

Eau Claire  
(Eau Claire County)

APPEAL OF A JUDGMENT

State of Wisconsin )  
Department of State ) ss.

Received and filed this .....18th.....

day of .....March..... A.D. 19..76...

*Douglas H. Follotte*  
.....  
Secretary of State

LEGAL DEPARTMENT

# City of Eau Claire

## WISCONSIN

COUNCIL-MANAGER  
GOVERNMENT

March 17, 1976

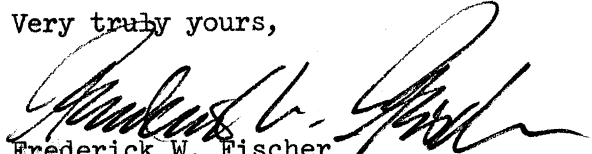
Secretary of State  
State of Wisconsin  
State Capitol  
Madison, Wisconsin 53702

Re: Town of Union, a Wisconsin Township  
vs.  
City of Eau Claire, a Wisconsin Municipal Corporation

Dear Sir:

Enclosed are four copies of a Notice of Appeal to Supreme Court in the above-entitled matter, pursuant to Wis. Stats. s. 66.026.

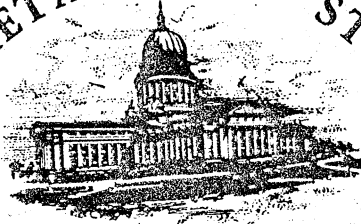
Very truly yours,



Frederick W. Fischer  
City Attorney

mf  
enc. (4)

SECRETARY OF STATE



Doug LaFollette  
SECRETARY OF STATE

WISCONSIN

Room 112, West, Capitol  
Madison, Wisconsin 53702  
Phone: 608-266-3330

March 18, 1976

Department of Transportation  
Room 901  
Hill Farm State Office Building

Attn: Mr. Rex Hinrichs

Dear Sir:

Pursuant to s. 66.026, we are enclosing in duplicate, copies of a notice of appeal of a judgment in the case of the Town of Union vs. the City of Eau Claire, on February 12, 1976.

Sincerely,

A handwritten signature in cursive script that reads "Douglas LaFollette".

DOUGLAS LAFOLLETTE  
Secretary of State

DLF:kd  
enc.

cc: Department of Revenue  
Department of Administration  
File  
Municipality

TOWN OF UNION, a  
Wisconsin Township,

Plaintiff,

vs.

NOTICE OF APPEAL TO  
SUPREME COURT

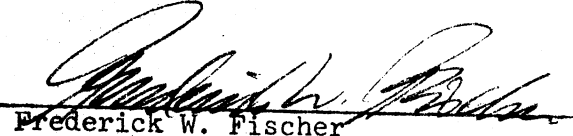
CITY OF EAU CLAIRE, a  
Wisconsin Municipal Corporation,

Defendant.

Sir:

Please take notice that the City of Eau Claire, defendant in this action, hereby appeals to the Supreme Court of the State of Wisconsin, from the judgment rendered and entered in this action, in the Circuit Court for the County of Eau Claire, on the 5th day of January, 1976, in favor of the plaintiff and against the defendant, wherein the said circuit court declared an annexation ordinance of the City of Eau Claire adopted on or about January 17, 1975, to be arbitrary, capricious, violative of the rule of reason and thereby invalid, and making other declarations, and from the whole of said judgment, a copy of which is attached hereto and made a part hereof by reference.

Dated this 12 day of February, 1976.

  
Frederick W. Fischer  
Attorney for Defendant City of Eau Claire

To Raymond C. Johnson, Plaintiff's Attorney  
415 South Farwell Street,  
Eau Claire, Wisconsin, and to the  
Clerk of the Circuit Court for Eau Claire County, Wisconsin

COPY

STATE OF WISCONSIN

CIRCUIT COURT

EAU CLAIRE COUNTY

TOWN OF UNION, a  
Wisconsin Township,

Plaintiff,

vs.

UNDERTAKING FOR COSTS

CITY OF EAU CLAIRE, a  
Wisconsin Municipal Corporation,


Defendant.

WHEREAS, on the 5th day of January, 1976, in the Circuit Court for Eau Claire County, the above named plaintiff recovered a judgment against the above-named defendant which declared an ordinance adopted by the City of Eau Claire on or about January 17, 1975, to be invalid, and making other declarations, a copy of which judgment is attached hereto and made a part hereof by reference, and the said defendant feeling aggrieved thereby intends to appeal therefrom to the Supreme Court of the State of Wisconsin.

NOW, THEREFORE, we, James E. Ritsch and James W. Fering, both of the City of Eau Claire, Eau Claire County, Wisconsin, do hereby, pursuant to the statute in such case made and provided, undertake that the said appellant will pay all costs and damages which may be awarded against it on said appeal, not exceeding \$250.00.

Dated at Eau Claire, Wisconsin, this 12 day of FEBRUARY, 1976.


  
James E. Ritsch

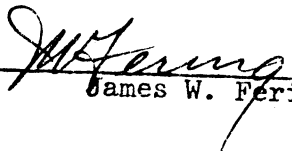
  
James W. Fering

AFFIDAVIT OF SURETIES

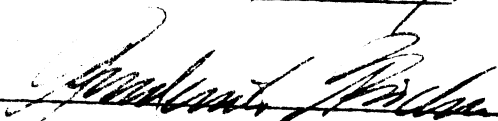
STATE OF WISCONSIN     )  
                                  )  
EAU CLAIRE COUNTY     )

James E. Ritsch and James W. Fering, being each first duly sworn, each for himself says he is one of the subscribers to the foregoing undertaking; that he is a resident of the State of Wisconsin, and resides as stated in said undertaking, and is worth the sum of \$250.00 over and above all his debts and liabilities, in property within the State of Wisconsin, not by law exempt from execution.

  
\_\_\_\_\_  
James E. Ritsch

  
\_\_\_\_\_  
James W. Fering

Subscribed and sworn to before me  
this 12 day of February, 1976.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is permanent

Town of Union,  
A Wisconsin Township

Plaintiff,

-vs-

JUDGMENT

City of Eau Claire,  
A Wisconsin Municipal Corporation

Defendant.  
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This action having been brought on for trial on the 14th and 15th days of August, 1975, and the parties having stipulated to the evidence adduced during the hearing on the 16th and 17th days of January, 1975, becoming a part of the record in the trial and having been heard before the Honorable Merrill R. Farr, Circuit Judge, and the Court having made and filed its Findings of Fact and Conclusions of Law;

NOW THEREFORE, on Motion of Adler, La Fave and Johnson attorneys for the plaintiff by Raymond C. Johnson

IT IS ORDERED, ADJUDGED AND DECREED, that the Ordinance adopted by the defendant, City of Eau Claire on or about January 17, 1975 annexing 855 acres of farm land in the Town of Union is invalid.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the City of Eau Claire has no present nor reasonably foreseeable future need for any additional lands.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the City of Eau Claire has no present nor reasonably foreseeable future for this particular farm land for orderly expansion of its boundaries.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the "desirability" or "advisability" of the proposed annexation are not examined

by this Court. However, the taking of a corridor 1 1/4 miles long to get at the prize at the end of the string is arbitrary and capricious. It is an attempted distortion of the direct annexation statute.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the ordinance is also arbitrary and capricious because of the inclusion of the County land to which the City can bring no benefit and which land brings no benefit to the City and which land obviously was included for the exclusive purpose of creating contiguity with the City.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the proposed annexation, when viewed in its entirety, (i. e., shape, boundaries, bridge-type contiguity, coupled with the 6 and 3/10 square miles of vacant land existing within the City of Eau Claire), is arbitrary and capricious and violates the rule of reason.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a Permanent Injunction issue restraining the City of Eau Claire from enforcing the ordinance adopted by said City on or about the 17th day of January 1975, annexing certain lands lying in the Town of Union to the City of Eau Claire.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Undertaking for injunction dated January 6, 1975 on file herein is released.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the City of Eau Claire pay to the Town of Union the sum of \$ \_\_\_\_\_ as and for costs and disbursements in this action.

Dated this 2nd day of January, 1976.

BY THE COURT:

Merrill R. Farr, Circuit Judge