

800 N. Lynndale Dr.
Appleton, WI 54914
920.739.7366
Fax: 920.739.6352

Green Bay
920.468.7366

New London
920.982.9652

Oshkosh
920.385.0616

February 3, 2014

**Town of Somers
c/o William A. Morris
7511 12th Street
Somers, WI 53171**

RE: Boundary Agreement with Kenosha

Dear Bill:

You have inquired regarding the duration of the terms and the impact on the Town of the expiration of the boundary agreement between the Town of Somers and the City of Kenosha. This agreement was approved by the State of Wisconsin, Department of Administration in 2005.

The contract term was for 30 years and the contract will therefore expire in 2035. As it relates to the terms of the agreement, other than the establishment of a boundary between the Town and Kenosha, all the terms shall expire at the end of the contract in 2035.

One of the most important features of the contract was the establishment of a permanent boundary between the Town and the City. It is my opinion that the permanent boundary will survive beyond the term of the contract. In 2035, all the remaining Town territory south of the permanent boundary shall be detached from the Town and be attached to the City.

After the expiration of the agreement, annexation by Kenosha north of the permanent boundary would still be permissible, but is subject to the approval of the Town. However, as pointed out in this letter, the fact that Kenosha will then have extraterritorial controls will leave open the boundary to future aggression by Kenosha. If the Town became a village, then no annexation would be permissible and the boundary would, indeed, be permanent. Failure to incorporate before 2035, however, as I will point out below, could lead to further loss of territory from the Town to Kenosha.

The Town needs to be aware that if the Town has not incorporated into a Village by 2035, there is the potential for significant impact by Kenosha upon the Town. The extraterritorial controls set forth below can be used by Kenosha to severely

John D. CLAYPOOL
Greg P. CURTIS
Richard T. ELROD
Paula A. HAMER
Charles J. HARTZHELM
Kelly S. KELLY
Kristen S. KNUITSON
Charles D. KOEHLER
Kevin LONERGAN
Robert B. LOOMIS
Michael C. MENGHINI
Andrew J. ROSSMEISSL
Michael S. SIDDALL
OF COUNSEL
Don R. HERRLING
Roger W. CLARK

impact the Town's land use and virtually prohibit the industrial, commercial, and residential development in the Town.

1. The City could oppose any attempt at incorporation by the Town.
2. The City could exercise control over the Town related to:
 - a) Extraterritorial zoning;
 - b) Extraterritorial platting;
 - c) Extraterritorial condominium platting;
 - d) Official mapping.

The exercise of extraterritorial platting, zoning and subdivision could severely limit the Town's potential for development, to the extent that the Town may have to negotiate further concessions of land to the City in order to alleviate oppressive extraterritorial controls.

Even though you asked about the Kenosha agreement, it must be remembered that the Mt. Pleasant agreement expires in only 11 years. The Town will then be subject to annexations by Mt. Pleasant from the north. When that boundary agreement expires there is no protection for the Town.

If you have any questions regarding this correspondence, please give me a call. If you should wish to make inquiry regarding the conclusions reached in this correspondence, please feel free to call Eric Schmidke at the Department of Administration, phone 608-264-6102.

Very truly yours,



Roger W. Clark

RWC/smw