

HB

900

Veronica Clark -

Introduced: 3/21/78
Referred: Community & Regional
Affairs and Judiciary

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 HOUSE BILL NO. 900

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to approval and recording of sub-
7 divisions; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 40.15.010 is amended to read:

*Prohibits gifts
& leading
approval*

10 Sec. 40.15.010. APPROVAL AND RECORDING OF SUBDIVISIONS. Before
11 the lots or tracts of any subdivision or dedication may be sold, [OR]
12 offered for sale, or conveyed, the subdivision or dedication shall be
13 submitted for approval to the authority having jurisdiction, as pre-
14 scribed in this chapter. The regular approval of the authority shall be
15 shown on it or attached to it and the subdivision or dedication shall be
16 filed for record in the office of the recorder. The recorder shall not
17 accept a plat of a subdivision or dedication for filing unless it shows
18 this approval. The recorder shall not accept a deed for filing unless
19 it is accompanied by this approval, or by an affidavit of the grantor
20 stating that no subdivision is created by the deed, or by a certified
21 waliver of the requirement of plat under AS 29.33.170. If no platting
22 authority exists as provided in secs. 70 - 130 of this chapter, lands
23 may be sold without approval.

24 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
25 070(c).

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Matanuska-Susitna Borough, Inc.

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246

DEPARTMENT OF ADMINISTRATION

March 6, 1978

Ms. Lisa Rudd, Chair
Committee on Community &
Regional Affairs
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Ms. Rudd:

Subject: Recordation of Property Splits Not Approved by Platting Authority

This is a follow up to Marilyn Miller's contact with you concerning the need for legislation to carry out the position of the Alaska Municipal League that proof of approval by the local platting authority should be required prior to the filing of an instrument affecting the boundaries of land.

A serious problem has arisen because Statutes do not prohibit the recording of property splits which have not been approved.

AS 29.33.190(b) provides as follows: "No person may record a plat or seek to have a plat recorded unless it bears the approval of the platting board. A person who knowingly violates this requirement is punishable upon conviction by a fine of not more than \$500." This Borough is not anxious to prosecute persons who knowingly or unknowingly violate the State Statutes requiring platting authority approval of property splits. More importantly, such prosecution does not resolve the multitude of problems which stem from such recordation. Here's an example of what happens:

The owner of a 20 acre tract describes by aliquot parts 5 acres of the 20 acres and sells the 5 acres. The 5 acres may or may not be physically accessible or legally accessible.

A subsequent owner wants to split the 5 acres into 1 acre parcels. He cannot do so because the 5 acre parcel is illegally created and not recognized by the Platting Board. The new owner then has to retrace the proper platting procedure (or get a waiver of platting requirements under AS 29.33.170). It may or may not be possible for the original 5 acre split to be done in conformance with platting requirements.

A big hassle results.

Ms. Lisa Rudd
Recordation of Property Splits Not Approved by Platting Authority

March 6, 1978

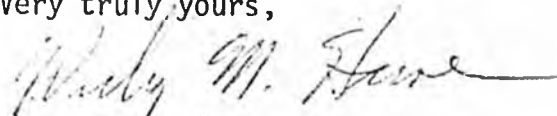
-2-

The grantee suffers. An extraordinary amount of staff time is required to clean up the mess. The grantor who violated the platting requirements has long since sold the other 15 acres and flown to Hawaii. He does not suffer. The platting statutes are circumvented.

The proposed legislation would provide an effective means of getting compliance to Statutes which require platting authority approval of all property splits. We do not now have an effective means.

I hope you will see fit to get such legislation introduced so that Boroughs can more effectively carry out their platting mandate.

Very truly yours,



Wesley M. Howe
Borough Manager

WMH:er

cc: Alaska Municipal League



Matanuska-Susitna Borough, Inc.

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246

DEPARTMENT OF ADMINISTRATION

April 7, 1978

Ms. Lisa Rudd, Chairman
Committee on Community &
Regional Affairs
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Ms. Rudd:

Subject: HB 900 Approval and Recording of Subdivisions

This is to express support of the subject bill. It appears to solve the problems presented in my letter of March 6, 1978 which urged introduction of this legislation.

While present law provides that the recorder shall not accept a subdivision unless it has been processed, nothing in existing law prevents a recorder from recording a deed for a parcel of property which has been created without the approval of the platting authority through the platting process or through a waiver of platting requirements. Such recordings have created hardships on buyers of such property and have caused immense administrative problems for the Borough as well as inconvenience for the public.

We urge that the Community and Regional Affairs Committee recommend passage of this bill.

Very truly yours,

Wesley M. Howe
Borough Manager

WMP:er

*unrecorded
deed or conveyance
not valid -*

what are ways of conveying?

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20 stating that no subdivision is created by the deed, or by a certified
21 waiver of the requirement of plat under AS 29.33.170. If no platting
22 authority exists as provided in secs. 70 - 130 of this chapter, lands
23 may be sold without approval, *affidavit or waiver.*

24 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
25 070(c).

26 *So what is accomplished?*
27 *How does an unrecorded deed fit in?*

TO: Lisa FROM: Annette

HB 900 includes the language recommended by Wes Howe of the Mat-Su Borough. We have two letters from him in the file explaining what he wishes to accomplish through this bill. Essentially the Mat-Su Borough would wish to strengthen the existing law so that no subdivisions will be able to slip by the platting boards.

We have gone a step further in the drafting of the bill by including the words "or conveyed" in the first sentence. This was included to get at a situation described by Marilyn Miller when she spoke with you about introducing the legislation; that is, a case where land is given to another party, not sold. The same hassles as Mr. Howe describes can result from such a free conveyance as with one that is sold.

However, if the committee wishes to reach these conveyances, it may be necessary to also amend the definition of subdivision in Title 40, which describes a subdivision in terms of parcels to be sold or to be used for building.

I have asked Mr. Berrier to be on hand to answer any questions about the effect of this bill on present statutes.

If the committee does not wish to reach these conveyances, then the rest of the proposed language will, in fact, strengthen the statute enough to address a good portion of the problems facing borough platting boards as a result of situations similar to those Mr. Howe described.

(2) "subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or areas subdivided. (§ 7 (ch II) ch 115 SLA 1953; am § 3 ch 95 SLA 1955)

Quoted in Tullinen v. Gielarowski, 2 Alas. L.J. No. 11, p. 169 (Dec., 1964).

Chapter 18. Preservation of Public Records.

Section

10 - 30. [Repealed]

Secs. 40.18.010 - 40.18.030.

Repealed by § 3 ch 191 SLA 1970.

Editor's note. - The repealed chapter derived from § 1, ch. 10, SLA 1968, and § 9, ch. 40, SLA 1969.

Chapter 20. Disposal of Public Records.

Section

10 - 30. [Repealed]

Secs. 40.20.010 - 40.20.030.

Repealed by § 3 ch 191 SLA 1970.

Editor's note. - The repealed chapter derived from ch. 147, SLA 1957.

Chapter 21. Management and Preservation of Public Records.

Article

- 1. Public Records (§§ 40.21.010 - 40.21.140)
- 2. General Provisions (§ 40.21.150)

Article 1. Public Records.

Section

- 10. Purpose
- 20. Archival and records management program creation and administration
- 30. Duties of the state archivist
- 40. Gifts, bequests or endowments of money
- 50. Regulations
- 60. Duties of chief executive officers of state agencies
- 70. Records management for local records
- 80. Disposal of public records by political subdivision

Section

- 90. Transfer of public records of political subdivision to department
- 100. Assistance to legislative and judicial branches
- 110. Care of records
- 120. Standards of clarity, accuracy, and permanency of copies or reproductions of public records
- 130. Alteration and replacement of public records
- 140. Use of copies and replacements as evidence

Sec. 40.21.010. Purpose. The purpose of this chapter is to provide for

Title 39
Public Officers
and Employees

Title 40
Public Records
and Recorders

Title 11
Public Lands