

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BEFORE THE
STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission
Docket # 05-AP-3

**The proposed annexation of territory
in Eureka Township to the City of Greenville,
Montcalm County.**

**SUMMARY OF PROCEEDINGS,
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

SUMMARY OF PROCEEDINGS

1. On November 23, 2005, a petition designated as Docket #05-AP-3 was filed with the State Boundary Commission requesting the annexation of certain territory in Eureka Township to the City of Greenville, Montcalm County.
2. On February 23, 2006, the State Boundary Commission examined the petition for legal sufficiency at an adjudicative meeting held in Lansing. The Commission declared the petition to be legally insufficient.
3. On April 20, 2006, the State Boundary Commission adopted this Summary of Proceedings, Findings of Fact and Conclusions of Law at an adjudicative meeting held in Okemos.

FINDINGS OF FACT

The Commission finds that:

1. The Part 1 map does not clearly identify the area to be annexed; does not identify existing government boundaries (ie city/township) in relation to the area proposed for annexation; and, the relationship between the Part I map and the Part III legal description of the area proposed for annexation is not unambiguous to a lay person. (Rule 25)

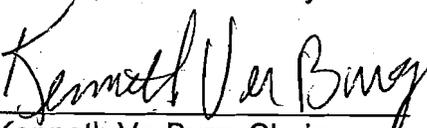
2. At the time this petition was filed, the territory proposed for annexation was not contiguous with the City of Greenville.

[Note: the above was unbeknownst to the involved parties at the time the petition was filed on November 23, 2005 with the Boundary Commission. Prior to filing this petition, both units of government adopted mutual resolutions, in accordance with the Home Rule City Act, for the annexation of properties to the south of the area proposed for annexation. However, the local resolutions were not filed with the Secretary of State until December 2005 and January 2006, respectively. Annexations conducted in accordance with the Home Rule City Act become effective upon filing with the Secretary of State (M.C.L 117.13).]

3. Part VI of the petition contains a document from Wal-Mart Real Estate Business Trust which authorizes Michael E. Gardner, Assistant Vice President, to act as agent in real estate transactions on behalf of "the Company." The reference to "the Company" is not clear as to what it represents. The name of Michael E. Gardner is listed on the officer list of both Wal-Mart Stores East, LP, and Wal-Mart Real Estate Business Trust. Wal-Mart Real Estate Business Trust is not the record holder of the property proposed for annexation.
4. According to a warranty deed and quit claim deed submitted pursuant to Rule 25, the petitioner and record owner of the property proposed for annexation is identified as Wal-Mart Stores East, LP. No documentation was provided by the owner of record to disclose that Michael E. Gardner was authorized to execute this petition for annexation.
5. The "Certificate of Assistant Secretary" document references an Exhibit A as being Article IV, Section 3 of the Corporation's by-laws. However, the attachment marked as Exhibit A is Article VII, Section 7. No other Exhibit A was found in the petition.

CONCLUSIONS OF LAW

1. The Boundary Commission **rejects** this petition on the ground that it fails to conform to the Boundary Commission Act and Administrative Rules.
2. Pursuant to Section 8 of Public Act 191 of 1968, as amended, the Commission shall transmit a copy of this Summary of Proceedings, Findings of Fact and Conclusions of Law to the petitioner, and to the clerks of the City of Greenville, the Township of Eureka, and the County of Montcalm.


Kenneth VerBurg, Chairman

April 20, 2006