
Commissioner

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 22 1984

Joan Anderson Howe
Secretary of State

135572

IN THE MATTER OF THE PETITION FOR)
THE DETACHMENT OF CERTAIN LAND FROM)
THE CITY OF ISLAND VIEW PURSUANT TO)
MINNESOTA STATUTES 414.06)

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on January 18, 1984, at Island View, Minnesota. The hearing was conducted by Robert J. Ferderer, Chairman, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance was Kenneth F. Sette, Vice Chairman of the Minnesota Municipal Board. The petitioners were represented by Walter A. Jaakkola, property owner, and the City of Island View was represented by Charles H. LeDuc, II. Testimony was heard and records and exhibits were received.

After due and careful consideration of all evidence together with all records, files and proceedings, the Minnesota Municipal Board hereby makes and files the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. On September 17, 1983, the Municipal Board received a petition signed by 32 property owners, requesting detachment from the City of Island View. On November 7, 1983, a letter serving as an addendum to the petition was received by the Municipal Board. The petition contained the description of the property proposed for detachment, which is as follows:

Government Lot 3 and Government Lot 5, Plat of Sha Sha, Section 33-71-22, Koochiching County, Minnesota.

One of the signatories to the petition requested, prior to notice of hearing being mailed and published, that she be allowed to withdraw her name from the petition. The board granted said request.

2. Due, timely and adequate legal notice of the hearing was published, served and filed.

3. The property owners alleged that there were 37 property owners in the area proposed for detachment. Further, they alleged that 31 of the property owners had signed the petition.

4. Based on the evidence presented at the hearing, there were at least 50 property owners located in the area proposed for detachment.

5. Based on the evidence presented as to property owners, the 31 signatories to the petition do not equal the requisite number of property owners to meet the jurisdictional requirement for a detachment petition.

CONCLUSIONS OF LAW

1. Since the requisite number of signatories did not sign the petition for detachment, the petition was defective and thus the Minnesota Municipal Board does not have jurisdiction of the within proceeding.

2. An order should be issued by the Minnesota Municipal Board denying the petition for detachment of the area described herein.

ORDER

1. IT IS HEREBY ORDERED: That the petition for the detachment of the area described herein in Findings of Fact 1 be, and the same hereby is denied because of lack of jurisdiction.

2. IT IS FURTHER ORDERED: That the effective date of this order is October 12, 1984.

Dated this 12th day of October, 1984.

MINNESOTA MUNICIPAL BOARD
165 Metro Square Building
St. Paul, Minnesota 55101

Terrence A. Merritt
Terrence A. Merritt
Executive Director

MEMORANDUM

The Board notes that the statute requires that a detachment petition contains 75% of the property owners if over 40 acres. In this case, the signatories to the petition were insufficient to meet that statutory requirement, thus preventing the Board from having jurisdiction.

The Board notes for the record, but does not rule on the issue raised by counsel for the city, namely that the underlying fee owner for some of the land is the State of Minnesota. Thus, the Board raises for consideration by any future petitioners, should there be any, that the property owners located on state-leased land may in effect be unable to qualify as property owners, since they are lessees and not property owners. The state may need to be a signatory to the petition, if future petitioners wish to have the property owner of the lease-hold land joining in the petition. The Board raises this issue, so that the parties are aware of that should they choose to repetition for the detachment of the property.

Without making a specific determination, the Board also notes that based on the evidence presented before it at the January 18, 1984 hearing, that it would, absent the jurisdictional denial requirement, have denied the case before it on the merits, since the evidence did not support the detachment. The Board notes that the property is residentially developed or commercially developed and not rural in character. Further, it notes that the primary testimony of those in opposition to the detachment focused upon the fact that the city would suffer undue hardship if the property were detached. The Board takes this opportunity to note such a determination, so as to afford the property owners, who may be considering repetition, the opportunity to review the evidence which they could develop to support their contention that the area proposed for detachment meets the criterion set forth in M.S.

414.06. The Board is mindful that these hearings are costly, not only to the state, the city, but also the property owners seeking the detachment, and through these advisory comments, it hopes that the parties will be better able to make a determination about how they wish to proceed.

TAM
10-12-84

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D.P.