

STATE OF WYOMING)
) ss.
COUNTY OF LARAMIE)

IN THE DISTRICT COURT
FIRST JUDICIAL DISTRICT
Docket No. _____

JEAN COTTON, individually, and as Managing)
Member of Avenues Pet Clinic, LLC and)
Cotton Holdings, L.L.C.,)
COTTON HOLDINGS, L.L.C.,)
A Wyoming Flexible Limited Liability Company,)
AVENUES PET CLINIC, LLC,)
A Wyoming Limited Liability Company,)

Plaintiffs/Appellants,)

vs.)

CITY OF CHEYENNE, A Wyoming)
Municipal Corporation; WILLIAM)
H. WRIGHT, SADDLE RIDGE, LLC,)
A Wyoming Limited Liability Company,)

Defendants/Appellees.)

**APPEAL PURSUANT TO W.S. § 15-1-409 AND
COMPLAINT FOR DECLARATORY JUDGMENT**

COME NOW the Petitioners/Appellants in the above-entitled action, by and through their counsel, Gay Woodhouse and Lori L. Brand of Gay Woodhouse Law Office, P.C. and in support of this action, allege and state as follows:

PARTIES, JURISDICTION AND VENUE

1. This action is brought pursuant to the appeal procedures of W.S. § 15-1-409 and the Wyoming Declaratory Judgments Act, Wyo. Stat. § 1-37-101 *et seq.*

2. This action involves land located in Laramie County, Wyoming described in Ordinance No. 3676 as: A tract of land situated in a portion of the Northeast Quarter (NE1/4) of Section 26, Township 14 North, Range 66 West of the 6th P.M. Laramie County, Wyoming. A tract of land of land situated in a portion of the Northwest Quarter (NW1/4) of Section 25, Township 14 North, Range 66 West, of the 6th P.M., Laramie County, Wyoming. A Tract of Land situated in a portion of the Northeast Quarter (NE1/4) of Section 26 and the Northwest Quarter (NW ¼) of Section 25, Township 14 North, Range 66 West of the 6th P.M., Laramie County Wyoming (located south of the intersection of US 30 and Whitney Rd.). Attached as Exhibit 1 and incorporated herein by this reference is a map showing the location of the annexed area.

3. Plaintiffs are an aggrieved City of Cheyenne (“City”) landowner and a Laramie County resident who own rural land in Laramie County, Wyoming. Plaintiff Avenues Pet

Clinic, LLC, is a Wyoming Limited Liability Company in good standing and is an interested and aggrieved person as a City landowner who pays City taxes and receives City services, which City services as a result of the annexation and contemporaneously pending subsequent annexation will be constrained or made more costly due to the projected forecast that the City population will increase by an estimated 2000 persons through development of the annexed property. The City's prepared annexation report states that the cost of infrastructure improvements required within the existing boundaries of the City to accommodate the proposed annexation will be \$1,682,000.

4. Plaintiff Cotton Holdings, L.L.C., is a Wyoming Flexible Limited Liability Company in good standing and is an interested and aggrieved person as a landowner who owns rural land directly opposite and within ½ mile of the land described in ¶ 2 annexed by City Ordinance 3676. The annexation of the land above described enables the City to extend its control far beyond the current city limits and places Cotton Holdings, L.L.C. within the 1 mile boundary established by Wyoming statutes, W.S. § 15-1-411 and W.S. § 18-4-308.

5. The annexation of the land described in Ordinance No. 3676 places the Plaintiff Cotton Holdings, L.L.C. under the purview of the City for the development of subdivisions pursuant to Ordinance No. 3408 and Wyo. Stat. § 18-5-308(b).

6. The Plaintiff Cotton Holdings, L.L.C. will be subject to the 201 Memorandum of Agreement also referred to as the 201 Area Facilities Management Plan, which regulates whether Cotton Holdings, L.L.C. will be able to repair or replace its existing septic system or will be forced to accept City water and sewer services and thereby subject the Plaintiff to City Code §§ 1.16.070 and 1.16.080 which requires Plaintiff and/or its successors in interest to expend funds to reimburse developers (plus interest at a rate of 7%), including the Saddle Ridge developers, for their infrastructure costs should its property be annexed in the future. The City has adopted a policy of requiring “voluntary annexation” for landowners who need to hook up to city sewer and water.

7. The activities undertaken on the land owned by Plaintiff Cotton Holdings, L.L.C. are not permitted under City zoning ordinances. The Plaintiff currently raises and has in the past raised livestock on its property, including peacocks, horses, 4-H pigs, sheep, chickens, and ducks.

8. The annexation of the land described in City Ordinance No. 3676 makes future annexation of Plaintiff's property more likely and probable.

9. Plaintiffs are aggrieved because the City of Cheyenne has failed to properly follow the applicable statutes W.S. § 15-1-401 *et seq* and to provide the requisite notice pursuant to W.S. § 15-1-402(a)(vi).

10. Defendant City of Cheyenne ("City"), is a Municipal Corporation located in Laramie County, Wyoming that took government action and issued Ordinance No. 3676 annexing the land at issue in this case.

11. The City of Cheyenne, through its Mayor, has exercised jurisdiction vested in him by ordinance for matters within one-half (1/2) mile of the corporate limits of the City.

12. Defendant William H. Wright signed the Petition for Annexation and is a co-tenant of a portion of the land annexed by Ordinance No. 3676 located within one-half (1/2) mile of Plaintiff Cotton Holdings L.L.C. with an address of 5915 U.S. Highway 30 legally described as: All that portion of the SE1/4NE1/4 Section 26, Township 14 North, Range 66 West of the 6th P.M., Laramie County, Wyoming, lying South and East of U.S. Highway No. 30, West of the Extension of County Road #2 and North of the North line of Countryside Avenue in Countryside Addition, Laramie county, Wyoming, EXCEPT a parcel of land in said SE1/4NE1/4 Section 26, Township 14 North, Range 66 West of the 6th P.M., Laramie County, Wyoming more particularly described as follows: Beginning at a point which bears N.32°44'W a distance of 401.7 feet from the East ¼ corner of said section, thence Northerly parallel to the East line of said section a distance of 208.7 feet; thence Westerly along a line parallel to the east-west center line of said Section, a distance of 208.7 feet; thence Southerly parallel to the east line of said Section a distance of 208.7 feet; thence Easterly a distance of 208.7 feet to the point of beginning. See Exhibit 1.

13. William H. Wright holds the land described in ¶ 12 as a tenant in common with Hilda Wright. The property, referred to as "The Wright Parcel" for purposes of the annexation was at all relevant times held in the estate of Hilda Wright in Probate Action No. 42-946 which Probate proceeding is still pending.

14. The Wright Parcel is a triangular shaped parcel which is separated from the remainder of the annexed territory by Whitney Road. It is not an integral part of the annexed territory. It constitutes only approximately 10% of the entire area. The Wright Parcel is the only

portion of the annexed territory which has any contiguity with the boundaries of the City of Cheyenne. The remaining property is completely surrounded by County property. See Exhibit 1. The remaining territory is a small portion of the area known as Saddle Ridge which was annexed in 2002 and declared void by the Wyoming Supreme Court in 2004. Board of Laramie County Commissioners v. City of Cheyenne, 85 P.3d 999 (Wyo. 2004).

15. Defendant Saddle Ridge, LLC, is a Wyoming Limited Liability Company Corporation in good standing located in the City of Cheyenne, Laramie County, Wyoming, whose Members William Edwards and John Volk signed the Petition for Annexation and who is the developer of the proposed Saddle Ridge Subdivision.

16. The property which is the subject of this action is located in Laramie County; the action by the City in annexing the land described in City Ordinance No. 3676 to the City took place in Laramie County, and the Plaintiffs own real property which is located in Laramie County; therefore, venue is proper in this Court.

17. The purpose of this lawsuit is to challenge the validity of City Ordinance No. 3676 which purportedly annexed the land described therein to the City of Cheyenne. City Ordinance No. 3676 was enacted on November 14, 2005, and became effective by publication on November 19, 2005 and was recorded with the Laramie County Clerk on November 28, 2005 at Book 1919 Page 77. City Ordinance No. 3676 is attached hereto as Exhibit 2 and by this reference made a part hereof.

FIRST CLAIM FOR RELIEF
Violation of W.S. § 15-1-403

18. Plaintiffs herein incorporate by reference all preceding paragraphs as if fully set forth herein.

19. W.S. § 15-1-403 requires that the written petition filed with the clerk of the City comply with the condition that the petition is signed and dated by a majority of the landowners owning a majority of the area sought to be annexed and contain a statement that each signer is an owner of land and a description of his land within the area proposed to be annexed.

20. The signature of William H. Wright is an invalid signature on the annexation petition and application because William H. Wright is merely a tenant in common of the land described in the petition, not its outright landowner, and the land described in the petition and described above in ¶ 12, known as "The Wright Parcel" for purposes of the annexation, was, at

all relevant times including the date of signing and submittal to the clerk, and as of the date of this Complaint is, held in a Probate Action No. 42-946 in the First Judicial District.

21. No Court Order was sought or granted in Probate Action No. 42-946 to annex the estate's property to the City of Cheyenne or encumber the estate's property for proportionate infrastructure costs, reported by the City in its summary report to be estimated at \$1,682,500 in total, or approximately \$201,900 to the estate.

22. The City Clerk erred by determining that the Petition substantially complied with statute because the public land records in the City's own annexation file revealed that the land was owned by Hilda B. Wright *et al* and no signature of Hilda B. Wright was submitted on the written petition or application, even though the application form created by the City requires that all landowners be listed and addressed. The application for annexation is attached as Exhibit 3 and by this reference made a part hereof.

23. The failure to comply with the provisions of Wyo. Stat. § 15-1-403 and the invalid signature of William H. Wright renders City Ordinance No. 3676 void *ab initio*.

SECOND CLAIM FOR RELIEF
Violation of W.S. § 15-1-402(a)(i)

24. Plaintiffs herein incorporate by reference all preceding paragraphs as if fully set forth herein.

25. Wyo. Stat. § 15-1-402(a) provides that before a property is "eligible" for annexation it must meet certain requirements. These requirements are conjunctive, thus necessitating that each subsection be met before the territory lawfully may be annexed. The annexation of the land described in Ordinance No. 3676 is invalid because it does not comply with the statutory requirements established in W.S. § 15-1-402(a)(i).

26. The annexation by the City at issue is unlawful and invalid because it violates the statutory requirement of Wyo. Stat. § 15-1-402(a)(i) that "the annexation of the area shall be for the protection of the health, safety, and welfare of the persons *residing in the area and* in the city or town." The territory annexed consists wholly of vacant land. There are no persons residing in the annexed area, thus the annexation cannot satisfy this statutory provision as a matter of law.

27. No proper findings supported by specific evidence in the record were made by the City that the annexation would protect the health, safety, and welfare of the area residents and

the residents of the City of Cheyenne. This property is located a significant distance from the nearest existing supporting infrastructure for city services. No proper findings supported by record evidence were made that this annexation affirmatively protects the health, safety, and welfare of any party.

28. The failure to comply with the provisions of Wyo. Stat. § 15-1-402(a)(i) renders City Ordinance No. 3676 void *ab initio*.

THIRD CLAIM FOR RELIEF
Violation of W.S. § 15-1-402(a)(ii)

29. Plaintiffs herein incorporate by reference all preceding paragraphs as if fully set forth herein.

30. Wyo. Stat. § 15-1-402(a) provides that before a property is "eligible" for annexation it must meet certain requirements. These requirements are conjunctive, thus necessitating that each subsection be met before the territory lawfully may be annexed. The annexation of the land described in Ordinance No. 3676 is invalid because it does not comply with the statutory requirements established in W.S. § 15-1-402(a)(ii).

31. The annexation of the land described in Ordinance No. 3676 by the City is unlawful and invalid because it violates the statutory requirement of Wyo. Stat. § 15-1-402(a)(ii), which requires that the territory annexed shall constitute a natural, geographical, economical and social part of the annexing city or town as required by W.S. § 15-1-402(a)(ii). The land lies outside the city limits in a predominantly rural setting, surrounded by county land; it is not a natural outgrowth of the city, instead it will create a densely populated isolated pocket in an otherwise rural county setting. There are no amenities for potential residents including recreational facilities, parks or other city services.

32. No proper findings supported by specific evidence in the record were made by the City that the urban development of the territory constituted a natural, geographical, economical and social part of the City of Cheyenne.

33. The failure to comply with the provisions of Wyo. Stat. § 15-1-402(a)(ii) renders City Ordinance No. 3676 void *ab initio*.

FOURTH CLAIM FOR RELIEF
Violation of W.S. § 15-1-402(a)(iii)

34. Plaintiffs herein incorporate by reference all preceding paragraphs as if fully set forth herein.

35. Wyo. Stat. § 15-1-402(a) provides that before a property is "eligible" for annexation it must meet certain requirements. These requirements are conjunctive, thus necessitating that each subsection be met before the territory lawfully may be annexed. The annexation of the land described in Ordinance No. 3676 is invalid because it does not comply with the statutory requirements established in W.S. § 15-1-402(a)(iii).

36. The annexation of the land described in City Ordinance No. 3676 by the City is unlawful and invalid because it violates the statutory requirement of Wyo. Stat. § 15-1-402(a)(iii), that the area annexed shall be a logical and feasible addition to the annexing city or town, **and** the extension of basic and other services customarily available to residents of the city or town shall, within reason, be available to the area proposed to be annexed. It is not logical and feasible to annex land far from core City limits. It is not logical and feasible to create a city pocket so far removed from true City boundaries. The extension of basic and other services including parks, recreational facilities, city water and sewer facilities are not available to potential residents of the newly annexed area. It is not "within reason" as that term is used within the statute, to expend millions of dollars in funds to bring City services to what will become a City "island" surrounded by County property, when those funds will be borne by the City and/or its inhabitants and future inhabitants. The annexation further creates substantial county pockets between the subject area and the City boundary.

37. The "Wright Parcel" described in ¶ 12 is not scheduled for any development by the City as demonstrated by public records contemporaneous to the adoption of Ordinance No. 3676. The Wright Parcel was annexed merely as a pretext to allege contiguity to a small piece of the City.

38. No proper findings were made by the City based upon evidence introduced in the record that the land described in Ordinance No. 3676 shall be a logical and feasible addition to the annexing city or town, **and** the extension of basic and other services customarily available to residents of the city or town shall, within reason, be available to the area proposed to be annexed.

39. This annexation using the Wright Parcel as a pretext to purportedly meet the contiguity requirement was simply a means to accomplish the annexation of an additional 191.160 acre area (nearly 4 times the size of the subject territory) further to the east of the subject property which is not contiguous in any regard to the current city boundaries in contravention of the intent of Wyoming's annexation statutes. Attached as Exhibit 4 is the

application for annexation for Saddle Ridge II which by this reference is made a part hereof. It further contravenes the holding of the Wyoming Supreme Court in *Board of Laramie County Commissioners v. City of Cheyenne*, 85 P.3d 999 (Wyo. 2004). See Exhibit 1.

40. The failure to comply with the provisions of Wyo. Stat. § 15-1-402(a)(iii) renders City Ordinance No. 3676 void *ab initio*.

FIFTH CLAIM FOR RELIEF
Violation of W.S. § 15-1-402(a)(iv)

41. Plaintiffs herein incorporate by reference all preceding paragraphs as if fully set forth herein.

42. Wyo. Stat. § 15-1-402(a) provides that before a property is "eligible" for annexation it must meet certain requirements. These requirements are conjunctive, thus necessitating that each subsection be met before the territory lawfully may be annexed. The annexation of the land described in Ordinance No. 3676 is invalid because it does not comply with the statutory requirements established in W.S. § 15-1-402(a)(iv).

43. W.S. § 15-402(a)(iv) requires that the area sought to be annexed is contiguous with or adjacent to the annexing city or town if owned by private parties.

44. The Wyoming Supreme Court has determined that the statute was legislatively intended to require that the boundaries of the municipality and the land proposed for annexation must touch to some substantial degree, although there need not necessarily be a lengthy shared border. *Board of County Commissioners of Laramie County et al v. City of Cheyenne et al.*, 85 P.3d 999, 2004 WY 16 ¶ 31 (Wyo. 2004).

45. The "Wright Parcel" as described in ¶ 12, was not properly annexed to the City of Cheyenne, having been in probate in the First Judicial District Probate No. 42-946 at all relevant times and only the "Wright Parcel" is actually touching in any manner, a current parcel already annexed to the City of Cheyenne. Accordingly, land described in Ordinance No. 3676 was not eligible for annexation.

46. Even if the "Wright Parcel" is included in the proposed annexation, it cannot be properly found that the land annexed did **touch to some substantial degree the annexing City**, instead, as demonstrated by the map attached hereto as Attachment 3, the annexation simply results in a checkerboard pattern of a small strip of City surrounded by the County lands.

47. The annexation of the "Wright Parcel" is not scheduled for any development with contemporaneous development procedures now proceeding for the property known as Saddle Ridge thus demonstrating that the annexation of the "Wright Parcel" was merely a pretext to assert compliance with the contiguity requirements of W.S. § 15-1-402(a)(iv).

48. The annexation of the "Wright Parcel" and the first Saddle Ridge parcel in a separate annexation action from a separately filed annexation petition for a much larger second Saddle Ridge parcel described in ¶ 39 contemporaneously proceeding in front of the governing body was merely a pretext to assert compliance with the contiguity requirements of W.S. § 15-1-402(a)(iv).

49. The failure to comply with the provisions of Wyo. Stat. § 15-1-402(a)(iv) renders City Ordinance No. 3676 void *ab initio*.

SIXTH CLAIM FOR RELIEF
Violation of W.S. § 15-1-402(a)(vi)

50. Plaintiffs herein incorporate by reference all preceding paragraphs as if fully set forth herein.

51. Wyo. Stat. § 15-1-402(a) provides that before a property is "eligible" for annexation it must meet certain requirements. These requirements are conjunctive, thus necessitating that each subsection be met before the territory lawfully may be annexed. The annexation of the land described in Ordinance No. 3676 is invalid because it does not comply with the statutory requirements established in W.S. § 15-1-402(a)(vi).

52. W.S. § 15-1-402(a)(iv) requires that the City of Cheyenne, not less than twenty (20) business days prior to the public hearing required by W.S. § 15-1-405(a), have sent by certified mail to all landowners and affected public utilities within the territory a summary of the proposed annexation report and notice of the time, date and location of the public hearing required by W.S. § 15-1-405(a).

53. The applicable public hearing was held on August 22, 2005.

54. Landowner as defined by W.S. § 15-1-401(a)(ii) for purposes of W.S. § 15-1-402 "*shall* include persons owning property which, as a result of the proposed annexation would then be brought within one-half (1/2) mile of the corporate limits of a city which has exercised the authority granted under W.S. § 15-3-202(b)(ii)."

55. The City of Cheyenne through its Mayor has exercised jurisdiction vested in him by ordinance for matters within one-half (1/2) mile of the corporate limits of the City.

56. The City of Cheyenne did not send by certified mail 20 days prior to the public hearing a summary of the proposed annexation report and notice of the time, date, and location of the public hearing required by W.S. § 15-1-405(a) to Plaintiff Cotton Holdings, L.L.C. whose land is located within one-half (1/2) mile of the City as a result of the land annexed as described in Ordinance No. 3676.

57. The City's failure to notify Cotton Holdings, L.L.C. by certified mail as alleged in ¶ 56 substantially impaired the ability of the landowner to request in writing, the estimated cost of infrastructure improvements required of the landowner, and to receive an estimate of such costs prior to the hearing required by W.S. § 15-1-405(a) held on August 22, 2005. As a result of enactment of City Code §§ 1.16.070 and 1.16.080, Plaintiff Cotton Holdings, L.L.C. or its successor in interest is obligated to bear such infrastructure improvement costs plus interest should its property ever be annexed to the City of Cheyenne.

58. Plaintiff's due process rights guaranteed by the United States and Wyoming Constitutions were violated because the City's acts deprived them of notice and a meaningful opportunity to be heard regarding the annexation of the land described in Ordinance No. 3676, which right is expressly recognized by the Wyoming annexation statutes.

59. The City's failure to comply with the mandatory provisions of Wyo. Stat. § 15-1-402(a)(iv) renders City Ordinance No. 3676 void *ab initio*.

SEVENTH CLAIM FOR RELIEF
Violation of W.S. § 15-1-402(c)

60. Plaintiffs herein incorporate by reference all preceding paragraphs as if fully set forth herein.

61. W.S. § 15-1-402(c)(i) provides that an annexing municipality shall prepare a proposed annexation report as specified and the report *shall, at a minimum, contain* a map of the area proposed to be annexed showing identifiable landmarks and boundaries *and* the area which will, as a result of the annexation then be brought within one-half (1/2) mile of the new corporate limits of the city, if it has exercised the jurisdiction granted under W.S. § 15-3-202(b)(ii).

62. The City of Cheyenne through its Mayor has exercised jurisdiction vested in him by ordinance for matters within one-half (1/2) mile of the corporate limits of the City.

63. The proposed annexation report prepared by the City did not contain the map of the annexed area and the area to be brought within one-half (1/2) mile of the corporate limits of the City as mandated pursuant to W.S. § 15-1-402(c)(i).

64. W.S. § 15-1-402(c)(ii) provides that an annexing municipality shall prepare a proposed annexation report as specified and the report *shall, at a minimum, contain* " the total estimated cost of infrastructure improvements required of *all* landowners by the annexing municipality related to the annexation."

65. Landowner as defined by W.S. § 15-1-401(a)(ii) for purposes of W.S. § 15-1-402 "shall include persons owning property which, as a result of the proposed annexation would then be brought within one-half (1/2) mile of the corporate limits of a city which has exercised the authority granted under W.S. § 15-3-202(b)(ii)."

66. Plaintiff Cotton Holdings, L.L.C. whose land is located within one-half (1/2) mile of the City as a result of the land annexed as described in Ordinance No. 3676 is a landowner for purposes of W.S. 15-1-402(c)(ii) but the estimated costs of infrastructure improvements to Plaintiff required by the City of Cheyenne related to the annexation were not included in the annexation report prepared by the City of Cheyenne. Such costs of infrastructure improvements for Plaintiff Cotton Holdings, L.L.C. are outlined by City Code §§ 1.16.070 and 1.16.080. Plaintiff's property is being unwarrantedly invaded as a result of this annexation.

67. W.S. § 15-1-402(c)(ii) provides that an annexing municipality shall prepare a proposed annexation report as specified and the report *shall, at a minimum, contain* "a list of basic and other services customarily available to residents of the city or town *and* a timetable when those services will reasonably be available to the area proposed to be annexed."

68. W.S. § 15-1-410(a) provides that the territory and inhabitants of any annexed area are subject to all the laws, ordinances, rules and regulations of the city or town to which they are annexed and are entitled to all the rights, privileges and franchises or other services afforded the inhabitants thereof. The services *shall be provided in accordance with the timetable provided pursuant to W.S. § 15-1-402(c)(iii)*.

69. The timetable providing when City services will reasonably be available to the area proposed to be annexed was not included in the annexation report created by the City of Cheyenne.

70. The annexation of the land described in Ordinance No. 3676 is invalid because the City has not complied with the statutory requirements established in W.S. § 15-1-402(c).

71. The City's failure to comply with the mandatory provisions of Wyo. Stat. § 15-1-402(c) renders City Ordinance No. 3676 void *ab initio*.

EIGHTH CLAIM FOR RELIEF
Violation of W.S. § 15-1-405

72. Plaintiffs herein incorporate by reference all preceding paragraphs as if fully set forth herein.

73. W.S. § 15-1-405(b) provides that the City clerk shall give notice of the public hearing required by W.S. § 15-1-405(a) by publishing a notice at least twice in a newspaper of general circulation in the territory sought to be annexed. The notice *shall contain* a location map which includes identifiable landmarks and boundaries of the area sought to be annexed *and* the area which will, as a result of the annexation then be brought within one-half (1/2) mile of the new corporate limits of the city, if it has exercised the authority granted under W.S. § 15-3-202(b)(ii).

74. The City of Cheyenne through its Mayor has exercised jurisdiction vested in him by ordinance for matters within one-half (1/2) mile of the corporate limits of the City.

75. The notice published in the newspaper in regard to the public hearing required by W.S. § 15-1-405(a) for City Ordinance No. 3676 did not contain a location map.

76. The annexation of the land described in Ordinance No. 3676 is invalid because the City has not complied with the statutory requirements established in W.S. § 15-1-405(b).

77. The City's failure to comply with the mandatory provisions of Wyo. Stat. § 15-1-405(b) renders City Ordinance No. 3676 void *ab initio*.

NINTH CLAIM FOR RELIEF
Violation of City Code § 1.16.030

78. Plaintiffs herein incorporate by reference all preceding paragraphs as if fully set forth herein.

79. City Code § 1.16.030(A) provides that prior to the submission of any petition for annexation to the governing body, an application for approval...will be submitted to the planning commission for its recommendation.

80. No application for approval was submitted to the planning commission prior to the submission of the Petition in this matter signed by William H. Wright and John Volk and William Edwards for Saddle Ridge, LLC on July 7, 2005.

81. City Code § 1.16.030(B) provides that the petition for annexation to be submitted for consideration by the governing body will be filed with the city engineer's office not less than six (6) days before the day when the application will be submitted for consideration to the governing body and the petition will include, in addition to the annexation petition, the following documentation:

- 2) Proposed annexation ordinance;
- 3) A preliminary soils investigation to the area to be annexed which will contain as a minimum the following information:
 - a. Identification, review and evaluation of all existing soils information and existing soils problems in the area,
 - b. Soils boring logs located on maximum four hundred (400) foot center to center intervals or less as recommended by the professional engineer,
 - c. Soils report which will include:
 - i. A map showing the location of all test borings,
 - ii. Description and classification of materials encountered,
 - iii. Elevation of groundwater table (if encountered),

- iv. Bearing capacities of existing soils and expansion classification,
- v. Recommendations, if any of professional engineer;

82. No petition as required by City Code 1.16.030(B) was filed with the City Engineer's Office by the petitioners seeking annexation, ultimately purportedly annexed by Ordinance No. 3676.

83. The annexation of the land described in Ordinance No. 3676 is invalid because the Petitioners have not complied with City law in regard to the submission of their petition which was a condition precedent to any submission and consideration of the petition to the governing body of the City of Cheyenne.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs/Appellants and landowners pray that:

- a. The Court will interpret the Wyoming annexation statutes W.S. §§ 15-1-401 *et seq.*;
- b. The Court will interpret City Code §§ 1.16.010 *et seq.*;
- c. The Court will enter an Order pursuant to Wyo. Stat. §15-1-409 and/or Wyo. Stat. §§ 1-37-101 *et seq.* declaring City Ordinance No. 3676 invalid and void *ab initio* for the City's and Petitioners' failure to comply with the mandates of the Wyoming annexation statutes, Wyo. Stat. § 15-1-401 *et seq* and applicable City Code.
- d. The Court will permanently enjoin the City from any attempt to re-annex the land described in ordinance No. 3676 until the mandatory provisions of Wyoming Statute and City Code are properly met.
- e. This Court award Plaintiffs' all such costs and fees that are allowable by law, and;
- f. For such other and further relief as this Court may deem just and equitable under the circumstances.

DATED this 13th day of January, 2006.

Respectfully submitted,

GAY WOODHOUSE LAW OFFICE P.C.

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