

HB

342



Matanuska-Susitna Borough, Inc.

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

DEPARTMENT OF ADMINISTRATION

March 6, 1978

Re: HB342

old

HB900

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.

Sec. 40.10.030. Certificate in form required for acknowledgment inside state. A certificate of acknowledgment of a deed or other instrument acknowledged outside the United States before any officer mentioned in § 10 of this chapter shall be valid if in the same form as now is or hereafter may be required by law for an acknowledgment within the state. (§ 23-2-3 ACLA 1949)

Sec. 40.10.040. Construction of chapter. This chapter shall be interpreted and construed as to effect its general purpose to make uniform the laws of those states and territories which enact it. (§ 23-2-4 ACLA 1949)

Sec. 40.10.050. Short title. This chapter may be cited as the Uniform Foreign Acknowledgment Act. (§ 23-2-5 ACLA 1949)

Chapter 15. Subdivisions and Dedications.

Article

1. Recording of Plats (§§ 40.15.010—40.15.060)
2. Control of Plats, Subdivisions and Dedications (§§ 40.15.070—40.15.130)
3. Vacation and Change of Plats and Streets (§§ 40.15.140—40.15.180)
4. General Provisions (§ 40.15.190)

Article 1. Recording of Plats.

Section

10. Approval and recording of subdivisions
20. Plats to be acknowledged and contain certificate that taxes and assessments are paid

Section

30. Dedication of streets, alleys and thoroughfares
40. Certified copy of plat is evidence
50. Recorded plats legalized
60. Missing plats

Sec. 40.15.010. Approval and recording of subdivisions. Before the lots or tracts of any subdivision or dedication may be sold or offered for sale, the subdivision or dedication shall be submitted for approval to the authority having jurisdiction, as prescribed in this chapter. The regular approval of the authority shall be shown on it or attached to it and the subdivision or dedication shall be filed for record in the office of the recorder. The recorder shall not accept a subdivision or dedication for filing unless it shows this approval. If no platting authority exists as provided in §§ 70—130 of this chapter, lands may be sold without approval. (§ 1 (ch I) ch 115 SLA 1953; am § 1 ch 95 SLA 1955; am § 67 ch 69 SLA 1970)

Cross reference. — For sections dealing with inspection of public records and their use as evidence, see AS 09.25.110 and AS 09.25.120.

Effect of amendment. — The 1970 amendment deleted "platting board or" preceding "platting authority" in the last sentence.

Legislative committee report. — For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7.

Approved plat must be filed for recording. — This section and AS 40.15.020 are sufficient authority to require the recorder to file for recording a plat when properly approved. *Tullinen v.*

Malone's suggested amendments (3/28/79 Hearing)

- * Jan. 1, 1980 should be the effective date. This would give people an opportunity to know what is happening and to be aware that there would be a new method of enforcement of land exchanges.
- * Transitional language should grandfather in existing subdivisions.
- * Delete lines 20-21 of p. 1. It should read:
"The recorder may not accept a deed or contract of sale unless it exhibits evidence of subdivision approval given by the municipality , or by a certified waiver of the requirement of the plat approval under AS 29.33.170"

Rep. Carney's suggested amendment to the bill;

Sec. 29.33.170 (2) eliminate "and that the land is divided into four or fewer parcels;" (See attached statutes)

DORIS LOENNIG
A PROFESSIONAL CORPORATION
ATTORNEY AT LAW

SUITE 206. 613 CUSHMAN STREET - FAIRBANKS, ALASKA 99701
907 452-2005

March 21, 1979

Representatives:

Brian Rogers
Sally Smith
Bob Bettisworth
Fred Brown
Charlie Parr
Dick Randolph

Dear Representatives:

I have just become aware of House Bill number 342, "An Act relating to approval and recording of subdivisions;". I strongly disapprove of the proposed amendments to the act and urge that you do everything within your power to defeat the act.

As most of you know, I have nearly thirty years experience as a title examiner for title companies both in the State of Oregon and Alaska, I have practiced law in the State of Alaska since 1970 and I am now presently a member of the Fairbanks North Star Borough Planning and Zoning Commission. I consider the act not only inherently unworkable, but it also imposes an impossible burden on the recorders office. Furthermore I consider the proposed amendment completely reprehensible with respect to a free people's right to own and deal with their real estate.

It is my observation since being a member of the Planning and Zoning commission that the present provisions for subdividing, and/or waiving of subdivision regulations is being observed by the landowners of this area. However, I am certainly not in favor of the bureaucracy imposing itself to a greater degree by further restricting the private right of landowners to freely exchange and sell their real estate. Nor do I consider that the collective wisdom of an appointed bureaucracy can, or should, replace the wisdom of the individual property owners.

Representatives
Re: Subdivisions

March 21, 1979
Page two

I have long been critical of many of the provisions of the present Subdivision Act. Particularly am I critical of the present definition of a subdivision. It is overly simplified and inartfully drafted; therefore, it is overly restrictive in its application. It is my opinion the legislature could well propose a more artful definition of a subdivision which would relieve much of the onerous burden from land owners, as well as relieving some of the more time consuming aspects of its administration by the planning and zoning commission.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Doris Loennig", with a long, sweeping flourish extending to the right.

Doris Loennig

DL:dcm



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

DATE: April 3, 1979

FILE NO. 1979 Legislature - HB 342

SUBJECT: Proposed committee substitute
for HB 342

Bill Parker, Chairman
House Community & Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Parker,

I understand your committee is considering a possible committee substitute for House Bill 342 which deals with the approval and recording of subdivisions. The proposed committee substitute would delete the present language in the bill which deals with the requirement for an affidavit of the grantor or maker and would substitute for that requirement the requirement that the deed or contract merely exhibit evidence of subdivision approval. This approach, unfortunately, will not accomplish what was originally aimed at in the bill as introduced. It was the purpose of the bill as drafted to require the grantor to make an affirmative statement, under oath, that the instrument to be recorded did not have the effect of subdividing land unless the instrument contained the approval of the local platting authority. This would force the grantor or maker of the instrument to focus his or her attention on the requirement that no subdivision be created without local platting approval. It would also permit criminal sanctions to be taken against the person who makes a false statement in such an affidavit.

Under the language in the proposed committee substitute, neither of these effects would be obtained. A person owning a lot in an approved subdivision could create an unlawful subdivision and never be aware of it nor make any false affidavit. For example, if a person owns lot 7, block A of the Riverdale Subdivision, he or she could create an unlawful subdivision by conveying an unsubdivided part of that lot as follows:

The northern one-half of lot 7, block B of the Riverdale Subdivision as shown on Plat No. 76-24, recorded on June 14, 1976 in the Juneau Recording District, First Judicial District, Juneau, Alaska.

The foregoing description would meet the requirements of the proposed committee substitute and is probably the way such a

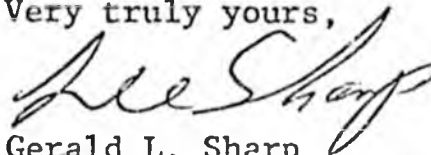
Representative Bill Parker
April 3, 1979
Page Two

conveyance would be described. Note that it contains ample evidence of subdivision approval, even though the unlawful subdivision created by this description is not approved. There is no way for the recording clerk to determine whether the instrument creates an unlawful subdivision and the instrument would be recordable.

Also, there are many subdivisions which occurred prior to the requirement for plat approval. These older subdivisions have been validated by statute and by ordinance and are lawful. Under the proposed language, however, a conveyance of such property could not be made inasmuch as it would not be possible to exhibit evidence of subdivision approval given by the municipality.

I urge you to pass out House Bill 342 as introduced as the language in the committee substitute appears to provide no more protection than already exists in the present statute.

Very truly yours,



Gerald L. Sharp
City-Borough Attorney

GLS/sb

cc: Ginny Kline, Director, AML

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

DIVISION OF GENERAL SERVICES AND SUPPLY

State Recorder

941 4th Avenue
ROOM 810 MACRAE BUILDING
220 DENALI STREET
ANCHORAGE, ALASKA 99501

March 30, 1979

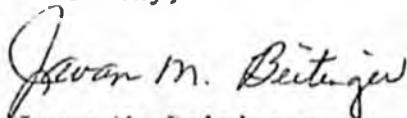
The Honorable Bill Parker
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Sir:

The enclosed information was sent to Richard Winchell, Deputy Director, Division of General Services and Supply, Department of Administration, last year when HB 900 was introduced.

Since HB 342 is virtually the same, this information is to inform you of the impact of this bill on the Recorder's Office as well as the honest Alaskan citizenry.

Sincerely,



Javan M. Beitzinger
State Recorder

cc: Barry Jackson, Assistant Director, General Services & Supply

Richard Winchell, Deputy Director
Division of General Services & Supply
Juneau

March 30, 1978

Tom E. Hain, Assistant Director
Division of General Services & Supply
Anchorage

HB 900

HB 900 has been introduced to amend A.S. 40.15.010.

The addition of the words "or conveyed" and "a plat of" are desirable.

However, the addition of the penultimate sentence in the section is without merit. This would place a burden on the approximate 40,000 deeds to be recorded annually, of which a minute fraction may be conveyances of illegal subdivisions. The requirement would apply to obviously legal subdivisions. It would increase the work of the Recording Section by the addition of another requirement to be reviewed before accepting a document. If the approval, affidavit, or certificate necessitates another piece of paper, then it too must be recorded, indexed, microfilmed, etc. and the grantee must pay \$2 more for the service.

A.S. 29.33.190 already provides a \$500 penalty for selling land in an unapproved subdivision and the platting board "... may enjoin a transfer, sale, or contract to sell, and may recover the penalty by appropriate legal action. . .". The political subdivisions get copies of every recorded conveyance and can easily determine if an illegal subdivision has been established. They can take legal action against the few offending parties.

What does the affidavit provide? The law already says that you shall not sell illegally subdivided land and provides a penalty. Does the affidavit add perjury to the offense? If the political subdivisions are not willing to enforce the existing statutes, what good will more laws be? Why should all of the legal deeds and honest people be burdened because the platting boards won't prosecute the offenders?

It is not mandatory that a conveyance be recorded (A.S. 34.15.290) so it would still be the platting board's responsibility to act.

Deeds are not filed, they are recorded. (Filing applies to documents held by the Recorder. Recording applies to documents which are indexed, copied and returned to their owners.)

Last, and very important, the District Recorders should not be used as enforcement agencies when the purpose of the recording function is to be a place of public record.

cc: Javan Beitinger ✓

TELETYPE

TO: RICHARD WINCHELL, G S&S, JUNEAU
DEPT:

DATE: 4-
TIME: 8

FROM: TOM E. MAIN, G S&S, ANCHORAGE
DEPT:

WE DIDN'T RECEIVE ANY TWX REGARDING NOME, BETHEL OR HB900.

MY ORIGINAL ESTIMATE OF COST OF HB900 DIDN'T CONSIDER THE DIFFICULTY OF APPORTIONING PARTS^{CF} EMPLOYEES. BASED ON STATEWIDE COSTS THE \$32,000 WOULD BE 100, \$25,800; 300, \$4,800 AND 400, \$1,400. HOWEVER, THIS MEANS ONE EMPLOYEE MORE FOR ANCHORAGE, ONE-HALF FOR FAIRBANKS AND ONE-QUARTER FOR PALMER, ALL RANGE 8. I WOULD LIKE TO AMEND COST ESTIMATE FOR 100 TO \$32,200 MAKING TOTAL COST \$38,300. THIS IS BASED ON 20,000 ADDITIONAL DOCUMENTS WHICH IS ONLY A GUESS.

board. The board shall state on its record and in writing to the applicant its reason for disapproval of a plat.

(b) The platting board shall submit an approved plat to the district recorder in compliance with AS 40.15.010—40.15.020. (§ 2 ch 118 SLA 1972)

Sec. 29.33.170. Waiver in certain cases. (a) The platting authority shall, in individual cases, waive the preparation, submission for approval, and recording of a plat upon satisfactory evidence that

(1) each tract or parcel of land will have adequate access to a public highway or street;

(2) each parcel created is five acres in size or larger and that the land is divided into four or fewer parcels;

(3) the conveyance is not made for the purpose of, or in connection with, a present or projected subdivision development;

(4) no dedication of a street, alley, thoroughfare or other public area is involved or required.

(b) In other cases the platting authority may waive the preparation, submission for approval, and recording of a plat, if the transaction involved does not fall within the general intent of §§ 29.33.150—29.33.240 of this chapter and AS 40.15 if it is not made for the purpose of, or in connection with, a present or projected subdivision development and no dedication of a street, alley, thoroughfare, park or other public area is involved or required. (§ 2 ch 118 SLA 1972)

Sec. 29.33.180. Information required. A plat shall show initial point of survey, original or reestablished corners and their descriptions, and actual traverse showing area of closure and all distances, angles and calculations required to determine initial point, corners and distances of the plat, as well as other information which may be required by ordinance. (§ 2 ch 118 SLA 1972)

Sec. 29.33.190. Penalties. (a) The owner or agent of the owner of land located within a subdivision who transfers, sells, or enters into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved, and recorded, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 for each lot or parcel transferred, sold, or included in a contract to be sold. The platting board may enjoin a transfer, sale, or contract to sell, and may recover the penalty by appropriate legal action.

(b) 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. (§ 2 ch 118 SLA 1972)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H.B. 342 C & R.A. Committee
 Title " . . . Approval & Recording of Subdivisions . . . "
 Requested by C & R. A. Committee Date 4/2/79

II. FISCAL DETAIL

Agency Affected _____
 Program Category Affected _____
 Budget Request Unit(s) Affected _____

EXPENDITURES (Thousands of Dollars)

	⁸⁰ FY 79	⁸¹ FY 80	⁸² FY 81	⁸³ FY 82	FY 83	FY 84
100 PERSONAL SERVICES	35,400	38,900	42,800	47,100		
200 TRAVEL	0	0	0	0		
300 CONTRACTUAL	5,100	5,400	5,700	6,100		
400 COMMODITIES	1,450	1,500	1,600	1,700		
500 EQUIPMENT	0	0	0	0		
600 LAND & STRUCTURES	0	0	0	0		
700 GRANTS, CLAIMS, ETC.	0	0	0	0		
TOTAL	41,950	45,800	50,100	54,900		

FUNDING (Thousands of Dollars)

	41,950	45,800	50,100	54,900		
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

* POSITIONS

	1				
FULL TIME					
PART TIME	3/4				
TEMPORARY					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

- * Anchorage = 1 Range 8
- Fairbanks = 1/2 Range 8
- Palmer = 1/4 Range 8

This would place a burden on the approximate 40,000 deeds to be recorded annually, of which a minute fraction may be conveyances of illegal subdivisions. The requirement would apply to obviously legal subdivisions. It would increase the work of the Recording Section by the addition of another requirement to be reviewed before accepting a document. If the approval, affidavit, or certificate necessitates another piece of paper, then it too must be recorded, indexed, microfilmed, etc., and the grantee must pay \$2 more for the service.

A.S. 29.33.]90 already provides a \$500 penalty for selling land in an unapproved subdivision and the platting board " . . . may enjoy a transfer, sale, or contract

IV. DATE 4/2/79 PREPARED BY Richard C. Bradley
 AGENCY Department of Administration, Division of General Services & Supply
 PHONE 465-2250
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

to sell, and may recover the penalty by appropriate legal action . . . ". The political subdivisions get copies of every recorded conveyance and can easily determine if an illegal subdivision has been established. They can take legal action against the few offending parties. It is not mandatory that a conveyance be recorded (A.S. 34.]5.290) so it would still be the platting board's responsibility to act.

Deeds are not filed, they are recorded. (Filing applies to documents held by the Recorder. Recording applies to documents which are indexed, copied and returned to their owners.)

Last, and very important, the District Recorders should not be used as enforcement agencies when the purpose of the recording function is to be a place of public record.

WO#6206/
Chenoweth

BY HUGH - WANTS
TO TESTIFY ON IT.

Original sponsor: Community and Regional
Affairs Committee

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 342

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to approval and recording of subdivi-
7 sions; 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:

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 may
17 [SHALL] not accept a plat of a subdivision or dedication for filing
18 unless it shows this approval. The recorder may not accept a deed or
19 contract of sale unless it is accompanied by this approval, or unless
20 the deed or contract of sale exhibits (a recorder's file number,) a plat
21 approval number, or other evidence of subdivision approval given by the
22 municipality, or by a certified waiver of the requirement of plat
23 approval under AS 29.33.170. If no platting authority exists as pro-
24 vided in AS 40.15.070 - 40.15.075, lands may be sold without approval.

25 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-

26 070(c). *Can any copy of municipal platting conveyances?*
27 *Subordinate or not conveyed?*
28 *Subordinate or not conveyed? showing to plat Georgetown*
29 *Subordinate or not conveyed? showing to plat Georgetown*
Allocate parts within the diagram



Matanuska-Susitna Borough, Inc.

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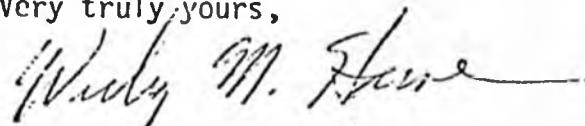
-2-

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

WHL:er

cc: Alaska Municipal League

Malone's suggested amendments (3/28/79 Hearing)

- * Jan. 1, 1980 should be the effective date. This would give people an opportunity to know what is happening and to be aware that there would be a new method of enforcement of land exchanges.
- * Transitional language should grandfather in existing subdivisions.
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Rep. Carney's suggested amendment to the bill:

Sec. 29.33.170 (2) eliminate "and that the land is divided into four or fewer parcels;" (See attached statutes)

Sec. 40.10.030. Certificate in form required for acknowledgment inside state. A certificate of acknowledgment of a deed or other instrument acknowledged outside the United States before any officer mentioned in § 1C of this chapter shall be valid if in the same form as now is or hereafter may be required by law for an acknowledgment within the state. (§ 23-2-3 ACLA 1949)

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Article 1. Recording of Plats.

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Cross reference. — For sections dealing with inspection of public records and their use as evidence, see AS 09.25.110 and AS 09.25.120.

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Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

COMMITTEE MINUTES

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

DATE: 4/11/79

BILL NUMBER AND TITLE: HB 342 Approval and Recording of Subdivisions

ORIGINAL SPONSOR : (H) C&RA Committee

OTHER SPONSORS:

RECEIVED FROM:

FURTHER REFERRALS: Judiciary

MEMBERS PRESENT: Parker
Parr Carney
Branson Zharoff
Metcalf O'Connell

MEMBERS ABSENT:

INDIVIDUALS CONTACTED:

WITNESSES TESTIFYING:

Richard Bradley, Director of Division of General Services, Dept. of Admin.
Bev Mueller, Recorder

The administration is opposed to the bill. Enforcement is already provided and it should not be the recorder's office which serves this function.

Parr--Doesn't see listing the circumstances under which recorders may or may not record as enforcement.

Ginny Chitwood - Municipal League

Doesn't see this as bringing enforcement into the hands of the recorder's office. Grandfather provisions are already in effect to a certain extent in that existing parcels are grandfathered in when subdivision ordinances are adopted by municipalities.

The basic problem this bill addresses is that land is being exchanged without being recorded.

Hugh Malone - There have been illegal subdivisions created since municipal ordinances were adopted. Those should be dealt with by a grandfathering provision. Otherwise, there will be a cloud on transactions.

Rep. Pat Carney - speaks to his suggested amendment. Sees this as an acceptable redefining of the subdivision definition.

Malone -- Doesn't see bill as essential. Thinks that the administration could handle the problem by regulations.

Carney - Sees that state will be in violation of the 4 parcel division of land waiver when disposing of state lands.

COMMITTEE ACTION: No action. Definition of subdivision might be considered in interim study.

TAPE # 7 SIDE 2

Sections 1-373



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

COMMITTEE MINUTES

DATE: 3/28/79

BILL NUMBER AND TITLE: HB 342 Relating to approval and recording of subdivisions

ORIGINAL SPONSOR : Community and Regional OTHER SPONSORS:
Affairs Committee

RECEIVED FROM: FURTHER REFERRALS:

MEMBERS PRESENT: Parker Carney MEMBERS ABSENT:
Parr O'Connell
Metcalf Branson Zharoff

INDIVIDUALS CONTACTED:

Malone
C&RA

WITNESSES TESTIFYING:

Malone -- The bill aids in better compliance with state laws. Parcels are now created and transferred in violation of local law. Background of problem discussed.

* Jan 1, 1980 should be the effective date. This would give people an opportunity to know what is happening and to be aware that there would be a new method of enforcement of land exchanges.

*Transitional language should grandfather in existing subdivisions.

*Delete lines 20-21 of p. 1. It should read:"The recorder may not accept a deed or contract of sale unless it exhibits evidence of subdivision approval given by the municipality, or by a certified waiver of the requirement of the plat approval under AS 29.33.170."

* Suggested amendments to the bill

Parr- Some subdivisions created in the early 1900's which were not under subdivisions regulations might be sold today. How would this be dealt with. Malone sees this covered under the proposed transitional provision which would grandfather in this type of land.

Metcalf-- Perhaps a title company, as well as the recorder's office, should be involved. Malone-Title Companies now routinely exempt illegally created lots.

Malone--The procedure should be as simple as possible.

COMMITTEE ACTION:Rep. Carney appointed as sub-committee to study the bill.

TAPE # 5 SIDE 2 Sections 797-1055

Questions related to HB 342

eliminate the reference on p. 1 line 20 re "recorder's file number"
(how is it used? Does a recorder always use a file number?)

Chenoweth -- The use of the term conveyed, is intended to cover all transactions of real estate which would pass land from one individual to another. Close the door on handing land from one person to another.



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

COMMITTEE MINUTES

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

DATE: 3/12/79

BILL NUMBER AND TITLE: HB 342 Relating to approval and recording of subdivisions

ORIGINAL SPONSOR : Community and Regional Affairs Committee OTHER SPONSORS:

RECEIVED FROM: FURTHER REFERRALS: Judiciary

MEMBERS PRESENT: Parker Metcalfe
Carney O'Connell
Branson Parr
Zharoff
MEMBERS ABSENT:
None

INDIVIDUALS CONTACTED:

WITNESSES TESTIFYING:

Lee Sharp -- Testified as to the purpose and intent of bill. Lines 12, 16,17 clean up language

Parr -- Problem re meaning of "conveyed". Is "conveyed" really needed? If property were devided by federal decree would there be an official recording?
Would "Conveyed" include "gifts"?

Problems discussed. It was decided to hold the bill over pending development of amendments by Parr & Carney

COMMITTEE ACTION: Held over pending amendments being worked on by Parr & Carney

TAPE # 4 SIDE 1 Sections 1-190



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

DATE: April 3, 1979

FILE NO. 1979 Legislature - HB 342

SUBJECT: Proposed committee substitute
for HB 342

Bill Parker, Chairman
House Community & Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Parker,

I understand your committee is considering a possible committee substitute for House Bill 342 which deals with the approval and recording of subdivisions. The proposed committee substitute would delete the present language in the bill which deals with the requirement for an affidavit of the grantor or maker and would substitute for that requirement the requirement that the deed or contract merely exhibit evidence of subdivision approval. This approach, unfortunately, will not accomplish what was originally aimed at in the bill as introduced. It was the purpose of the bill as drafted to require the grantor to make an affirmative statement, under oath, that the instrument to be recorded did not have the effect of subdividing land unless the instrument contained the approval of the local platting authority. This would force the grantor or maker of the instrument to focus his or her attention on the requirement that no subdivision be created without local platting approval. It would also permit criminal sanctions to be taken against the person who makes a false statement in such an affidavit.

Under the language in the proposed committee substitute, neither of these effects would be obtained. A person owning a lot in an approved subdivision could create an unlawful subdivision and never be aware of it nor make any false affidavit. For example, if a person owns lot 7, block A of the Riverdale Subdivision, he or she could create an unlawful subdivision by conveying an unsubdivided part of that lot as follows:

The northern one-half of lot 7, block B of the Riverdale Subdivision as shown on Plat No. 76-24, recorded on June 14, 1976 in the Juneau Recording District, First Judicial District, Juneau, Alaska.

The foregoing description would meet the requirements of the proposed committee substitute and is probably the way such a

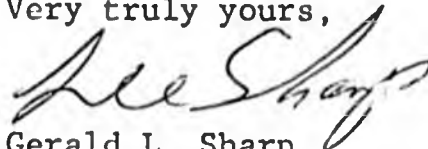
Representative Bill Parker
April 3, 1979
Page Two

conveyance would be described. Note that it contains ample evidence of subdivision approval, even though the unlawful subdivision created by this description is not approved. There is no way for the recording clerk to determine whether the instrument creates an unlawful subdivision and the instrument would be recordable.

Also, there are many subdivisions which occurred prior to the requirement for plat approval. These older subdivisions have been validated by statute and by ordinance and are lawful. Under the proposed language, however, a conveyance of such property could not be made inasmuch as it would not be possible to exhibit evidence of subdivision approval given by the municipality.

I urge you to pass out House Bill 342 as introduced as the language in the committee substitute appears to provide no more protection than already exists in the present statute.

Very truly yours,



Gerald L. Sharp
City-Borough Attorney

GLS/sb

cc: Ginny Kline, Director, AML

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

REQUEST

Bill/Resolution No. House Bill No. 342

Title "An Act relating to approval and recording of subdivisions..."

Requested by Community & Regional Affairs Committee

Date March 12, 1979

II. FISCAL DETAIL

Agency Affected Community & Regional Affairs

Program Category Affected Community Development

Budget Request Unit(s) Affected _____

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES	0	0	0			
200 TRAVEL	0	0	0			
300 CONTRACTUAL	0	0	0			
400 COMMODITIES	0	0	0			
500 EQUIPMENT	0	0	0			
600 LAND & STRUCTURES	0	0	0			
700 GRANTS, CLAIMS, ETC.	0	0	0			
TOTAL	0	0	0			

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0			
FEDERAL FUNDS	0	0	0			
OTHER (Specify)						

POSITIONS

FULL TIME	0	0	0			
PART TIME	0	0	0			
TEMPORARY	0	0	0			

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE March 12, 1979 PREPARED BY Doug Griffin

AGENCY Community & Regional Affairs - LGAD

Original: Legislative Finance

PHONE 465-3918

cc: Budget and Management

Prime Sponsor (If : Legislator Named)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

DIVISION OF GENERAL SERVICES AND SUPPLY

State Recorder

941 4th Avenue
ROOM 810 MACRAE BUILDING
228 DENALI STREET
ANCHORAGE, ALASKA 99501

March 30, 1979

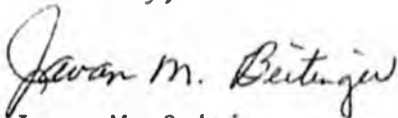
The Honorable Bill Parker
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Sir:

The enclosed information was sent to Richard Winchell, Deputy Director, Division of General Services and Supply, Department of Administration, last year when HB 900 was introduced.

Since HB 342 is virtually the same, this information is to inform you of the impact of this bill on the Recorder's Office as well as the honest Alaskan citizenry.

Sincerely,



Javan M. Beitinger
State Recorder

cc: Barry Jackson, Assistant Director, General Services & Supply

Richard Winchell, Deputy Director
Division of General Services & Supply
Juneau

March 30, 1978

Tom E. Main, Assistant Director
Division of General Services & Supply
Anchorage

HB 900

HB 900 has been introduced to amend A.S. 40.15.010.

The addition of the words "or conveyed" and "a plat of" are desirable.

However, the addition of the penultimate sentence in the section is without merit. This would place a burden on the approximate 40,000 deeds to be recorded annually, of which a minute fraction may be conveyances of illegal subdivisions. The requirement would apply to obviously legal subdivisions. It would increase the work of the Recording Section by the addition of another requirement to be reviewed before accepting a document. If the approval, affidavit, or certificate necessitates another piece of paper, then it too must be recorded, indexed, microfilmed, etc. and the grantee must pay \$2 more for the service.

A.S. 29.33.190 already provides a \$500 penalty for selling land in an unapproved subdivision and the platting board ". . . may enjoin a transfer, sale, or contract to sell, and may recover the penalty by appropriate legal action. . .". The political subdivisions get copies of every recorded conveyance and can easily determine if an illegal subdivision has been established. They can take legal action against the few offending parties.

What does the affidavit provide? The law already says that you shall not sell illegally subdivided land and provides a penalty. Does the affidavit add perjury to the offense? If the political subdivisions are not willing to enforce the existing statutes, what good will more laws be? Why should all of the legal deeds and honest people be burdened because the platting boards won't prosecute the offenders?

It is not mandatory that a conveyance be recorded (A.S. 34.15.290) so it would still be the platting board's responsibility to act.

Deeds are not filed, they are recorded. (Filing applies to documents held by the Recorder. Recording applies to documents which are indexed, copied and returned to their owners.)

Last, and very important, the District Recorders should not be used as enforcement agencies when the purpose of the recording function is to be a place of public record.

cc: Javan Beitinger ✓

TELETYPE

TO: RICHARD WINCHELL, G S&S, JUNEAU
DEPT:

DATE: 4-13-78
TIME: 8:25⁰

FROM: TOM E. MAIN, G S&S, ANCHORAGE
DEPT:

WE DIDN'T RECEIVE ANY TWX REGARDING NOME, BETHEL OR HB900.
MY ORIGINAL ESTIMATE OF COST OF HB900 DIDN'T CONSIDER THE DIFFICULTY OF
APPORTIONING PARTS^{OF} EMPLOYEES. BASED ON STATEWIDE COSTS THE \$32,000 WOULD BE
100, \$25,800; 300, \$4,800 AND 400, \$1,400. HOWEVER, THIS MEANS ONE EMPLOYEE
MORE FOR ANCHORAGE, ONE-HALF FOR FAIRBANKS AND ONE-QUARTER FOR PALMER, ALL
RANGE 8. I WOULD LIKE TO AMEND COST ESTIMATE FOR 100 TO \$32,200 MAKING TOTAL
COST \$38,300. THIS IS BASED ON 20,000 ADDITIONAL DOCUMENTS WHICH IS ONLY
A GUESS.

STATE OF ALASKA

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DEPARTMENT OF ADMINISTRATION

DIVISION OF GENERAL SERVICES AND SUPPLY

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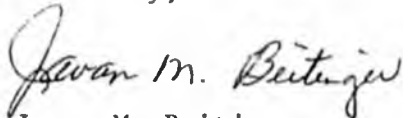
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DORIS LOENNIG
A PROFESSIONAL CORPORATION
ATTORNEY AT LAW

SUITE 206. 613 CUSHMAN STREET - FAIRBANKS, ALASKA 99701
907 462-2005

March 21, 1979

Representatives:

Brian Rogers
Sally Smith
Bob Bettisworth
Fred Brown
Charlie Parr
Dick Randolph

Dear Representatives:

I have just become aware of House Bill number 342, "An Act relating to approval and recording of subdivisions;". I strongly disapprove of the proposed amendments to the act and urge that you do everything within your power to defeat the act.

As most of you know, I have nearly thirty years experience as a title examiner for title companies both in the State of Oregon and Alaska, I have practiced law in the State of Alaska since 1970 and I am now presently a member of the Fairbanks North Star Borough Planning and Zoning Commission. I consider the act not only inherently unworkable, but it also imposes an impossible burden on the recorders office. Furthermore I consider the proposed amendment completely reprehensible with respect to a free people's right to own and deal with their real estate.

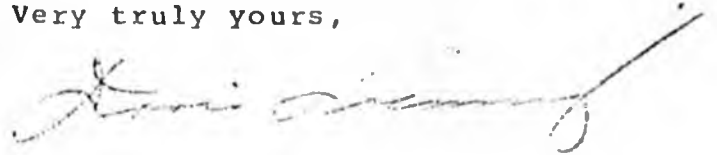
It is my observation since being a member of the Planning and Zoning commission that the present provisions for subdividing, and/or waiving of subdivision regulations is being observed by the landowners of this area. However, I am certainly not in favor of the bureaucracy imposing itself to a greater degree by further restricting the private right of landowners to freely exchange and sell their real estate. Nor do I consider that the collective wisdom of an appointed bureaucracy can, or should, replace the wisdom of the individual property owners.

Representatives
Re: Subdivisions

March 21, 1979
Page two

I have long been critical of many of the provisions of the present Subdivision Act. Particularly am I critical of the present definition of a subdivision. It is overly simplified and inartfully drafted; therefore, it is overly restrictive in its application. It is my opinion the legislature could well propose a more artful definition of a subdivision which would relieve much of the onerous burden from land owners, as well as relieving some of the more time consuming aspects of its administration by the planning and zoning commission.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Doris Loennig", with a long, sweeping flourish extending to the right.

Doris Loennig

DL:dcm