

PETITION PURSUANT TO MINNESOTA STATUTES §106.501

Evergreen Shores, Inc., a Minnesota corporation ("Evergreen Shores") and Northway Construction, Inc., a Minnesota corporation (hereinafter collectively called "Petitioners") hereby make this Petition pursuant to Minnesota Statutes §106.501 to improve a branch of County Ditch No. 8, Ramsey County, Minnesota.

1. The Rice Creek Watershed District has jurisdiction over County Ditch No. 8.

2. Petitioners represent more than twenty-six percent (26%) of the owners of the real property (hereinafter called the "Affected Property") legally described as follows:

Blocks 1 and 2, and 4 through 10, Evergreen Shores, according to the plat thereof on file and of record in the office of the County Recorder, Ramsey County, Minnesota.

3. The Affected Property lies wholly within Ramsey County, Minnesota.

4. In the year 1910, County Ditch No. 8 (hereinafter called the "Ditch") was established. Part of the Ditch was located upon the Affected Property.

5. The function of County Ditch No. 8 was to provide a drainage system to drain and to protect from overflow the Affected Property, and certain other land adjoining the Affected Property.

6. To the best of the knowledge of Petitioners, the legal location of the Ditch has never been altered by a proceeding pursuant to Chapter 106, Laws of Minnesota, or by any other appropriate legal proceeding.

7. As originally established, the Ditch entered the Affected Property on the North, and ran in a southwesterly

direction over the northern half of the Affected Property. In the southern half of the Affected Property, the Ditch divided into two branches, one of which continued in a southwesterly direction and the other of which continued in a southeasterly direction over the southern half of the Affected Property. See Map of Ditch No. 8 and Branches (hereinafter called the "Map"), a copy of which is attached hereto as Exhibit A and made a part hereof. The approximate location of the Affected Property is indicated in blue pencil on the Map.

8. To the best of Petitioners' information and belief, the course of the Ditch over the Affected Property was changed through natural forces between 1910 and 1950. The plat of Bucher Addition, filed on March 24, 1950 in the office of the County Recorder, Ramsey County, Minnesota (the major portion of which was later replatted as part of the Affected Property) shows County Ditch No. 8 in a somewhat different location than that shown on the Map. A copy of the plat of Bucher Addition is attached hereto as Exhibit B and made a part hereof.

9. To the best of Petitioners' information and belief, the Ditch was of insufficient capacity and needed enlarging and extending in order to use the Affected Property for residential purposes.

10. In the 1960's the course of a portion of the Ditch which passes over the Affected Property was straightened and improved by Mr. Peter Lametti. Mr. Lametti's work was done in good faith, and, to the best of Petitioners' knowledge and belief, all necessary approvals were obtained before the improvement and straightening was accomplished. Petitioner Evergreen Shores is buying a portion of the Affected Property from Mr. Lametti and his wife, pursuant to a Contract for Deed dated January 20, 1978, between Peter Lametti and Catherine Lametti as sellers and Evergreen Shores, Inc. as buyer.

11. Some time in 1977 or 1978, Petitioner Evergreen Shores applied to the Rice Creek Watershed District (hereinafter called the "District") and the Minnesota Department of Natural Resources (hereinafter called the "DNR") for a permit to construct channels between existing water basins and to expand the existing water basins which were part of County Ditch No. 8, in order to maintain the drainage of water, provide storage for water run-off from a 100-year storm, and to accept the discharge from approximately 100 acres to the north, east and south of the Affected Property.

12. The District and the DNR granted the requested permits, copies of which are attached hereto and made a part hereof as Exhibit C. The system of channels and ponds resulting from the ditch improvement performed by Petitioner Evergreen Shores pursuant to the permit is known as the Kerry Lake System. The location of the Kerry Lake System is shown on the plat of Evergreen Shores, filed November 22, 1978 in the office of the County Recorder, Ramsey County, Minnesota, a copy of which is attached hereto as Exhibit D and made a part hereof.

13. The Kerry Lake System currently serves the same general function as the original ditch, and, in addition, the Kerry Lake System has the enlarged capacity to store the run-off from a 100-year storm. Thus, the ditch improvement performed by Petitioner Evergreen Shores is of public utility and promotes the public health.

14. Petitioners improved the Ditch in good faith and in reliance upon the permits they obtained.


15. The cost and expense of the aforesaid improvement of County Ditch No. 8 has been paid for in full by Petitioners.

Petitioners respectfully request that the aforesaid improvement of County Ditch No. 8 be granted approval by the Rice Creek Watershed District pursuant to Minnesota Statutes §106.501.

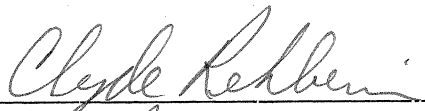
Dated:

Respectfully submitted,

EVERGREEN SHORES, INC.

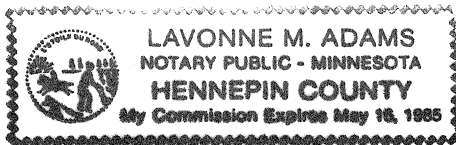
By 
James F. Horan,
Its President

NORTHWAY CONSTRUCTION, INC.

By 
Its Pres.

STATE OF Minnesota)
COUNTY OF Hennepin) SS.

The foregoing instrument was acknowledged before me this 2nd day of February, 1981, by James F. Horan, the President of EVERGREEN SHORES, INC., on behalf of the corporation.





STATE OF Minnesota)
COUNTY OF Ramsey) SS.

The foregoing instrument was acknowledged before me this 6th day of February, 1981, by Clyde Rehbein, the President of NORTHWAY CONSTRUCTION, INC., on behalf of the corporation.



