

# RINKE NOONAN

ATTORNEYS AT LAW

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July 7, 2008

COPIED TO: CC X

DATE 7-7-08 PC       

STAFF X

P&R       

FIRE       

Trygve Hanson  
Department of Natural Resources  
940 Industrial Drive S.  
Sauk Rapids, MN 56379  
By Email: [trygve.hanson@dnr.state.mn.us](mailto:trygve.hanson@dnr.state.mn.us)

Re: **City of Rockville Pleasant Lake (Stearns County) Drainage Project**  
**Our File No. 16642.060**

Dear Trygve:

I am following up on our earlier conversation, and my voice messages.

The City of Rockville is seeking to develop a drainage project on Pleasant Lake (Stearns County). The project would necessitate the diversion of stormwater from the current route through private property of the 400 Club to a portion of the State's public access land on Pleasant Lake.

To facilitate this, the City is seeking an easement from the State providing for this drainage across the public access land. It appears that there exists a private access easement which encumbers the same portion of the State's property.

It is unsettled as to whether this private access easement benefits a specific property owner (John Kerber), or Mr. Kerber and the subsequent property owners of a subdivision development just off of the lake. At this time, it is the City's position that it should be assumed that these property owners are likely beneficiaries of the private access easement.

You indicated that the State is concerned about this encumbrance in granting an easement to the City. Similarly, the City is concerned that any drainage project not be subject to a future claim for encroachment by a private access easement beneficiary.

As the property owner, the State is able to quiet the title to the public access land. It is believed that the current property owners would not contest a judicial quiet title action. This is the preferred alternative, as a quiet title action will conclusively extinguish the easement. You had

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RINKE, NOONAN, SMOLEY, DETER, COLOMBO, WIANT, VON KORFF & HOBBS, LTD.

D. Michael Noonan  
William A. Smolay<sup>1</sup>  
Kurt A. Deter<sup>4</sup>  
Barrett L. Colombo

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Adam A. Ripple  
Brodie L. Miller  
Sarah E. Fisher<sup>1</sup>  
Andrew J. Stell<sup>1</sup>

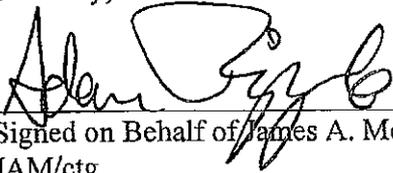
1. Qualified neutral under Rule 11A. 2. A Real Property Law Specialist certified by the Minnesota State Bar Association. 3. Admitted to practice law in Wisconsin. 4. Admitted to practice law in North Dakota. 5. Admitted to practice law in South Dakota. 6. Sherburne County Examiner of Titles. 7. Admitted to practice law in Arizona. 8. Admitted to practice law in Iowa.

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indicated that you were required to consult with other officials with the Department of Natural Resources to determine the next step in resolving this problem.

As the City is interested in proceeding with the drainage project, please contact me as soon as possible to determine how the issue with the private access easement can be remedied. I appreciate your help with this. If you require additional information, or I need to contact another official, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Mogen", written over a horizontal line.

Signed on Behalf of James A. Mogen  
JAM/ctg

cc: Scott Hedlund, SEH, City Engineer (by email [shedlund@sehinc.com](mailto:shedlund@sehinc.com))  
Rena Weber, City Administrator (by email [rweber@rockvillecity.org](mailto:rweber@rockvillecity.org))  
Don Simon, City Councilmember, Street Committee (by email [donsimon48@msn.com](mailto:donsimon48@msn.com))

AUG 10 2008

D-454 Rockville

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

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IN THE MATTER OF THE PETITION FOR THE	)	
DETACHMENT OF CERTAIN LAND FROM THE	)	<u>NOTICE OF</u>
CITY OF ROCKVILLE PURSUANT TO MINNESOTA	)	<u>RECONVENED HEARING</u>
STATUTES 414	)	

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The evidentiary hearing concerning this Petition will reconvene on Tuesday August 19, 2008, beginning at 9:00 a.m. in the Council Chambers of the Rockville City Hall, 229 Broadway Street, E., Rockville, Minnesota. The hearing will be before Chief Administrative Law Judge Raymond Krause. This is a continuation of the first hearing in this matter held on April 3, 2008.

The only formal parties to this proceeding to date are the Petitioners; Attorney for the Petitioners, Harry E. Burns; the City of Rockville; Attorney for the City of Rockville, James A. Mogen, Jr.; the Township of Maine Prairie; and Attorney for the City of Maine Prairie Township, Peter Tiede. The Petitioners have petitioned the State for authority to detach certain land.

The hearing will be conducted pursuant to the procedure set out in Minn. Rules, Chapter 6000 as supplemented by Minnesota Rules 14.57 - 14.62. A copy of the Rules may be purchased from the Minnesota Bookstore, telephone: 651-297-3000. The Rules are also located on the Internet at [www.revisor.leg.state.mn.us](http://www.revisor.leg.state.mn.us). Persons seeking more information about the hearing procedure should contact Judge Krause, at 651-361-7900.

The property proposed for detachment is described as follows:

Township 123N, Range 29W, Sections 31, 32, 33, 34, 35, and 36

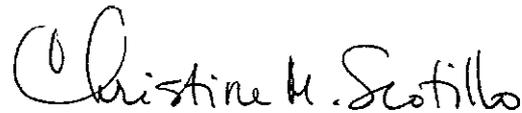
Following the close of the hearing, the Chief Administrative Law Judge will issue a written final decision pursuant to Minnesota Statutes, Chapter 414 and the May 15, 2008 referral from Municipal Boundary Adjustments.

Information concerning the proposed detachment may be reviewed by contacting the Chief Administrative Law Judge or Verena Weber, Rockville City Administrator/Clerk, telephone: 320-251-5836.

For special accommodations, please contact Office of Administrative Hearings - Municipal Boundary Adjustments, Christine M. Scotillo, Executive Director, P. O. Box 64620, St. Paul, Minnesota 55164-0620, (651) 361-7900; or Greater Minnesota TTY 1-800-627-3529.

Dated this 11<sup>th</sup> day of July, 2008.

For the Chief Administrative Law Judge  
P. O. Box 64620  
St. Paul, Minnesota 55164-0620

A handwritten signature in black ink that reads "Christine M. Scotillo". The signature is written in a cursive style with a large initial "C".

Christine M. Scotillo  
Executive Director  
Municipal Boundary Adjustments