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MEMORANDUM

May 12, 1981

SUBJECT: Solar energy rights
(CSHB 441)

TO: House Resources Committee
Attn: Bob Speed

FROM: John B. Chenoweth
Legislative Counsel

The revisor of statutes observes that "shall" should be replaced by "may" at page 2, lines 1 and 7. The protection of solar rights is optional with the property owner. Use of the word "may" here is correct, for the action to be taken by the property owner, while necessary, is not mandatory.

JBC:ljb

Enclosure



Alaska State Legislature

House of Representatives

Committee on Resources

Terry Gardiner, Co-Chairman
Fred F. Zharoff, Co-Chairman
465-3715

Pouch V
State Capitol
Juneau, Alaska 99811

MEMO: April 27, 1981

TO: Rep. Terry Gardiner
Rep. Fred Zharoff
Co-Chairmen
Members of the Committee

FROM: Bob Speed, A.A.

RE: Proposed amendments to HB 441

Page 1, line 27: add comma after the word "industrial"

Page 2, line 1: change "may" to "shall"

Page 2, line 9: subsection (2) may not be entirely accurate in light of section (a) (P. 1, line 29 to p. 2, line 5) Perhaps this should be amended to say "may be amended at any time subject to notice procedures under (a) of this section."

An alternative would be to delete (2) entirely, and on line 8, change the semi-colon to a period.

Page 2, line 18 - 19: on line 18, delete "becomes effective" and on line 19, insert "vests" prior to "immediately"

Page 2, lines 21-23: amend the section to read: "is an inchoate right only as to property where there is no actual use, and shall not vest unless diligent and successful efforts to achieve actual use are made."

Page 3, line 8: delete language of subsection (1), and include subsection (2) as part of the main section.

Page 3, lines 16-17: change "otherwise" to "explicitly"; change "to the transfer" to "in the instrument of conveyance"

Page 3, line 29: insert "permanent" prior to "injunction"

Page 4, lines 1-2: Entire clause could be replaced by word "otherwise"

Page 4, line 10: change "taken effect" to "vested"

Page 4, lines 16-17: For clarity, switch order of subsections (A) and (B)

line 17: insert "reasonable" before "reliance"

line 19: delete "the right from" and insert later in that sentence, after "inchoate right" the words "to a vested right"

Page 4, line 20: Add a new section 34.65.090, to read:

"Nothing in this chapter shall prevent local governments from providing for solar access in a zoning ordinance, or from instituting a local permit system which reasonably regulates the location, nature and extent of solar energy use. Where a local permit system for solar energy use is established, an approved permit shall be filed with the office of the local recorder in order to satisfy the solar use notice requirements of Section 34.65.030."

Page 4, line 25: Change section to read:

"Nothing in this section, including the repeal of AS 34.15.145 by sec. 3 of this Act shall be construed to impair existing contracts or easements relating to solar access, nor to prevent such arrangements from being formed."