

CITY OF MENASHA

COUNTY OF WINNEBAGO

Notice of Litigation
&
Judgment

OFFICE OF THE SECRETARY OF STATE
State of Wisconsin

Filed March 9, 1990

DOUGLAS LA FOLLETTE



SECRETARY OF STATE
WISCONSIN

Department of Transportation
Room 951
Hill Farm State Office Building
Madison WI

Attn: John Pamperin

Dear Sir:

Pursuant to Wis. Stat. 66.026, we are pleased to enclose, in duplicate
Certificate and plat relating to Notice of Commencement of Litigation
and Judgment
to contest annexation filed by the Common Council of the City of

Menasha, County of Winnebago, on

December 16, 1987.

Sincerely,

A handwritten signature in cursive script that reads "Douglas La Follette".

DOUGLAS LA FOLLETTE
Secretary of State

cc: Depts. of:

Administration
Development
Public Instruction
Revenue

Clerk
File

132
Winnipeg



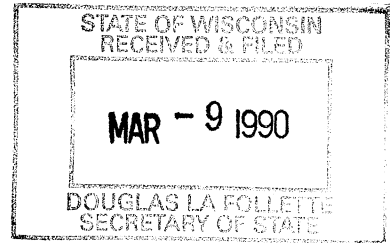
City of Menasha

OFFICE OF THE CITY CLERK

140 MAIN ST. • MENASHA, WISCONSIN 54952-3190 • (414) 729-5100

March 7, 1990

Secretary of State's Office
Attn: Government Records
P.O. Box 7848
Madison, WI 53707



Dear Sir/Madam:


Enclosed please find the following documents pertaining to the PDQ annexation from the Town of Menasha to the City of Menasha:

- 4 copies of notice of litigation
- 4 copies of the judgment rendered

Please forgive my extreme tardiness in reporting the enclosed, but my legal direction was not very clear or timely.

Anyone wishing clarification about this annexation is to contact only the City Attorney, Richard J. Steffens, 140 Main Street, Menasha, WI 54952-3190 or call (414)-729-5152.

Sincerely,


Raymond C. Zielinski
City Clerk

/js

Enclosures

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH II

WINNEBAGO COUNTY

RECEIVED
MAR 15 1988

RECEIVED & FILED
MAR - 9 1990
DOUGLAS LA FOLLETTE
SECRETARY OF STATE

TOWN OF MENASHA
1000 Valley Road
Menasha, WI 54952,

Plaintiff,

CITY OF MENASHA, SUMMONS
BY RCZ

vs.

Case No. 88CV357

CITY OF MENASHA
140 Main Street
Menasha, WI 54952,

Defendant.

THE STATE OF WISCONSIN TO EACH PERSON NAMED ABOVE AS A DEFENDANT:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Court, whose address is 415 Jackson Street, P.O. Box 2808, Oshkosh, Wisconsin, and to Roger W. Clark, Plaintiff's attorney, whose address is 301 North Lynndale Drive, Appleton, Wisconsin 54914. You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 11th day of March, 1988.

HERRLING, CLARK, HARTZHEIM &
SIDDALL, LTD.
Attorneys for Plaintiff

301 North Lynndale Drive
Appleton, WI 54914
(414) 739-7366

By [Signature]
ROGER W. CLARK

TOWN OF MENASHA
1000 Valley Road
Menasha, WI 54952,

Plaintiff,

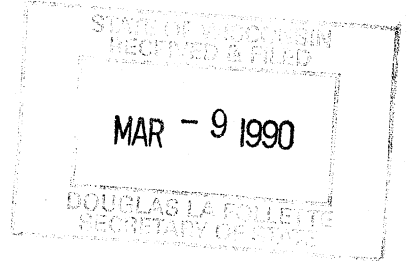
vs.

CITY OF MENASHA
140 Main Street
Menasha, WI 54952,

Defendant.

COMPLAINT

Case No. _____



NOW COMES the above-named Plaintiff, by its attorneys, HERRLING, CLARK, HARTZHEIM & SIDDALL, LTD., by Roger W. Clark, and as and for claims and causes of action in the above-entitled matter allege as follows:

1. That the Plaintiff, Town of Menasha, is a quasi-municipal corporation duly organized and existing under the laws of the State of Wisconsin and has principal offices located at 1000 Valley Road, Menasha, Winnebago County, Wisconsin 54952.

2. That the Defendant, City of Menasha, is a political subdivision of the State of Wisconsin and is duly organized and existing under the laws of this state and has principal offices located at 140 Main Street, Menasha, Winnebago County, Wisconsin 54952.

3. That on November 6, 1987, a Notice of Intent to Circulate a Petition for Annexation was published in the Appleton Post-Crescent.

4. That the Petition was circulated commencing on or about November 18, 1987 and was filed with the City Clerk on November 18, 1987, containing the signature of one person, F. David Krizenesky, purporting to request annexation for the legally described property. Said Petition is attached hereto as Exhibit "A".

STATE RECORDS
MAR - 9 1990
DOUGLAS LA FOLLETTE
SECRETARY OF STATE

5. That the Petition for Annexation purports to request that the City of Menasha annex portions of territory in the Town of Menasha into the City of Menasha. That further, the Petition purports to detach the property from the Town of Menasha. See Exhibit "B".

6. That the Menasha City Council acted upon the annexation of said territory to the City of Menasha on December 16, 1987.

7. That the Petition for Annexation is in violation of Section 66.021(2), Wis. Stats., insofar as the Petition for Annexation was not signed by a majority of the electors residing in the area annexed. That further, said Petition for Annexation was not signed by either the owners of one-half (1/2) of the land in the area annexed or the owners of one-half (1/2) of the real property in assessed value of the land in the area annexed.

8. That the Petition for Annexation is in violation of Section 66.021(4)(a), Wis. Stats., insofar as said Petition failed to specify the current population of the property proposed to be annexed.

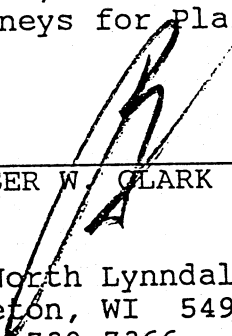
9. That the Petition for Annexation is in violation of Section 66.021, Wis. Stats., insofar as it violates the Rule Reason because the territory annexed is not contiguous to the City

of Menasha. That further, said annexation is arbitrary and capricious insofar as the City of Menasha cannot show a need for the newly annexed territory and cannot show any other legally justifiable reason to annex said parcel.

WHEREFORE, the Plaintiff demands that the Court declare the Petition for Annexation and the Ordinance of the City of Menasha and its resolution and action taken in regard to said Petition for Annexation as invalid.

Dated this 11th day of March, 1988.

HERRLING, CLARK, HARTZHEIM &
SIDDALL, LTD.
Attorneys for Plaintiff

By 

ROGER W. CLARK

301 North Lynndale Drive
Appleton, WI 54914
(414) 739-7366

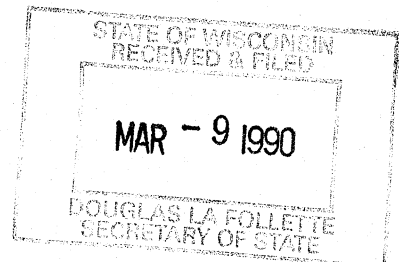


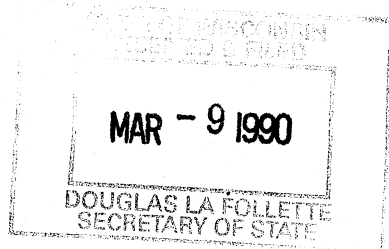
EXHIBIT "A"

PETITION OF ELECTORS AND PROPERTY OWNERS
FOR DIRECT ANNEXATION

We, the undersigned, constituting a majority of the resident electors and the owners of at least one-half of the land in area or one-half of the real property in assessed value in the following territory of the town of Menasha, Winnebago County, Wisconsin, lying contiguous to the City of Menasha, petition the honorable Thom A. Ciske, Mayor and Common Council of the City of Menasha to annex the territory described below and shown on the attached scale map to the City of Menasha, Winnebago County, Wisconsin:

A parcel of land located in part of the Southwest 1/4 of Section II, Township 20 North, Range 17 East, Town of Menasha, Winnebago County, Wisconsin, more particularly described as follows:

Lot One (1), according to CERTIFIED SURVEY MAP filed in Volume One (1) of Survey Maps on Page 278, as Document No. 510526.



*Filed Nov. 19, 1987 with
City Clerk.
Verified 12/13/87 - REB*

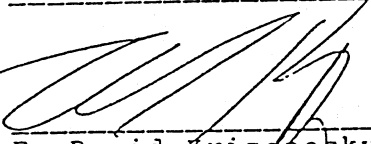
*Rec'd 12/13/87, REB
EXHIBIT "A"*

EXHIBIT "A"

page 2

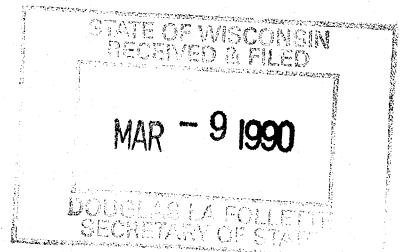
PETITION OF ELECTORS AND PROPERTY OWNERS FOR DIRECT ANNEXATION

We the undersigned, elect that this annexation shall take effect to the full extent consistent with outstanding priorities of other annexation, incorporation or consolidation proceedings, if any.

SIGNATURE OF PETITIONER	DATE OF SIGNING	OWNER	ADDRESS OF PROPERTY
 F. David Krizenesky	11-18-87	owner	1065 Racine St. more particularly described*
_____ Patti Krizenesky		owner	1065 Racine St. more particularly described*
_____ Dr. Edward Esselman		owner	1065 Racine St. more particularly described*

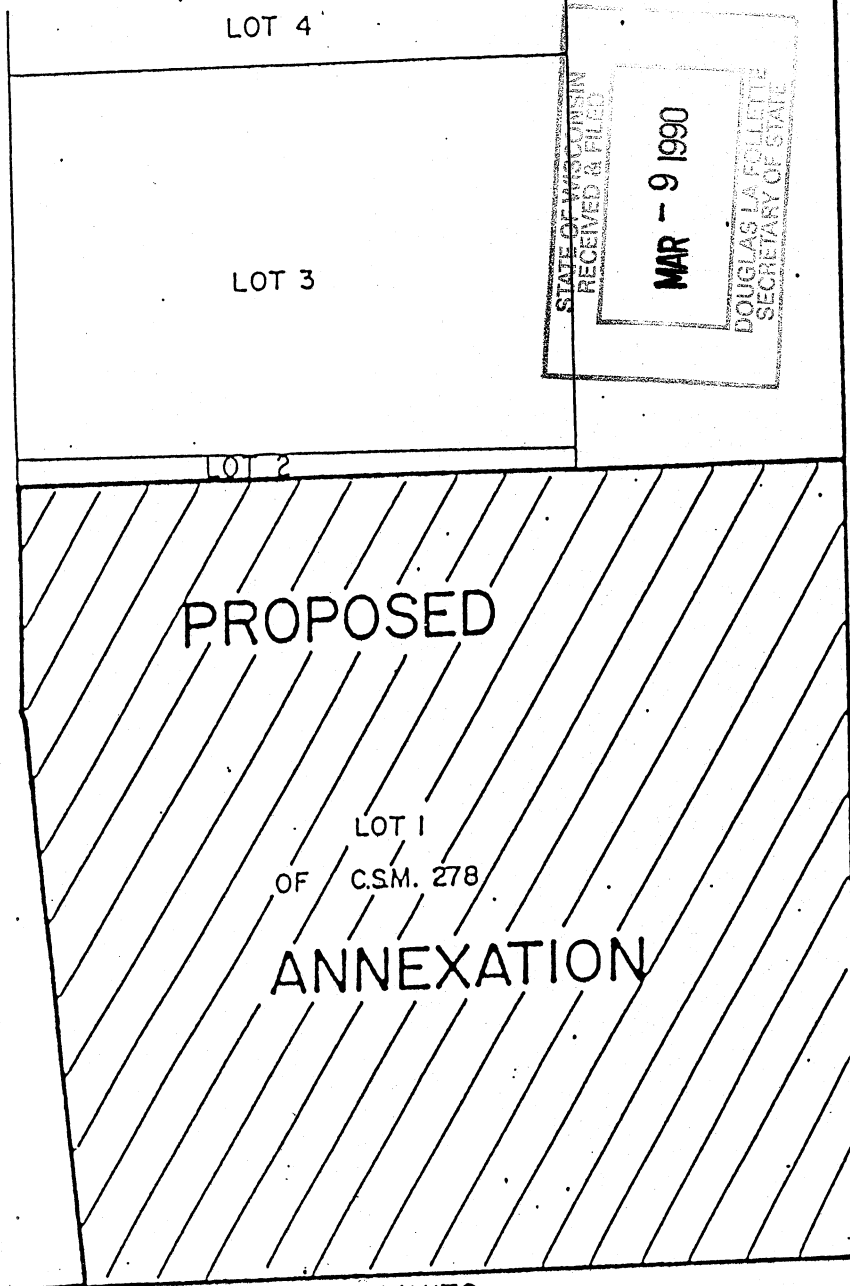
* A parcel of land located in part of the Southwest 1/4 of Section II, Township 20 North, Range 17 East, Town of Menasha, Winnebago County, Wisconsin, more particularly described as follows:

Lot One (1), according to CERTIFIED SURVEY MAP filed in Volume One (1) of Survey Maps on Page 278, as Document No. 510526.



RACINE (C.T.H. "P") ROAD

CITY LIMITS



STATE OF WISCONSIN
RECEIVED & FILED
MAR - 9 1990
DOUGLAS LA FOLLETTE
SECRETARY OF STATE

PROPOSED
ANNEXATION
OF
LOT 1
OF
C.S.M. 278

12TH

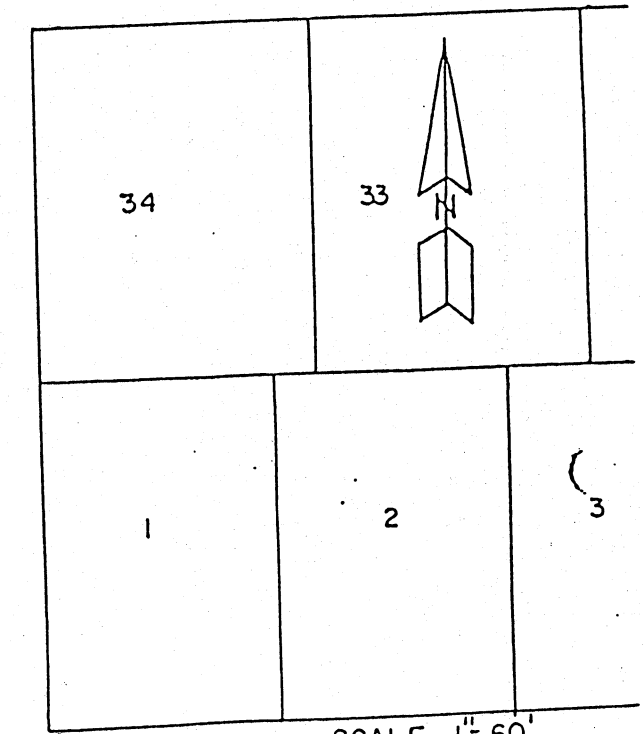
CITY LIMITS

STREET

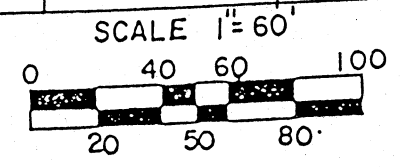
CITY LIMITS

APPLETON

STREET



KAREN DRIVE



III. REPORT OF COMMITTEES, BOARDS, COMMISSIONS, Cont'd

10. DNR, 3/28/88 - Sewer Use Ordinance/User Charge System
11. Shirley Day, 3/31/88 - Senior Center
12. CDD Novak to Val Wiley/Fox Cities Conv.&Visitors Bureau, 3/31/88 - Time Extension/Spirit of Fox Funds
13. P&R Dir. Leuthold, 3/31/88 - Arbor Day celebration
14. Public Service Comm., 4/1/88 - Prehearing Conf./WI Nat. Gas Co. Rate Increase (On file, posted in lobby)
15. Inspection Dept., 4/1/88 - Permits issued for the month of March 1988
16. Main Street News, Spring 1988 (On file)
17. Dept. of Transportation, 4/4/88 - Highway Aids Payment Winnebago & Calumet Counties (On file)
18. Dept. of Development, 3/31/88 - Western Lea plat
19. Congressman Petri, 4/1/88 - Fox River Locks system
20. RAPPORT, Vol. 15, No. 1 (On file)

Motion carried.

IV. CLAIMS AGAINST THE CITY

- A. Atty. Roger Clark representing the Town of Menasha vs. City of Menasha regarding PDQ annexation.

No action taken at this time.

V. REPORT OF OFFICERS

- A. Clerk instructed to invite new aldermen to the next Committee of the Whole Meeting, April 18, 1988.
- B. Report of Council President Griesbach pertaining to hiring a Personnel Director. (see attached)
- C. Resignation of City Health Nurse Toni Ellis.

VI. LICENSES

VII. PEOPLE FROM THE GALLERY TO BE HEARD ON ALL MATTERS OF CONCERN TO THE CITY (5 minute time limit for each person)

VIII. ORDINANCES AND RESOLUTIONS

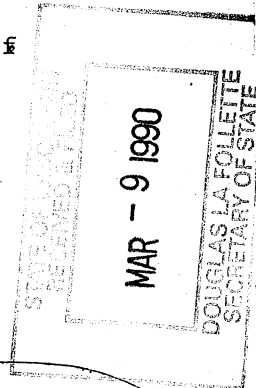
- A. An Ordinance Pertaining to the Requirement of Smoke Detectors.

Moved by Ald. Nyberg, seconded by Ald. Bellmore to suspend the rules and take up the matter at this time.

Motion carried on roll call 10-0.

Moved by Ald. Nyberg, seconded by Ald. Bellmore recommending adoption of O-14-88.

Motion carried.



STATE OF WISCONSIN

CIRCUIT COURT
BRANCH III

WINNEBAGO COUNTY

TOWN OF MENASHA,

Plaintiff,

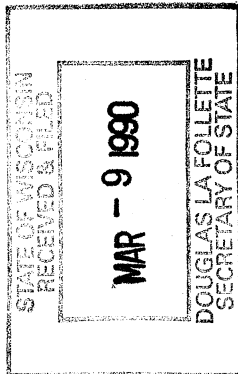
-v-

CITY OF MENASHA,

Defendant.

STIPULATION AND
ORDER FOR JUDGMENT

CASE NO. 88-CV-357





IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the parties hereto, as follows:

1. That the annexation ordinance which is the subject matter of the above-captioned lawsuit is invalid.

2. That as a result of the declaration of the invalidity of the inception of the annexation ordinance, the Petition for Annexation which is the subject of this action is hereby deemed to have been invalid, and said ordinance of the City of Menasha which was premised thereon is also invalid.

DATED this 30th day of November, 1988.


John D. Claypool, Attorney for Plaintiff

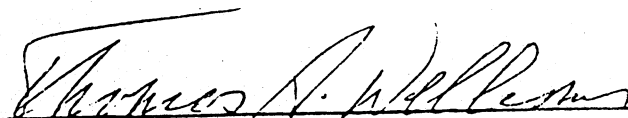

Richard J. Steffens, Attorney for Defendant

ORDER FOR JUDGMENT

BASED on the above Stipulation, the annexation of the attached parcel (Exhibit "A") passed by the City of Menasha on 12/16/87 is hereby declared null and void, and the property is declared to be within the municipal boundaries of the Town of Menasha.

DATED this 13 day of Dec., 1988.

BY THE COURT:


Thomas S. Williams
Circuit Judge, Branch 3

ORDINANCE O- 46 -87

AN ORDINANCE ANNEXING TERRITORY TO THE CITY OF MENASHA
(PDQ PROPERTY)

REQUESTED BY: Alderman Betsy Jakowski

The Common Council of the City of Menasha do ordain as follows:

SECTION 1: Territory Annexed. In accordance with Section 66.021 of the Wisconsin Statutes, and the Petition for direct Annexation filed with the city clerk of the City of Menasha signed by a majority of all of the owners of the real property in the territory, the following described land in the Town of Menasha, Winnebago County, Wisconsin, is annexed to the City of Menasha, Wisconsin.

A parcel of land located in part of the Southwest 1/4 of Section 11, Township 20 North, Range 17 East, Town of Menasha, Winnebago County, Wisconsin, more particularly described as follows:

Lot One (1), according to CERTIFIED SURVEY MAP filed in Volume One (1) of Survey Maps on Page 278, as Document No. 510526.

SECTION 2: Effect of Annexation. From and after the date of this ordinance, the territory described in Section 1 shall be part of the City of Menasha for any and all purposes provided by law and all persons coming on or residing within such territory shall be subject to all ordinance, rules and regulations governing the City of Menasha.

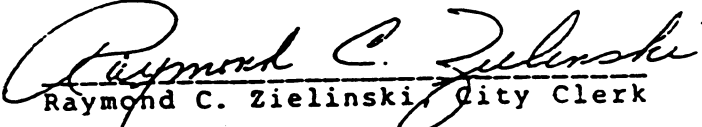
SECTION 3: Ward and District Designation. The territory described in Section 1 of this ordinance is hereby made a part of the 8th Ward of the 4th District of the City of Menasha.

SECTION 4: Effective Date: This ordinance shall take effect upon its passage and publication as provided by law.

Passed and approved this 16th day of December, 1987.


Thom A. Ciske, Mayor

ATTEST


Raymond C. Zielinski, City Clerk

CITY ATTORNEY NOTE: This ordinance requires a two-thirds vote of all the members of the Common Council as all annexation ordinance do. The City Clerk should send the required copies to the designated entities as well as the plat map as spelled out in Duties of the Clerk under Section 66.021(8) of the Wisconsin Statutes. RJS

STATE OF WISCONSIN
RECEIVED AND FILED

DEC 21 1987

JOUGLAS LA FOLLETTE
SECRETARY OF STATE

MAR - 9 1990

DOUGLAS LA FOLLETTE
SECRETARY OF STATE

RACINE (C.T.H. "P") ROAD

CITY LIMITS

12TH

CITY LIMITS

LOT 4

LOT 3

LOT 2

PROPOSED

LOT 1
OF
C.S.M. 278

ANNEXATION

CITY LIMITS

STREET

APPLETON

STREET

STATE OF WISCONSIN
RECEIVED AND FILED
DEC 21 1987
DOUGLAS LA FOLLETTE
SECRETARY OF STATE

46

KAREN DRIVE

34

33



1

2

SCALE 1" = 60'

