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August 7, 2020

**Via E-mail and Postal Service Mail**

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**Re: Follow-up Questions to Greenleaf Incorporation Hearing**

Dear Erich:

Attached is the Wisconsin Statute per your request. I highlighted the portion of the statute that states that the definition of “metropolitan community” under Wis. Stat. § 66.0201(2)(c) is applicable to the incorporation because “the context requires otherwise.” The context requires otherwise in this case because of Greenleaf’s well-established intention to perform the Harrison two-step to acquire the remnant town if Greenleaf’s incorporation is granted. If the IRB approves this incorporation and the Harrison two-step is performed, this will be a metropolitan community per Wis. Stat. § 66.0207(2)(c). (See p. 8, footnote 4 of our July 24 submission). As such, it is our position that this is a situation where the legislature intended the IRB to have discretion to consider impacts on the metropolitan community, notwithstanding the fact that the area at issue will not be a metropolitan community until after the incorporation is granted and the Harrison two-step is completed.

As to the harm to the town remnant, when Greenleaf performs the Harrison two-step acquisition of the remnant Town, the property rights of residents in the Town will be diminished significantly. Such an acquisition would make it impossible for residents to choose to be annexed by the Village of Wrightstown (the “Village”). As described in section II (a) of our July 24, 2020 submission to the IRB, the Village has made substantial investments in infrastructure to provide future opportunities for efficient development and economic benefits throughout the

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region. The Village has never participated in predatory annexation practices. Instead, property owners have voluntarily requested to be annexed to enjoy the benefits of these resources. As the Village continues to improve its utility infrastructure and increase property values, more and more property owners in the Town may wish to be annexed to the Village of Wrightstown. Greenleaf's plan takes away the rights of Town property owners because they will no longer have the ability to choose to annex into the Village of Wrightstown and benefit from the Village's sewer and water services. Accordingly, it appears that the Petitioners are more concerned with expanding Greenleaf's borders and preventing further Village expansion than the needs and rights of property owners in the Town.

Overall, Greenleaf's plan to incorporate, perform the Harrison two-step, and acquire the entire Town is a context that requires the IRB to consider the impacts on the surrounding metropolitan community as the definitions section of Wisconsin Statute 66.0201 (2) allows. Further, performing the Harrison two-step will diminish property owner rights in the region and hinder regional development, investment, and cooperation.

Thank you for your follow-up questions and please feel free to reach out for any further clarification. We look forward to the September 22 meeting.

Sincerely,

**LAW FIRM OF CONWAY, OLEJNICZAK & JERRY, S.C.**

By:

  
Robert R. Gagan

RRG:lps:3486223\_5

**66.0143 Local appeals for exemption from state mandates. (1) DEFINITIONS.** In this section:

(a) “Political subdivision” means a city, village, town, or county.

(b) “State mandate” means a state law that requires a political subdivision to engage in an activity or provide a service, or to increase the level of its activities or services.

(2) **APPEALS FOR EXEMPTIONS.** (a) A political subdivision may file a request with the department of revenue for a waiver from a state mandate, except for a state mandate that is related to any of the following:

1. Health.
2. Safety.

(b) An administrative agency, or the department of revenue, may grant a political subdivision a waiver from a state mandate as provided in par. (c).

(c) The political subdivision shall specify in its request for a waiver its reason for requesting the waiver. Upon receipt of a request for a waiver, the department of revenue shall forward the request to the administrative agency that is responsible for administering the state mandate. The agency shall determine whether to grant the waiver and shall notify the political subdivision and the department of revenue of its decision in writing. If no agency is responsible for administering the state mandate, the department of revenue shall determine whether to grant the waiver and shall notify the political subdivision of its decision in writing.

(3) **DURATION OF WAIVERS.** A waiver is effective for 4 years. The administrative agency may renew the waiver for additional 4-year periods. If a waiver is granted by the department of revenue, the department may renew the waiver under this subsection.

(4) **EVALUATION.** By July 1, 2004, the department of revenue shall submit a report to the governor, and to the appropriate standing committees of the legislature under s. 13.172 (3). The report shall specify the number of waivers requested under this section, a description of each waiver request, the reason given for each waiver request, and the financial effects on the political subdivision of each waiver that was granted.

**History:** 2001 a. 109; 2003 a. 321.

**SUBCHAPTER II****INCORPORATION; MUNICIPAL BOUNDARIES**

**66.0201 Incorporation of villages and cities; purpose and definitions. (1) PURPOSE.** It is the policy of this state that the development of territory from town to incorporated status proceed in an orderly and uniform manner and that toward this end each proposed incorporation of territory as a village or city be reviewed as provided in ss. 66.0201 to 66.0213 to assure compliance with certain minimum standards which take into account the needs of both urban and rural areas.

(2) **DEFINITIONS.** In ss. 66.0201 to 66.0213, unless the context requires otherwise:

(am) “Board” means the incorporation review board.

(ar) “Department” means the department of administration.

(bm) “Isolated municipality” means any existing or proposed village or city entirely outside any metropolitan community at the time of its incorporation.

(c) “Metropolitan community” means the territory consisting of any city having a population of 25,000 or more, or any 2 incorporated municipalities whose boundaries are within 5 miles of each other whose populations aggregate 25,000, plus all the contiguous area which has a population density of 100 persons or more per square mile, or which the department has determined on the basis of population trends and other pertinent facts will have a minimum density of 100 persons per square mile within 3 years.

(d) “Metropolitan municipality” means any existing or proposed village or city entirely or partly within a metropolitan community.

(dm) “Population” means the population of a local unit as shown by the last federal census or by any subsequent population estimate certified as acceptable by the department.

**History:** 1977 c. 29; 1979 c. 361 s. 112; 1991 a. 39; 1995 a. 27 ss. 3306 and 9116 (5); 1997 a. 27; 1999 a. 150 s. 33; Stats. 1999 s. 66.0201; 1999 a. 186; 2003 a. 171.

**66.0203 Procedure for incorporation of villages and cities. (1) NOTICE OF INTENTION.**

At least 10 days and not more than 20 days before the circulation of an incorporation petition, a notice setting forth that the petition is to be circulated and including an accurate description of the territory involved shall be published within the county in which the territory is located as a class 1 notice, under ch. 985.

(2) **PETITION.** (a) The petition for incorporation of a village or city shall be in writing signed by 50 or more persons who are both electors and freeholders in the territory to be incorporated if the population of the proposed village or city includes 300 or more persons; otherwise by 25 or more persons who are both electors and freeholders in the territory to be incorporated.

(b) The petition shall be addressed to and filed with the circuit court of a county in which all or a major part of the territory to be incorporated is located. The incorporation petition is void unless filed within 6 months of the date of publication of the notice of intention to circulate.

(c) The petition shall designate a representative of the petitioners, and an alternate, who shall be an elector or freeholder in the territory, and state that person’s address; describe the territory to be incorporated with sufficient accuracy to determine its location and have attached to the petition a scale map reasonably showing the boundaries of the territory; specify the current resident population of the territory by number in accordance with the definition given in s. 66.0201 (2) (dm); set forth facts substantially establishing the required standards for incorporation; and request the circuit court to order a referendum and to certify the incorporation of the village or city when it is found that all requirements have been met.

(e) No person who has signed a petition may withdraw his or her name from the petition. No additional signatures may be added after a petition is filed.

(f) The circulation of the petition shall commence not less than 10 days nor more than 20 days after the date of publication of the notice of intention to circulate.

(3) **HEARING; COSTS.** (a) Upon the filing of the petition the circuit court shall by order fix a time and place for a hearing giving preference to the hearing over other matters on the court calendar.

(b) The court may by order allow costs and disbursements as provided for actions in circuit court in any proceeding under this subsection.

(c) The court may, upon notice to all parties who have appeared in the hearing and after a hearing on the issue of bond, order the petitioners or any of the opponents to post bond in an amount that it considers sufficient to cover disbursements.

(4) **NOTICE.** (a) Notice of the filing of the petition and of the date of the hearing on the petition before the circuit court shall be published in the territory to be incorporated, as a class 2 notice, under ch. 985, and given by certified or registered mail to the clerk of each town in which the territory is located and to the clerk of each metropolitan municipality of the metropolitan community in which the territory is located. The mailing shall be not less than 10 days before the time set for the hearing.

(b) The notice shall contain:

1. A description of the territory sufficiently accurate to determine its location and a statement that a scale map reasonably showing the boundaries of the territory is on file with the circuit court.

2. The name of each town in which the territory is located.