

CEDRA

COMMISSIONER
CONFIRMATION
HEARINGS

FILE 3

Alaska State Legislature



Barbara Lacher, Chairman
Mac Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Cocksie
Jack McBride
Mike Sommerski

Room 104
State Capitol
Juneau, Alaska 99811
Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

March 14, 1983

Mr. Mark Lewis, Commissioner
Department of Community and
Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Commissioner Lewis:

Pursuant to AS 39.05.080, the House Committee on Community and Regional Affairs is in receipt of communications that request the Committee to conduct hearings pertaining to your confirmation as Commissioner, Department of Community and Regional Affairs.

This is to notify you that confirmation hearings will be scheduled to begin at 3:15 p.m. on March 21 in Room 205, Capitol and on March 22, in Room 126, Capitol. Additional hearings may be scheduled, if deemed necessary. The Committee respectfully requests your presence during the hearings.

Sincerely,

A handwritten signature in cursive script, appearing to read "Barbara Lacher".

Representative Barbara Lacher
Chairman, House Community and
Regional Affairs Committee

BL:pt

Applied in Alaska State-Operated Sch. Sys. v. Mueller, Sup. Ct. Op. No. 1157 (File No. 2138), 536 P.2d 99 (1975).

Cited in Walker v. Alaska State Mortgage Ass'n, Sup. Ct. Op. No. 353 (File No. 669), 416 P.2d 245 (1966); Alaska State Housing Auth. v. Dixon, Sup. Ct. Op. No. 793 (File No. 1529), 496 P.2d 69 (1972).

Am. Jur. 2d and ALR references. -- 63 Am. Jur. 2d, Public Officers and Employees, §§ 5, 38-81, 360-413.

Conclusiveness of governor's decision in removing or suspending officers, 52 ALR 7; 92 ALR 998.

Constitutionality of statute providing for direct appeal or other review of orders and rulings of governor, 66 ALR 586.

Prohibition as means of controlling action of governor, 115 ALR 14.

Legislative power to prescribe qualifications for or conditions of eligibility to constitutional office, 34 ALR2d 155.

Sec. 39.05.065. Qualifications of members of the Board of Education. (a) Each member of the Board of Education shall be a citizen of the United States and have been a resident of Alaska for at least three years.

(b) A member of the Board of Education may also be a member of a district school board. (§ 11 ch 96 SLA 1967; am § 19 ch 26 SLA 1930)

Revisor's note. -- "District" as used in subsection (b) of this section apparently means a district of the state public school system as set out in AS 14.12.010.

Cross reference. -- As to appointment

of members of Board of Education, see AS 14.07.085.

Effect of amendment. -- The 1980 amendment, added subsection (b).

Sec. 39.05.070. Purpose. It is the purpose of AS 39.05.070 -- 39.05.110 to--provide procedural uniformity in the exercise of appointive powers conferred by the legislature to eliminate, insofar as possible, recess or interim appointments except in the event of death, resignation, inability to act or other removal from office and the exercise, insofar as possible, of appointive powers only when the legislature is in session. (§ 1 ch 64 SLA 1955)

Section repugnant to tacit confirmation. -- The expressed intention of this section is repugnant to tacit

confirmation of appointments. Munson v. Territory of Alaska, 16 Alaska 580 (1956).

Sec. 39.05.080. Procedure for all appointments. Appointments shall be made in the following manner:

(1) The appointing authority shall, within 30 days of the convening of the legislature in regular session, present to the legislature for confirmation the names of the following persons: (A) persons appointed to a position or membership who have not previously been confirmed by the legislature or either house of it; (B) persons appointed by him subject to confirmation to fill an existing position or membership vacancy; (C) persons to be appointed subject to confirmation to fill a position or membership the term of which shall expire before July 2, following the session of the legislature. If an appointment is made after the deadline but while the legislature is in session, the appointing

authority shall, within five calendar days after the appointment is made, present to the legislature for confirmation the name of the person appointed. The deadline may be extended by the legislature by the approval of a concurrent resolution.

(2) When appointments are presented to the legislature for confirmation,

(A) the presiding officer of each house shall assign the name of each appointee to a standing committee of that house for a hearing, report and recommendation; standing committees of the two houses assigned the same person's name for consideration may meet jointly to consider the qualifications of the person appointed and may issue either a separate or a joint report and recommendation concerning that person; then

(B) the legislature shall, before the end of the session in which the appointments are presented, in joint session assembled, act on the appointments by confirming or declining to confirm by a majority vote of all of the members the appointments presented.

(3) When the legislature declines to confirm an appointment, the legislature shall notify the appointing authority of its action and a vacancy in the position or membership exists which the appointing authority shall fill by making a new appointment. The new appointment shall be presented for confirmation to the legislature within 20 calendar days following receipt by the appointing authority of the legislature's notification of its refusal to confirm the prior appointment. If the name of a person is submitted and is not confirmed, the appointing authority may not, upon resubmission of appointments, submit again the name of the person whose confirmation was refused for the same position or membership during the session of the legislature at which confirmation was refused. The person whose name is refused for appointment by the legislature may not thereafter be appointed to the position or membership during the interim between legislative sessions. Failure of the legislature to act to confirm or decline to confirm an appointment during the session in which the appointment was presented is tantamount to a declination of confirmation on the day the session adjourns.

(4) Pending confirmation or rejection of appointment by the legislature, persons appointed shall exercise the functions, and have the powers and be charged with the duties prescribed by law for the appointive positions or membership. (§ 4 ch 54 SLA 1955; am §§ 1—3 ch 1 SLA 1964; am § 1 ch 2 SLA 1967; am § 1 ch 65 SLA 1974; am § 2 ch 82 SLA 1975)

Legislative history of ch. 82, SLA 1975. — See *Bradnor v. Hammond*, Sup. Ct. Op. No. 1297 (File No. 2802), 553 P.2d 1 (1976).

Laws requiring bilateral appointments are mandatory. *Munson*

v. Territory of Alaska, 16 Alaska 580 (1956).

Paragraph (2) of this section imposes a direct mandate upon the legislature to act upon the nominations of the governor. *Munson v. Territory of Alaska*, 16 Alaska 580 (1956).

BIOGRAPHY

Mark E. Lewis

Born:

Place: Boston, Massachusetts

Year: June 27, 1951

Education:

Grade School - Marblehead, Massachusetts

High School - Shattuck School
Fairbault, Minnesota

Undergraduate - Washington State University
September 1971 - June 1974; Bachelor of Arts - Political
Science/Public Administration; course work emphasis in
community development; organization and government
administration

Graduate - Washington State University
February 1977 - January 1978; course work emphasis in
finance and accounting

Listings and Offices:

- President, Alaska City Managers Assoc., 1980/81
- Vice President, Alaska City Managers Assoc., 1979/80
- Board of Directors, Alaska City Managers Assoc., 1978/79
- "Who's Who" Among Students in American Universities and
Colleges, 1973/74

Military:

- Graduate of United States Army
Ranger School - 1972
Status: Army Reserves

Work Experience:

- City of Pullman
Pullman, Washington
1972 - 1974

Program Coordinator

Worked part-time while an undergraduate student as staff
assistant to a City Department Head

- City & Borough of Juneau
Juneau, Alaska
June 1974 - February 1977

City/Borough Administrative Assistant (Assistant to the City Manager)

The City of Juneau is a consolidated full-service "home-rule" city/borough government of the capital of the State of Alaska with a population of 22,000; net budget approximately \$40 million, including \$15 million capital budget. Responsibilities as the Assistant to the City Manager included: budget preparation and budget management assignments; direct responsibility for the City's insurance program and State and Federal grant programs. As staff assistant to the manager, I conducted management analysis and review of various City operations, supervised a wide variety of civic projects and aided in the development of staff policy on a broad spectrum of issues.

- City of Valdez
Valdez, Alaska
January 1978 - May 1978

Assistant City Manager

Managed day-to-day routine operations of the City, along with being directly responsible for financial operations. Did research; monitored, evaluated and directly supervised various programs; developed staff policy recommendations on a broad spectrum of issues.

- City of Valdez
Valdez, Alaska
May 1978 - July 1982

City Manager

The City of Valdez is a growing oil pipeline and port community - the terminus of the Trans-Alaska Pipeline and North America's largest oil port. The City is a full-service, "home-rule," local government encompassing 275 square miles, with a 1981 net operating budget of \$29 million and a capital budget of \$70 million. The Community has approximately 80 full-time City employees and a population of approximately 4,000 people.

The Community's goals, as defined and developed, are to expand and diversify the economy - building on the economic base of the pipeline terminal and utilizing the City's unusual tax base to rebuild and establish the community's long term assets while improving the quality of life for its citizens.

I, as City Manager, was able to make significant contributions to the City of Valdez while, at the same time, gaining a great wealth of management experience, especially in the fields of municipal finance and industrial development, as well as obtaining the experience of piloting major construction projects with significant environmental considerations through Federal and State permit process, on schedule and within budget.

Experience Summary

- Identified, developed and implemented comprehensive community goals with the City Council over a period of years.
- Planned and implemented a comprehensive capital improvement program which included: major port facilities, schools, roads, storm and sanitary sewers, parks, library, civic center, administration building and police and fire stations.
- Facilitated the economic development and diversification of the City.
- Developed the City as one of the major leaders in tax-exempt financing.
- Reconstructed and redirected the City's financial systems.
- Developed a capable staff who are able to follow through with the City's diversification programs.

Economic Development and Diversification

The City Administration established a sound working relationship with industry, which has been the basis for Valdez's economic development. The Administration's efforts included the development of the oil industry, port and marine industries, seafood industry, pipeline related industries, as well as small businesses.

Tax-Exempt Financing

The City of Valdez has become a leader in the field of tax-exempt financing. I was the key administrative official for the City of Valdez on the following financing:

- in the final issues of \$1.35 Billion in Marine Terminal Revenue Bonds;

- \$600 million developed to construct oil facilities in Valdez;
- \$48 million Port Redevelopment bond issue to construct a new "interior Alaska" container port at Valdez;
- \$10 million housing mortgage revenue bond (low interest 8 1/2%) which provided tax-exempt housing mortgage money for Valdez residents; and
- \$18 million school bond issue used to construct various school facilities

Capital Construction

Major new capital construction programs completed under my administration include the following:

- Library facilities - \$2.6 million
- Administration and Police buildings - \$3.0 million
- Three fire stations (2 rural and 1 central)
- City shop (heavy equipment, vehicle maintenance facility)
- Roads, storm and sanitary sewers, parks
- Airport reconstruction - \$7.0 million (including Navigational Aid System)
- Port facilities - \$48.0 million (cargo and container)
- Civic Center (includes theater and large convention center)

These construction projects were designed to build Valdez's infrastructure of community facilities while stimulating the economy in the midst of a temporary recession. During these years the tax millage rate was lowered from 8.9 mills to 6.3 mills.

Awards

Valdez-All America City, 1981-82 by the National League of Cities

Excellence in financial Reporting, 1982 by the Municipal Financial Officer's Association

JAN 4 1983

STATE OF ALASKA
ALASKA PUBLIC OFFICES COMMISSION

610 C Street, Suite 211
Anchorage, AK 99501-3598
(907) 276-4176

OR

APOC - JNO
Room 302, Gold Blk Bldg H.C.
130 Sewart Street
Mail: Pouch CO
Juneau, AK 99811-0222
(907) 465-4864

CONFLICT OF INTEREST STATEMENT FOR STATE PUBLIC OFFICIAL OR CANDIDATE

PART 1. GENERAL INFORMATION

REPORTING PERIOD: January 1, 1982 to December 31, 1982 *

REPORTING OFFICIAL: Name: Mark Lewis

Resident Address: 150 Third Street Mailing Address: Pouch B

City: Juneau State: AK Zip Code 99811 Home Phone: (907) 465-4700
Work Phone: (907) 465-4700

APPLICABLE OFFICE (Mark one or more, as appropriate, and complete blanks):

Legislative _____ (Senator or Representative) Judicial: _____ (title)

Executive Commissioner Community and Regional Affairs
(title of position) (name of department)

Board or Commission Alaska Housing Finance Corporation, Alaska Industrial Develop
and others declared by State Statute
(name of Board or Commission)

TERM OF OFFICE: Begin December 6, 1982 End -

If Candidate, Date Declaration of Candidacy or Nominating Petition Filed: _____

If Appointed or Hired, Effective Date of Appointment: December 7, 1982

MEMBERS OF FAMILY OF REPORTING OFFICIAL: (Please list names)

Spouse: N.A. Dependent Children: N.A.

Non-dependent Children Living with Reporting Official: N.A.

PART 2. CERTIFICATION

I, the undersigned, declare under oath and on penalty of perjury that the statements contained in this conflict of interest statement are, to the best of my knowledge, true, correct, and complete.

DATED: 1/3/83 SIGNED: [Signature]

SUBSCRIBED AND SWORN to before me this _____ day of _____, 19_____.

Notary Public: _____
My commission expires: _____

*The reporting period is the preceding calendar year for public officials and candidates; were an official to be appointed to a position subject to AS 39.50 in 1981 or were a candidate to file for office in 1981, the "current" COI Statement would cover calendar year 1980.

PART 3. SOURCES OF INCOME AND CAPITAL GAINS OVER \$100

NAME (of reporting official, spouse, etc.)

SOURCE OF INCOME (by name; amounts need not be disclosed.)

1) Salary:

Mark Lewis

State of Alaska

Commissioner

Community and Regional Affairs

Office of the Commissioner

2) Rentals (include business name, if any):

(renters)

3) Dividends and Interest:

Mark Lewis

First National Bank of Anchorage

Foster & Marshall, Inc.

4) Self employment (business name):

(clients or customers or "retail")

N.A.

5) Other:

N.A.

(Continue on blank sheet if necessary)

**PART 4. BUSINESS INVOLVEMENT OR OWNERSHIP INTEREST AS A STOCKHOLDER,
OWNER, OFFICER, DIRECTOR, PARTNER, PROPRIETOR, OR EMPLOYEE**

NAME (reporting official, spouse, etc.)	NATURE OF INVOLVEMENT OR INTEREST	NAME AND ADDRESS OF BUSINESS
<u>Mark Lewis</u>	<u>Savings Account</u>	<u>First Nation Bank of Anch. Valdez, AK 99686</u>
	<u>Savings Account</u>	<u>Foster & Marshall, Inc. Juneau, AK 99801</u>

(Continue on blank sheet if necessary)

PART 5. REAL PROPERTY INTERESTS OWNED, INCLUDING OPTIONS TO BUY

NAME (of reporting official, spouse, etc.)	IDENTITY OF PROPERTY INCLUDING LOCATION AND CURRENT USE	NATURE OF INTEREST
<u>Mark Lewis</u>	<u>House - 324 Hanagita Valdez, AK 99686</u>	<u>Owner, current Rental</u>
	<u>Town house, Juneau Douglas Island</u>	<u>Purchasing house Mortgage TBA</u>

(Continue on blank sheet if necessary)

PART 6. BENEFICIAL INTEREST IN TRUSTS OR OTHER FIDUCIARY RELATION

NAME (reporting official, spouse, etc.)	TRUSTOR	PROPERTY	EXTENT OF INTEREST
<u>N. A.</u>			

(Continue on blank sheet if necessary)

**PART 7. LOANS, LOAN GUARANTEES OR OTHER FINANCIAL OBLIGATIONS
OF \$500 OR MORE**

NAME (reporting official, spouse, etc.)	IDENTITY OF MAKER OF LOAN, LOAN GUARANTOR, OR CREDITOR
Mark Lewis	Mortgage on Valdez house - self mtg. w/ FWBA
Mark Lewis	Car loan self-loan w/ FWBA

(Continue on blank sheet if necessary)

**PART 8. CONTRACTS AND OFFERS TO CONTRACT WITH THE STATE
OR AN INSTRUMENTALITY OF THE STATE**

NAME AND RELATIONSHIP (John Doe, reporting off.; Jan Doe, spouse)	STATE CONTRACTING DEPT. OR INSTRUMENTALITY	IDENTITY OF CONTRACT	INDICATE: BID, HELD, OFFERED
N.A.			

(Continue on blank sheet if necessary)

**PART 9. LEASES OR OFFERS TO LEASE MINERAL, TIMBER, OIL,
OR OTHER NATURAL RESOURCES**

NAME AND RELATIONSHIP (John Doe, reporting off.; Mary Doe, mother)	NATURE OF LEASE	IDENTITY OF LEASE	INDICATE: HELD OR OFFERED
N.A.			

(Continue on blank sheet if necessary)

JAN 3 1983

STATE OF ALASKA
ALASKA PUBLIC OFFICES COMMISSION

610 C Street, Suite 211
Anchorage, AK 99501-3598
(907) 276-4176

OR

APOC - JNO
PM H.C.
Room 302, Goldstein Bldg.
130 Sewart Street
Mail: Pouch CO
Juneau, AK 99811-0222
(907) 465-4064

CONFLICT OF INTEREST STATEMENT FOR STATE PUBLIC OFFICIAL OR CANDIDATE

PART 1. GENERAL INFORMATION

REPORTING PERIOD: January 1, 1981 to December 31, 1981 *

REPORTING OFFICIAL: Name: Mark Lewis

Resident Address: 2733 John Street Mailing Address: Pouch B

City: Juneau State: AK Zip Code _____ Home Phone: _____
Work Phone: (907) 465-4700

APPLICABLE OFFICE (Mark one or more, as appropriate, and complete blanks):

Legislative _____ (Senator or Representative) Judicial: _____ (title)

Executive Commissioner of the Department of Community and Regional Affairs
(title of position) (name of department)

Board or Commission Alaska Housing Finance Corporation and the Alaska Industrial
Development Association & others by State Statute
(name of Board or Commission)

TERM OF OFFICE: Begin December 6, 1982 End _____

If Candidate, Date Declaration of Candidacy or Nominating Petition Filed: _____

If Appointed or Hired, Effective Date of Appointment: December 6, 1982

MEMBERS OF FAMILY OF REPORTING OFFICIAL: (Please list names)

Spouse: N.A. Dependent Children: N.A.

Non-dependent Children Living with Reporting Official: N.A.

PART 2. CERTIFICATION

I, the undersigned, declare under oath and on penalty of perjury that the statements contained in this conflict of interest statement are, to the best of my knowledge, true, correct, and complete.

DATED: 1/3/83 SIGNED: Mark Lewis

SUBSCRIBED AND SWORN to before me this 3rd day of January, 1983

Notary Public: Wanda E. English
My commission expires: 4/16/83

*The reporting period is the preceding calendar year for public officials and candidates; were an official to be appointed to a position subject to AS 39.50 in 1981 or were a candidate to file for office in 1981, the "current" COI Statement would cover calendar year 1980.

PART 3. SOURCES OF INCOME AND CAPITAL GAINS OVER \$100

NAME (of reporting official, spouse, etc.)

SOURCE OF INCOME (by name; amounts need not be disclosed.)

1) Salary:

Mark Lewis
Mark Lewis
Mark Lewis

City of Valdez
University of Alaska
State of Alaska/CRA/Commissioner

2) Rentals (include business name, if any):

(renters)

3) Dividends and (interest):

Mark Lewis

First National Bank of Anch
Foster & Marshall, Inc

4) Self employment (business name):

N.A.

(clients or customers or "retail")

5) Other:

N.A.

(Continue on blank sheet if necessary)

PART 4. BUSINESS INVOLVEMENT OR OWNERSHIP INTEREST AS A STOCKHOLDER, OWNER, OFFICER, DIRECTOR, PARTNER, PROPRIETOR, OR EMPLOYEE

NAME (reporting official, spouse, etc.)	NATURE OF INVOLVEMENT OR INTEREST	NAME AND ADDRESS OF BUSINESS
Mark Lewis	Savings Account	Valdex, AK 99686
		Foster and Marshall, Inc.

(Continue on blank sheet if necessary)

PART 5. REAL PROPERTY INTERESTS OWNED, INCLUDING OPTIONS TO BUY

NAME (of reporting official, spouse, etc.)	IDENTITY OF PROPERTY INCLUDING LOCATION AND CURRENT USE	NATURE OF INTEREST
Mark Lewis	House - 324 Hanagita	Owner -

(Continue on blank sheet if necessary)

PART 6. BENEFICIAL INTEREST IN TRUSTS OR OTHER FIDUCIARY RELATION

NAME (reporting official, spouse, etc.)	TRUSTOR	PROPERTY	EXTENT OF INTEREST
N.A.			

(Continue on blank sheet if necessary)

**PART 7. LOANS, LOAN GUARANTEES OR OTHER FINANCIAL OBLIGATIONS
OF \$500 OR MORE**

NAME (reporting official,
spouse, etc.)

IDENTITY OF MAKER OF LOAN, LOAN GUARANTOR, OR CREDITOR

Mark Lewis	Car loan self-loan w/FWBA

(Continue on blank sheet if necessary)

**PART 8. CONTRACTS AND OFFERS TO CONTRACT WITH THE STATE
OR AN INSTRUMENTALITY OF THE STATE**

NAME AND RELATIONSHIP
(John Doe, reporting
off.; Jan Doe, spouse)

STATE CONTRACTING DEPT.
OR INSTRUMENTALITY

IDENTITY OF
CONTRACT

INDICATE: BID,
HELD, OFFERED

N. A.			

(Continue on blank sheet if necessary)

**PART 9. LEASES OR OFFERS TO LEASE MINERAL, TIMBER, OIL,
OR OTHER NATURAL RESOURCES**

NAME AND RELATIONSHIP
(John Doe, reporting
off.; Mary Doe, mother)

NATURE OF
LEASE

IDENTITY OF LEASE

INDICATE:
HELD OR OFFERED

N. A.			

(Continue on blank sheet if necessary)

City of Valdez

RECEIVED

JAN 27 1983

POLICE DEPARTMENT
January, 24, 1983 DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS



Governor Bill Sheffield
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

I am writing this letter because I feel that it is important that other views be known. I have never used the news media or other public sources to air my personal opinions. However, recently after reading several stories in the Anchorage Daily News I find myself compelled to ask for a few minutes of your time.

I will not answer each point that has been made by the Anchorage Daily News as I feel this is a blatant attempt by them not only to discredit Mr. Lewis but also a cheap way to sell newspapers.

I have worked closely with Mr. Lewis and was very pleased with his appointment to the state cabinet post. I feel this appointment and others that you have made are a clear sign that we will not only have honesty in our state government but that we will have progressive government rather than business as usual.

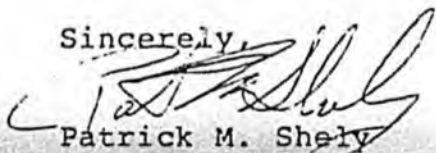
In the time Mr Lewis spent as City Manager with the City of Valdez I found his integrity and honesty to be of the highest level. I would not hesitate to work for or with Mr. Lewis on any matters.

To allow blatant attempts by the Anchorage Daily News and others who appear to have personal grudges against Mr. Lewis to remove Mr. Lewis from office would be a serious miscarriage of justice.

I also feel that this type of political mudslinging would damage our political process if allowed to have any credibility.

Thank you for your time. Please be assured of my support and cooperation.

Sincerely,


Patrick M. Shely
Chief of Police

cc: Mark Lewis



CO—MAN SERVICES

BOX 234

DILLINGHAM, ALASKA 99576

February 24, 1983

The Honorable
Representative Barbara Lacher
Pouch V
Juneau, Alaska 99811

Dear Rep. Lacher:

I have recently met with the Department of Community and Regional Affairs Commissioner and wish to convey to you my favorable impression of him. Mr. Lewis strikes me as a person who is sensitive to municipal problems of communities of all sizes in our state.

It is my hope that you will look favorably on his confirmation. Although I have heard of certain allegations in reference to Mr. Lewis, I am not personally aware of anything substantial against him to cause me to speak against his confirmation.

With this in mind, I am in support of Mr. Lewis as Commissioner of Community and Regional Affairs and I sincerely urge you to vote in favor of his confirmation.

Thank you for your consideration.

Sincerely,

Nels A. Anderson Jr.
Nels A. Anderson, Jr.

NAA:bjb

Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
CHAIRMAN RESOURCES COMMITTEE

4016 EVERGREEN
FAIRBANKS, ALASKA 99701
907-479-3550



Senate

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
OFFICE 907-465-3763
RESOURCES COMMITTEE
907-465-3834
HOME 907-789-9182

March 7, 1983

Mr. Nels A. Anderson, Jr.
Co-Man Services
Box 234
Dillingham, Alaska 99576

Dear Nels:

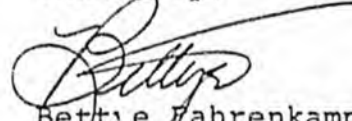
Thank you for your letter supporting Mark Lewis. I've had the opportunity to work with Mark and I find him to be not only very dedicated, but bright and aggressively motivated. I tend to feel as you do, I'm very impressed.

Nels, as you know, there are no assurances. But, I intend to do all that I can to see this fine young man confirmed. It's just too bad you're not here to cast your official vote. We sure do miss you in the chamber and in the lounge.

I sincerely hope all is well with you professionally and personally. Next time you are in town, don't be such a stranger.

Warm personal regards.

Sincerely,


Bettye Fahrenkamp
Alaska State Senator

BF/ab

LETTERS FROM THE PEOPLE



people' is your space to comment on nearly any topic, considerations of good taste and libel. The shorter the it can be published; in any case the best guideline is . Prose only, please; no poems or verse. All letters should include a daytime phone number so we can Address letters to The Daily News, Pouch 6616,

fact that there is a wild and untamed land is here is not much of an sympathy with actly it is.

hat Alaska is cold stereotype attitude that you have not facts of Alaskan nation has. If you erybody in Alaska around this "cold, l, as your attitude one who does.

he best fishing and in the world, and like to come to this er reason that they e so, is for the jobs, n the Transalaska years ago, and they

Robert Armstrong

Support your local jazz musician

I would like to comment about the fledgling jazz opportunities in Anchorage, Alaska. I am an Alaskan since 1967 and have played in various "in town" settings as an entertainer. It seems in the late 70s (disco era), local musicians were given their walking papers by local club owners in favor of "out of towners." Do Alaskans really think "in town" acts can't be quality?

I went to a local "jam session" last Sunday at the Tiki Cove. It seems the house band members (which are composed mostly of non-longtime Alaskan residents) seem to get all of the jazz jobs that come about. They seem to entertain themselves and could not let local musicians play alone as a group for even one song.

The purpose of "jam sessions" are to let everyone express themselves musically. People have to be able to crawl before we walk.

In the late '50s and early 60s, the "Oasis" club was a frequent stopover spot for many

our forests, and turn our lakes and streams into garbage dumps — all this in only a few years — we'd better hurry, 'cause there isn't much time left.

All that aside, Jerry, you still haven't answered my main question: how much do the oil companies write off when they find a dry hole? And why bother drilling when they know nothing is there? I say, let us put our money and intelligence to better use!

— Dave Carlson

A response from Valdez

The recent letter congratulating your reporters on spotlighting Valdez' profligate ways was not amusing to Valdezeans, nor was it accurate. As with anything that is spotlighted, much of what is really there languishes in the dark.

While we recognize that telling stories on Valdez has become great sport of late, your letter writer's gross exaggeration demands correction. The great "Big Mac Importation" was not quite as exciting a story as it apparently translated by a pilot passing on an amplified anecdote.

Political fund-raisers necessitate unique items to spur contributors and as auction coordinator, I fixed on Big Macs. While taken for granted by Anchorageites, we in the hinterlands have Big Mac Attacks that necessarily involve 350-mile ventures upcountry to satisfy. The order for 50 Big Macs was placed and arrangements were made to have them picked up and delivered to Valdez Airlines on their last evening run into Valdez so the burgers would be "fresh" for the big event. A last-minute snag in pick-up arrangements developed, however, and as zero hour approached, I prevailed upon a Valdez Airlines employee to run and get them for us and get them to the plane.

Unfortunately the run took a bit longer than anticipated and because Valdez Airlines was kind enough to accommodate my plea for help, the plane was delayed in its departure time awaiting delivery. That plane was by no means chartered; it was on a regularly scheduled flight and the accommodations were in time and energy expended by employees who responded to customer requests. We have come to expect that kind of good service by Valdez Airlines and we very much appreciate it.

It should also be pointed out that Messrs. McAlpine and Lewis steered Valdez through years of unparalleled prosperity and activity; during those years an investment plan was developed, a master plan was implemented and the community bonded and put in place new schools, a dock complex, a civic center, a senior citizens center, a softball complex, a hatchery, a new city hall, and a new library; and it increased its network of roads and water and sewer systems. It spruced up its parks and green areas, added flowers and trees and increased the overall quality of life in Valdez immeasurably.

We in Valdez are not blind to the fact that some mistakes were made along the way, but we wish the naysayers and predictors of doom would not be blind to the fact that we have accomplished an enormous amount in a very short period of time and we are well on the road to diversifying Valdez's economy. We are very much alive and well here in Valdez, and we are looking forward to a continuing bright future.

— Judy Londo

Thanks for coverage on Brothers

Alaska State Legislature



Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szymanski

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

CONFIRMATION HEARINGS

AGENDA

WEDNESDAY JUNE 1, 1983

3:15 P.M.

ROOM 205 CAPITOL

1. CALL TO ORDER
2. ROLL CALL
3. INTRODUCTION ---CHAIRMAN
4. INVITATION TO COMMISSIONER DESIGNEE MARK LEWIS FOR STATEMENT ON BACKGROUND AND QUALIFICATIONS.
5. INVITATION FOR VALDEZ TESTIMONY BY TELECONFERENCE
6. WITNESSES:
LT. GOVERNOR STEPHEN McALPINE
REPRESENTATIVE BETTE CATO
FORMER VALDEZ MAYOR BILL WALKER
VALDEZ POLICE CHIEF PAT SHELY
7. COMMITTEE DIALOGUE WITH MARK LEWIS
 - A. SUBJECTS REGARDING VALDEZ ACTIVITIES
 1. GRAIN TERMINAL
 2. FISH PROCESSING PLANT

NOTE: AGENDA ITEMS NOT COMPLETED SHALL BE CARRIED FORWARD TO THE NEXT MEETING. COMMITTEE DISCUSSIONS MAY INCLUDE SUBJECTS NOT LISTED ABOVE.

Alaska State Legislature

Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szyzanski



Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

MEMORANDUM

TO: Committee on Community and Regional Affairs

FROM: Staff

SUBJECT: Confirmation Hearings

DATE: March 18, 1983

The following comments were prepared as a result of a discussion during which legal advice was requested for the question: "What is the role of the Committee in conducting confirmation hearings?"

The question which the individual committee members must resolve in their own minds is: "Do you believe the nominee would properly fulfill the duties of the Commissioner?"

The decision is essentially a political process as opposed to a legal process. There is no requirement to apply the rule of "burden of proof;" a more appropriate description is a "burden of persuasion."

During the process, the determination of an act or acts being technically illegal is "mildly interesting" and in large part irrelevant from the perspective of the Committee. The question of impropriety is more important in the decision making process.

The rationale for the previous statement is that the commitment of an illegal act(s), even if substantially proven, may or may not be indicative of a person's qualifications to perform assigned duties and, the Committee is not in a position to prosecute for illegal acts.

On the other hand, the Committee is charged with making a judgement, based on all reasonably available information, whether or not the actions of the individual convince the Committee that the nominee will, or will not, properly fulfill the role of Commissioner.



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Senator Gilman
Member
Senate Community & Regional
Affairs Committee

DATE: 18 March 1983

FROM: McKie Campbell *McK*
Professional Assistant
Senate Community & Regional
Affairs Committee

SUBJ: 1981 Valdez
Property Tax
Values

In January of this year the Anchorage Daily News published a series of articles concerning Mark Lewis's tenure as City Manager of Valdez. Several of the articles contained the allegation that Mr. Lewis had illegally changed the tax rolls of Valdez by lowering the value of most non-oil or gas related property by 15 percent.

Based on these articles, the Department of Revenue instigated a review to determine if Mr. Lewis's actions were improper or illegal.

According to the DOR report and attached opinion by the Department of Law, Mr. Lewis's actions were not illegal and the state does not have grounds to pursue action for lost state revenues caused by the alteration of the tax roll.

I have reviewed this report thoroughly and endorse the report is accurate in its conclusion. Both the report and the newspaper articles agree that Richard Randell, the appraiser hired by Valdez under contract to act as the city assessor, certified the reduced figure as true and correct for 1982. The report states that Randell had also certified the reduced figures as true and correct for 1981. Newspaper accounts had quoted Randell as denying that he certified the reduced figures in 1981.

I contacted Mr. Randell to resolve this contradiction. Randell said that in early March, 1981, he submitted the

roll of assessed property values to the Valdez City administration. On March 23, 1981, Randell discussed the figures with Lewis. Randell states that during that conversation he acknowledged that another appraiser might come in with different figures but held that the figures he had submitted were his best estimate of full and true value. Randell followed this conversation up with a March 31, 1981 letter to Lewis which DOR has included in their report as Exhibit F. Sometime in the middle or end of March, Lewis caused the values of most non-oil or gas related properties in the city to be reduced 15 percent.

In late March 1981, the tax notices were mailed to property owners at the reduced values. Twenty appeals were filed and Randell participated on the Board of Equalization hearings on these appeals in June 1981. Randell was aware at this time that the values had been reduced and he did not protest.

In late August 1981, Randell was reminded by the city that he had not submitted a formal letter certifying the tax roll as true and correct. On September 1, 1981, Randell wrote a letter to Lewis (Revenue Exhibit A) certifying the tax roll for 1981 as true and correct. Randell said that in his own mind he was certifying his original figures as true and correct, but he acknowledges that given his knowledge that the values had been reduced and the fact that he worked with the reduced figures at the Board of Equalization without protest, it was a reasonable assumption on the part of the city to believe he was certifying the reduced figures.

After examination of the sequence of events, I believe it could reasonably be held that Randell did certify the lower figures. This concurs with the report by DOR and the opinion by the Department of Law and supports the contention that the reduction of property values as handled and administered by Mark Lewis was legal.

Alaska State Legislature

Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szymanski



Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

M E M O R A N D U M

TO: Committee on Community and Regional Affairs

FROM: Staff

SUBJECT: Confirmation Hearings

DATE: March 18, 1983

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On the other hand, the Committee is charged with making a judgement, based on all reasonably available information, whether or not the actions of the individual convince the Committee that the nominee will, or will not, properly fulfill the role of Commissioner.

FEB 28 1983

RECEIVED
JAN 4 1983

STATE OF ALASKA

APOC-ANCH ALASKA PUBLIC OFFICES COMMISSION

APOC - JNO.

610 C Street, Suite 211 ^{2/23/83}
Anchorage, AK 99501-3598
(907) 276-4176

OR

Room 302, Gold Bluff Bldg. H.C.
130 Sewart Street
Mail: Pouch CO
Juneau, AK 99811-0222
(907) 465-4864

CONFLICT OF INTEREST STATEMENT FOR STATE PUBLIC OFFICIAL OR CANDIDATE

PART 1. GENERAL INFORMATION

REPORTING PERIOD: January 1, 1982 to December 31, 1982 *

REPORTING OFFICIAL: Name: Mark Lewis

Resident Address: 150 Third Street Mailing Address: Pouch B

City: Juneau State: AK Zip Code 99811 Home Phone: (907) 465-4700
Work Phone: _____

APPLICABLE OFFICE (Mark one or more, as appropriate, and complete blanks):

Legislative _____ (Senator or Representative) Judicial: _____ (title)

Executive Commissioner Community and Regional Affairs
(title of position) (name of department)

Board or Commission Alaska Housing Finance Corporation, Alaska Industrial Development
and others declared by State Statute
(name of Board or Commission)

TERM OF OFFICE: Begin December 6, 1982 End _____

If Candidate, Date Declaration of Candidacy or Nominating Petition Filed: _____

If Appointed or Hired, Effective Date of Appointment: December 7, 1982

MEMBERS OF FAMILY OF REPORTING OFFICIAL: (Please list names)

Spouse: N.A. Dependent Children: N.A.

Non-dependent Children Living with Reporting Official: N.A.

PART 2. CERTIFICATION

I, the undersigned, declare under oath and on penalty of perjury that the statements contained in this conflict of interest statement are, to the best of my knowledge, true, correct, and complete.

DATED: 1/3/83 SIGNED: Mark Lewis

SUBSCRIBED AND SWORN to before me this 24th day of February, 19 83

Notary Public: Kimberly Dyer
My commission expires: 11/2/86

*The reporting period is the preceding calendar year for public officials and candidates; were an official to be appointed to a position subject to AS 39.50 in 1981 or were a candidate to file for office in 1981, the "current" COI Statement would cover calendar year 1980.

PART 3. SOURCES OF INCOME AND CAPITAL GAINS OVER \$100

NAME (of reporting official, spouse, etc.)

SOURCE OF INCOME (by name;
amounts need not be disclosed.)

1) Salary:

Mark Lewis

State of Alaska

Commissioner

Community and Regional Affairs

Office of the Commissioner

2) Rentals (include business name, if any):

(renters)

3) Dividends and Interest:

Mark Lewis

First National Bank of Anchorage

Foster & Marshall, Inc.

4) Self employment (business name):

(clients or customers or "retail")

N.A.

5) Other:

N.A.

(Continue on blank sheet if necessary)

PART 4. BUSINESS INVOLVEMENT OR OWNERSHIP INTEREST AS A STOCKHOLDER, OWNER, OFFICER, DIRECTOR, PARTNER, PROPRIETOR, OR EMPLOYEE

NAME (reporting official, spouse, etc.)	NATURE OF INVOLVEMENT OR INTEREST	NAME AND ADDRESS OF BUSINESS
<u>Mark Lewis</u>	<u>Savings Account</u>	<u>First Nation Bank of Anch. Valdez, AK 99686</u>
	<u>Savings Account</u>	<u>Foster & Marshall, Inc. Juneau, AK 99801</u>

(Continue on blank sheet if necessary)

PART 5. REAL PROPERTY INTERESTS OWNED, INCLUDING OPTIONS TO BUY

NAME (of reporting official, spouse, etc.)	IDENTITY OF PROPERTY INCLUDING LOCATION AND CURRENT USE	NATURE OF INTEREST
<u>Mark Lewis</u>	<u>House - 324 Hanagita Valdez, AK 99686</u>	<u>Owner, current Rental</u>
	<u>Town house, Juneau Douglas Island</u>	<u>Purchasing house Mortgage TBA</u>

(Continue on blank sheet if necessary)

PART 6. BENEFICIAL INTEREST IN TRUSTS OR OTHER FIDUCIARY RELATION

NAME (reporting official, spouse, etc.)	TRUSTOR	PROPERTY	EXTENT OF INTEREST
<u>N.A.</u>			

(Continue on blank sheet if necessary)

**PART 7. LOANS, LOAN GUARANTEES OR OTHER FINANCIAL OBLIGATIONS
OF \$500 OR MORE**

NAME (reporting official, spouse, etc.)	IDENTITY OF MAKER OF LOAN, LOAN GUARANTOR, OR CREDITOR
Mark Lewis	Mortgage on Valdez house - self mtg. w/ FWBA
Mark Lewis	Car loan self-loan w/ FWBA

(Continue on blank sheet if necessary)

**PART 8. CONTRACTS AND OFFERS TO CONTRACT WITH THE STATE
OR AN INSTRUMENTALITY OF THE STATE**

NAME AND RELATIONSHIP (John Doe, reporting off.; Jan Doe, spouse)	STATE CONTRACTING DEPT. OR INSTRUMENTALITY	IDENTITY OF CONTRACT	INDICATE: BID, HELD, OFFERED
N.A.			

(Continue on blank sheet if necessary)

**PART 9. LEASES OR OFFERS TO LEASE MINERAL, TIMBER, OIL,
OR OTHER NATURAL RESOURCES**

NAME AND RELATIONSHIP (John Doe, reporting off.; Mary Doe, mother)	NATURE OF LEASE	IDENTITY OF LEASE	INDICATE: HELD OR OFFERED
N.A.			

(Continue on blank sheet if necessary)



Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-~~1208~~

DEPARTMENT OF ASSESSMENT

4801

March 22, 1983

MAR 26 1983

House of Representatives
Barbara Lacher, Chairman
Community and Regional Affairs Committee

Dear Representative Lacher:

This is in response to your request for me to review the packet you sent me regarding reduced assessments in Valdez for 1981 and 1982.

The packet seemed to address the legal implications of reducing the assessments and, therefore, contained very little information as to whether or not the reduction of assessments could be substantiated.

After reviewing the packet, as presented, it is my personal and professional opinion that the reduction of assessments in Valdez was not substantiated by any supporting data and the method used could be considered, by professional assessors, as improper and unethical. My opinion is based upon the following observations:

1. Property appraisal is not an exact science but an opinion of value based on facts. Mr. Randell indicated in his letter that it was his opinion that his values represented 100% market value. I believe that a small amount of research will show that these value estimates were based upon facts which Mr. Randell obtained through his market analysis.
2. The valuations were reduced "because he (Mr. Lewis) believed that local economic conditions were depressed to the extent that the market probably would not support the values used by Mr. Randell." Nowhere in the packet can I find any information to support what Mr. Lewis believed. If this strategy were used by other assessors in the State, we might all raise our assessments by 10% - 20% because we believed we were low. This could not happen because our Boards of Equalization require us to show supporting data for our value estimates.
3. Mr. Randell's statement, it is not uncommon for appraisers to differ as much as 15% to 20% in valuation, is a correct statement. However, it should be noted that both appraisers values would be based upon supporting data. The interpretation of this data usually is the reason for a difference of opinions.

MAR 26 1983

Barbara Lacher
Page Two
March 22, 1983

4. The statutes mandate that the assessor assess property at its full and true value, not attempt to assess at a level comparable with other municipalities.

As I stated earlier, the appraisal of real estate is not an exact science but an opinion of value based on facts or supporting data. If Mr. Lewis believed that the assessments were high, a sales ratio study should have been conducted. A sales ratio study may have shown that the assessments were high and adjustments were warranted. This would have been the proper method for an assessor to follow rather than an arbitrary percentage reduction. I would like to point out that this may have been done, however, I did not see it in the packet you sent me. If this were in fact done, then I would state that the actions taken were both ethical and proper. For your information, I have enclosed a copy of the IAAO Code of Ethics which most assessing offices use.

As to your question regarding the tax dollar amounts as reported by Gerald Heier with the Department of Revenue, I believe the figures obtained are correct with respect to the information he received.

I hope I have answered your questions and would like to point out that the opinions expressed in this letter are my personal opinions and not necessarily those of my employer.

Respectfully,



Steve Van Sant
Director of Assessments
and Land Management

CR

MAR 26 1963

Code of Ethics

The functions of the assessing officer and other members of IAAO are professionals in character. This Code of Ethics is a set of dynamic principles guiding the members' conduct. Each member of IAAO agrees that he will:

1. Cooperate fully with other members in all matters affecting his official duties.
2. Conduct his activities in a manner that will reflect credit upon himself, other members and the IAAO.
3. Cooperate with the IAAO and its officers in all matters, including, but not limited to the investigation, censure, discipline or expulsion of members who by their conduct prejudice their professional status or the reputation of the IAAO.
4. Protect the professional reputation of other members of IAAO who subscribe to and abide by this Code of Ethics.
5. Treat as confidential all information concerning persons or their property obtained in his official capacity, except for lawfully authorized uses. It is proper for members employed by different jurisdictions to exchange factual information concerning persons or their property to aid either or both in the assessment of property legally subject to taxation.
6. Perform his assessment duties in a manner consistent with statutory requirements without advocacy for accommodation or any particular interests, being factual, objective, unbiased and honest in his conclusion.
7. Maintain, at all times, a courteous and respectful attitude in his relations with taxpayers, public officials and the public generally, and to compel a similar attitude on the part of his subordinates.
8. Give full faith and allegiance to his oath of office, apply the law of his jurisdiction to all taxpayers alike, and obey all applicable laws and regulations.
9. Conform in all respects to this Code of Ethics, The Standards of Professional Conduct and the Constitution of the IAAO as the same may be amended from time to time.

Standards of Professional Conduct

In relations with assessing officers, an IAAO member will:

Cooperate within the legal and ethical boundaries of his office or profession with other members who request his cooperation in performing the functions of their offices or profession.

Treat information obtained in his professional capacity as confidential unless use of that information is authorized by law. It is proper for members employed by different jurisdictions to exchange factual information concerning property to aid either or both in the assessment of property legally subject to taxation.

Protect the professional reputation of other members who subscribe to and abide by these Standards of Professional Conduct.

Give full credit to the originator of any material he uses in his writings or speeches.

Conduct his activities in a manner that will reflect credit upon himself, other members, and the IAAO.

Cooperate with the officers of the IAAO in all matters, including but not limited to the investigation, censure, discipline, or expulsion of members whose conduct casts a shadow on their professional status or the reputation of the IAAO.

In relations with public officials, an IAAO member:

Has a duty to cooperate with public officials to improve the efficiency and economy of public administration.

Will always maintain an attitude of respect and cooperation toward public officials and governmental agencies to whom the law has assigned official duties relating to the work of the IAAO member.

In relations with the public and taxpayers, an IAAO member will:

Maintain at all times a courteous and respectful attitude in his relations with taxpayers, taxing officials, and the public

generally, and will compel a similar attitude on the part of his subordinates.

Give full faith and allegiance to his oath of office.

Apply the law of his jurisdiction equitably.

Perform his duties in a manner consistent with statutory requirements without advocacy for accommodation of any particular interests; he will be factual, objective, unbiased, and honest in his conclusion.

Appraisal standards to be complied with by IAAO members:

Any appraisal by an IAAO member shall conform to the highest professional assessment/appraisal standards.

Any value estimate made for assessment purposes by an IAAO member shall be an estimate of true market value as defined by the courts having jurisdiction, regardless of the assessment percentage to be used, except when the law of his jurisdiction requires or the assessment practice in his jurisdiction permits special valuation techniques.

Any value estimate made by an IAAO member shall be a true opinion of value in accordance with generally accepted appraisal practices, except when the law of his jurisdiction requires or the assessment practice in his jurisdiction permits special valuation techniques.

Any fee appraisal assignment accepted by an IAAO member shall be one in which he has no unrevealed personal interest or bias, and one which he is competent to complete without placing his personal integrity or the assessing/appraisal profession in jeopardy.

It shall be unethical for a member of IAAO to accept an engagement for which the amount of his compensation is contingent upon reporting a predetermined value or upon the amount of the value estimate; or upon reporting a predetermined opinion, conclusion, or recommendation; or upon the amount of a tax reduction obtained by a client whose services are used; or upon any result, value, or subsequent transaction.

June 1st, 1983

Confirmation Hearings

Mark Lewis -

Former Mayor Bill Walker - 1979-80. Lynn Crystal, Art Reijer, ^{MacAlpine} Chuck McPhee, Mac MacDonald
List of ~~ICIP's~~ in Valdez by Lewis. John Jagger, Ken Peavehouse
Rep. Betty Cobo - Endorses Lewis as Commissioner.

Valdez Teleconference

Ray Pittman

Dealings professional, honest, etc.

Lt. Gov. MacAlpine - Sick Leave #

Endorses Lewis as Commissioner. Cited Renewable accomplish-
ments, Tourism, Port, Fisheries.

Fred Hanson - Civic Center

Endorses Lewis.

Shirley Scott - City Clerk

Endorses Lewis.

Pat Sheehy - Chief Police City of Valdez

Endorses Lewis.

Jerry ~~Boat~~ Boat - Port Director

Endorses Lewis.

Barney Mayring

Endorses Lewis.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 17, 1983

House of Representatives
Barbara Lacher, Chairman
Community & Regional Affairs Committee

Senate
Frank Ferguson, Chairman
Community & Regional Affairs Committee

Review of potential State claim against
the City of Valdez for recovery of taxes
paid under AS 43.56

In conjunction with the Department of Law, we have completed an investigation of allegations that Mark Lewis, the former City Manager of Valdez, improperly reduced assessments on local property in 1981 and 1982, thereby increasing the overall millage rate in the local tax on the petroleum properties in concomitantly reducing taxes paid to the State, and have concluded from the facts that Mr. Lewis did not act improperly or illegally. Therefore, the State should not pursue any claim against the City of Valdez for recovery of additional taxes under AS 43.56 and we view the matter as closed.

A copy of the Department of Revenue's report dated March 14, 1983 and a copy of the Department of Law's legal opinion dated March 16, 1983 are attached. The following is a brief summary of those findings.

AS 43.56.010(a) imposes a state tax of 20 mills on oil and gas property. Under AS 43.56.010(b) and AS 29.53.045 a municipality may levy a tax on petroleum properties within its jurisdiction at the rate applicable to other property tax by the municipality. The tax paid to a municipality under this subsection is then credited under AS 43.56.010(d) against the state tax due.

In 1981 and 1982, the City of Valdez hired on contract an appraiser to assess property in the city for purposes of taxation. The contractual provisions required the appraiser to perform the statutory duties of an assessor. Under state law (AS 29.53.060(a)) and the Valdez city code (25-4 (2)) the city is required to assess property at its true and full value. Both define "full and true value" in a manner which clearly allows for a determination upon which reasonable minds can differ. In addition, real estate appraising is not an exact science and does not allow for "full and true value" determinations to be precise and often appraisers differ by as much as 20 percent on valuations.

House of Representatives
Barbara Lacher, Chairman
Community & Regional Affairs Committee

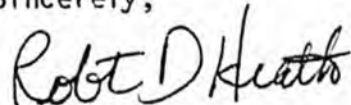
Senate
Frank Ferguson, Chairman
Community & Regional Affairs Committee

The City of Valdez's contracted assessor made his real property valuations as being 100% of fair market value, however, Mr. Lewis believed the assessor's assessments were high in light of the local economic conditions and after consultation with the assessor lowered the assessments by 15%. The assessor certified the reduced assessments as true and correct for 1981 and 1982.

The Department of Revenue investigation shows that all the real property assessments ratios for the municipalities which contain petroleum property are less than 100% of valuation. The ratios for Valdez in 1981 and 1982 are 89.6% and 93.8% respectively. When comparing the Valdez assessment ratios with the assessments ratios of other municipalities having oil and gas properties which ranged from 70.0 to 93.8, it is clear that the City of Valdez appraisals were in fact high and will not support a finding of any improper or illegal action.

In conclusion, the facts do not substantiate that Mr. Lewis acted improperly or that his actions resulted in the City of Valdez making any illegal real property assessment determinations under AS 29.53.060(a) and therefore, we conclude that the State did not lose any revenue under AS 43.56.010(d) and the matter is closed.

Sincerely,



Robert D. Heath
Commissioner of Revenue

RDH:NS:mc

Attachments

MEMORANDUM

State of Alaska

TO: Honorable Robert D. Heath
Commissioner
Department of Revenue

DATE: March 16, 1983

FILE NO: 366-493-83

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Review of potential
state claim against
City of Valdez for
recovery of taxes
paid under AS 43.56

By: Diane T. Colvin
Assistant Attorney General

You asked us to review a situation involving assessment and levy of taxes by the city of Valdez under AS 43.56, relating to oil and gas property taxes. Allegations have been made that the former City Manager of Valdez, Mark Lewis, improperly reduced assessments on local property in 1981 and 1982, thereby increasing the overall millage rate and the local tax on petroleum properties and concomitantly reducing taxes paid to the state. You have asked us to determine if his actions were improper, and, if found improper, to further determine whether the state has a claim against the city for recovery of excess taxes paid to the city on petroleum properties. We conclude, based upon your investigation and the facts submitted to us, that there is no clear proof that the assessments were improperly reduced and that, therefore, the chances of the state recovering on a claim against the city are poor.

The tax in question is the oil and gas property tax levied under AS 43.56.010. AS 43.56.010(a) imposes a state tax of 20 mills on oil and gas property as defined by AS 43.56.210(6). Under AS 43.56.010(b) and AS 29.53.045 a municipality may levy a tax on petroleum properties within its jurisdiction at the rate applicable to other property taxed by the municipality. The tax paid to a municipality under this subsection is then credited under AS 43.56.010(d) against the state tax due.

The actions in question here involved assessments made in 1981 and 1982 on local property in the city of Valdez. State law and city ordinances require the city to assess property at its full and true value. (AS 29.53.060(a) and Valdez City Code 25-4(a)). Both define "full and true value" as follows:

. . . the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a

RECEIVED
ALASKA DEPARTMENT OF REVENUE

MAR 16 1983

OFFICE OF THE COMMISSIONER

willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

It is evident from the definition itself that full and true value is a determination on which reasonable minds can differ. The factors involved -- prevailing market conditions, a willing seller, a willing buyer, prevailing general price levels -- cannot be ascertained with precision or complete accuracy.

In 1981 and 1982 the city hired on contract an appraiser to assess property in the city for purposes of taxation. The contract refers to the individual hired as appraiser; however, it is evident from the contract provisions that the appraiser was to perform the statutory duties of assessor (e.g., . . . "make a final report to the City in the manner required by law", Exhibit C of your report, clause 1(c).) In addition, the facts show that the appraiser hired, Richard G. Randell, acted as tax assessor for those two years. By letter of September 1, 1981, he certified the tax roll for the year 1981 as true and correct. (Exhibit A). By letter of March 1, 1982, he made the same certification for the year 1982. (Exhibit B).

The allegation made against Mark Lewis is that he acted improperly and without authorization by reducing the assessments made by Mr. Randell by 15%. It appears that this action was taken before issuance of the notices of assessment and any subsequent action by the Board of Equalization and prior to certification of the tax rolls. According to your report, he took this action because he believed Mr. Randell's assessments were high in consideration of local economic conditions. Mr. Lewis and Mr. Randell discussed this matter on March 23, 1981, and in a letter dated March 31, 1981 (Exhibit F), Mr. Randell defended his valuations as being 100% of fair market value. In the same letter, he pointed out that real estate appraisal is an inexact science, and that appraisers often differ by as much as 15 to 20 percent on valuations.

Subsequent to this letter, but long before final certification of the assessment roll, the assessments were lowered by Mark Lewis. This was done in consultation with Mr. Randell, as discussed above, and evidently with his acquiescence, since there is no indication in the facts that he refused to submit the new assessments to the city council or to certify the tax rolls, despite the fact that he may have disagreed in principle with them.

In light of this, I do not believe the facts show that

Honorable Robert D. Heath
Commissioner
Department of Revenue

March 16, 1983
Page 3

Mr. Lewis acted improperly. The general rule in regard to the making of assessments is that the officer or board authorized to make an assessment is usually specified by law and the assessment, to be valid, should be made by the one so designated. See, McQuillen Mun Corp (3rd Ed) § 44.102. In this case, it does not appear that this rule was violated. Although the changes were actually made by Mr. Lewis, not the assessor, they were done after consultation with the assessor. While the assessor may have disagreed with the reduced valuation, he certified the assessments as changed to the city council.

While one can argue that this situation involves an unauthorized delegation of authority to make an assessment, that argument is a weak one. In accordance with rules relating to public officers, the acts of a de facto assessor generally are recognized to be valid. Id. In addition, exact conformity with all the statutory procedures for assessment is not necessarily a condition precedent to a valid tax. Substantial compliance with statutory requirements is sufficient, unless the requirements are classified as mandatory. City of Yakutat v. Ryman, ___ P.2d ___ (Opinion No. 2581), November 5, 1982. It does not appear that any requirements deviated from here were mandatory, so strict compliance is not at issue. Thus, it is unlikely that a court would invalidate the tax levied. While the procedures used may have been irregular, they are by no means clearly improper or in violation of AS 29.53.010 -- .180, Municipal Property Tax, or Valdez City Code §§ 25-1 -- 25-15, Assessment, Levy and Collection of Taxes.

In addition, the memorandum of March 9, 1983 from Jerry Heier included in your report shows that all the real property assessment ratios for the municipalities that contain petroleum property are at less than 100% of valuation. The ratios for Valdez in 1981 and 1982 are 89.6 percent and 93.8 percent. When compared to the average ratio for each of these years (85.2 and 84.5) and the ratios for other municipalities with oil and gas properties (ranging from 70.0 to 93.8), it appears that the original appraisals of Randell were in fact high. This fact, combined with the legal principles discussed above, would make it difficult to show improper or arbitrary action.

It is also important to note that if an assessor uses any proper method of assessment uniformly throughout the taxing district, the mere fact that a different method of assessment may result in a different valuation is not grounds for invalidating the tax. Winegardner v. Greater Anchorage Area Borough, 534 P.2d 541, 548 (Alaska 1975). A municipality has discretion to appraise by whatever recognized method of valuation it chooses, so

Honorable Robert D. Heath
Commissioner
Department of Revenue

March 16, 1983
Page 4

long as there is no fraud or clear adoption of a fundamentally wrong principle of valuation. Twentieth Century Investment Company v. City of Juneau, 359 P.2d 783 (Alaska 1961); Hoblitt v. Greater Anchorage Area Borough, 473 P.2d 630 (Alaska 1970). There is no evidence that either factor was present in this case.

Because it is not clear that Mr. Lewis acted improperly, I cannot recommend that the state pursue a claim against the city for recovery of the excess taxes charged. It would, in my opinion, be difficult for the state to prove that the method of assessment was improper or that there was not substantial compliance with prescribed procedures. It would be particularly difficult to prevail on these issues in light of the fact that the assessment ratio for each year in question is reasonable when compared to the ratios for other municipalities affected by oil and gas property assessments.

We hope this information is useful to you. If you have further questions, please do not hesitate to contact us.

NCG:DTC:eja

Alaska Department of Revenue

Valdez Property Tax Problem

Report by Petroleum Revenue Division

Dated: March 14, 1983

Table of Contents

Memo from Fred Boetsch to Joseph Donohue regarding Valdez property tax problem, dated March 9, 1983.

Memo from Jerry Heier to Joseph Donohue entitled "Overview of Local Assessment Practices," dated March 9, 1983.

Memo from Jerry Heier to Joseph Donohue regarding Valdez oil and gas property taxation dated February 9, 1983.

- Exhibit A - September 1, 1981 letter from Richard G. Randell to Mark Lewis, City Manager of Valdez, on 1981 tax assessments.
- Exhibit B - March 1, 1982 letter from Richard Randell on Valdez real estate appraisals for assessment purposes.
- Exhibit C - Contract for Professional Appraisal Services between City of Valdez and Rich Randell Appraisal Company.
- Exhibit D - Portions of the City of Valdez charter.
- Exhibit E - City of Valdez Code.
- Exhibit F - March 31, 1981 letter from Richard Randell to Mark Lewis regarding real estate values for properties located in the City of Valdez.
- Exhibit G - March 9, 1983 letter from Patrick McKay, Attorney at Law, to Mark Lewis.

MEMORANDUM


State of Alaska

TO: Joe Donohue
Deputy Commissioner
Department of Revenue

DATE: March 9, 1983

FILE NO.

TELEPHONE NO:

FROM: Fred Boetsch 
Director
Petroleum Revenue Division
Department of Revenue

SUBJECT: Valdez Property Tax
Problem

ALLEGATIONS BY ANCHORAGE DAILY NEWS

The Anchorage Daily News, in a series of stories, charged that the City of Valdez had received about \$ 190,000 in property tax revenues on state assessed petroleum properties in an improper way. The stories indicated that the locally assessed property had been reduced in 1981 and 1982 by the City Manager, Mark Lewis, by 15% without following proper procedures. As a result of the lower assessment for local property, the overall millage rate was higher than it otherwise would have been. This caused the local tax on petroleum property to also be higher with the result that the net tax paid to the state was reduced. See the memo from Jerry Heier and me dated February 9, 1983 titled "Valdez oil and gas property taxation" for the calculations and details of how this worked.

THE FACTS

The City of Valdez hired the Rich Randall Appraisal Company to appraise local property for 1981 and 1982. Although the correspondence and the contract entered into on December 15, 1981 (for the 1982 and 1983 years) uses the term "appraiser", Mr. Randall actually certified the rolls for 1981 and 1982 as the city "assessor". In addition, the terms of the request for proposal, the correspondence, and the contract (Exhibit C), seem to indicate that the appraiser was to do all of the work ordinarily done by the assessor under the Municipal Code (Title 29, Alaska Statutes) and the local ordinances (See Exhibit E). Although no reference was made to having Mr. Randall certify the rolls as "assessor", he in fact did so in letters to Mark Lewis dated September 1, 1981 for the 1981 tax roll (Exhibit A) and to Tom Gilson dated March 1, 1982 for the 1982 tax roll (Exhibit B).

Mark Lewis, in his capacity as City Manager, and as the person who, acting in that capacity, hired Mr. Randall, then proceeded to lower Mr. Randall's assessments by 15%. He did this because he believed that local economic conditions were depressed to the extent that the market probably would not support the values used by Mr. Randall. Mr. Lewis and Mr. Randall apparently discussed this topic on March 23, 1981 and Mr. Randall subsequently defended his valuations in a letter to Mr. Lewis dated March 31, 1981 (Exhibit F). In that letter, Mr. Randall also indicated that appraisers could differ in their valuations of the same piece of property by as much as 15% to 20% and that, "Therefore, it would be reasonable to apply a percentage of increase or decrease to the values I arrived at for

assessment purposes." Mr. Lewis, did, in fact, lower those assessments by 15%.

It should be noted at this point that there is substantial support for Mr. Randall's views about the variability of assessments on property. A study by Jerry Heier (see his memo to you dated February 22, 1983 attached) comparing the ratios for several Alaska municipalities as done by the State Assessor and the various practices different communities use for the year to year assessment process indicate that there is, indeed, a wide variation, not only in the values, but in the assessment process itself.

LEGAL QUESTIONS

There are really two legal questions involved here:

- 1) Did Mark Lewis act improperly when he lowered the local assessments?
- 2) Can the state recover the excess taxes charged on petroleum properties as a result of his action?

The first question is a difficult one to resolve. According to the Municipal Code and the City Ordinances of the City of Valdez, only the assessor has the authority to certify the assessment role and any changes made to the role must be made by the assessor (as a result of error or omission) or by the city council sitting as the board of equalization as recorded by the city clerk (Exhibit E, Secs. 25-4, 25-4.1, 25-6, 25-7, 25-7.1, and 25-8). It is apparent from the facts that Rich Randall acted as assessor within the meaning of this requirement. However, he was hired by, and worked under the authority of Mark Lewis, City Manager. The question is, did Lewis have the actual authority to function as assessor which he then delegated to Randall? If that is the case, then one could argue that he lowered the assessments in accordance with his authority and both questions are resolved.

If, on the other hand, only Rich Randall, by virtue of the authority given to him under the agreements he had with the City of Valdez, could make the changes that were made, then Mark Lewis failed to follow the procedures required under the local ordinances and acted improperly in changing the role.

As to the second question, it is possibly a question that could be applied to all municipalities which contain petroleum property and which assess local property at less than full and true value. Again, referring to the memo dated February 22, 1983 by Jerry Heier, it appears that all such municipalities are at less than 100%. In fact, it is further interesting to note that the City of Valdez had ratios of 89.60% in 1981 and 93.84% in 1982 which indicates that Rich Randall's original appraisals were high. Valdez is also higher than the average for all municipalities.

Even so, if the first question is answered in the affirmative and Mark Lewis did act improperly, does that impropriety give the state a cause of

action against the City of Valdez to recover the excess taxes collected on petroleum property? There is nothing in Title 43 that would give the state such authority.

CONCLUSION

Both legal questions should be referred to the Department of Law for a legal opinion and recommendations as to further action, if any. I should point out that if the state does seek to recoup the money from the City of Valdez, then Valdez would more than likely have to raise its current mill rate in order to pay us. Since that would be born primarily by petroleum property, our net would be only about \$ 12,000. It is possible, however, that the Attorney General could find a way to make this assessment either retroactive to local property owners at the time of the 1981 and 1982 assessments or order a special assessment on current locally owned property only.

This memo and the attachments should be forwarded to the Attorney General for his advice on how or whether to proceed.

MEMORANDUM

State of Alaska

TO: Joe Donohue
Deputy Commissioner
Department of Revenue

DATE: March 9, 1983

FILE NO:

TELEPHONE NO:

FROM: Jerry Heier *JDH*
Petroleum Property Assessor
Petroleum Revenue Division
Department of Revenue

SUBJECT: Overview of Local
Assessment Practices

Through: Fred Boetsch *FB*
Director

I have obtained the 1982 real property local assessment ratios for 1982 from the Department of Community and Regional Affairs that apply to the municipalities primarily affected by oil and gas property assessments.

The 1981 and 1982 ratios are as follows:

	<u>1981</u>	<u>1982</u>
Anchorage	87.24	82.05
Fairbanks-North Star	93.11	87.03
Kenai Peninsula	90.39	79.93
Matanuska-Susitna	80.84	88.18
North Slope Borough	70.00	76.00
Valdez	89.60	93.84
Average Ratio	85.20	84.51

The methodology used for determining real property assessment ratios and its uses and limitations are explained in "Alaska Taxable" furnished by the Department of Community and Regional Affairs, Division of Local Government Assistance.

While a 100% ratio is the ultimate goal for an assessor's office it is very rarely attainable. Property valuation can best be described as an art and not an exact science. It is very unlikely that any two appraisers will appraise a specific property at the exact same value. Too many variables are involved in the appraisal function. A difference of 10 to 15 percent is not uncommon.

The ideal situation is for a municipality to revalue, or at least recheck the value of each property annually. On the practical side this is rarely possible due to time and budget restraints. Smaller taxing jurisdictions may be able to accomplish this on a contract basis, rather than with an in-house appraisal and assessment staff.

I have contacted several of the municipalities involved with oil and gas properties to determine the time schedule used for an entire valuation of the locally assessed properties.

In 1980 the Municipality of Anchorage began an annual revaluation cycle. This is being accomplished through the utilization of a computer assisted valuation system along with an in-house field appraisal section. Approximately 20 percent of the Municipality is physically appraised by the field staff. This would include difficult to appraise, special purpose properties and areas where there have been erratic and/or rapid value changes. The remaining 80 percent of the municipality is revalued utilizing computer analysis and extension.

The Fairbanks-North Star Borough is on a three year reappraisal cycle with staff appraisers. One-third of the Borough is physically inspected and revalued each year.

The Kenai Peninsula Borough is on a two year reappraisal cycle with one-half of the Borough being physically inspected and revalued each year.

The Matanuska-Susitna Borough has just gone on an annual revaluation basis. During the last two years the land values were readjusted annually and the buildings every two years.

The North Slope Borough uses both an in-house staff and a contract appraisal firm. Industrial and commercial properties are revalued annually and residential properties are revalued every two years.

The Municipality of Valdez uses a contract appraisal firm on an annual review and revaluation basis.

During inflationary market conditions a municipality that is on a two or three year revaluation cycle will always be on the low side of a 100% ratio. Computer assisted valuation is relatively new in the state and I am not able to comment on its reliability or accuracy.

The ultimate proof of an appraisal is only evident after a sale of the property itself and assessments are not made on hindsight but only on the basis of a best estimate of current market conditions.

With due consideration given to the fact that a 100% ratio is rarely obtainable under the best of conditions and that most of the municipalities revalue on a cycle basis it is understandable that local assessment ratios will be below the ideal, 100% assessment ratio.

To my knowledge the statutes do not provide any means of forcing a municipality to achieve and maintain a relatively reasonable high ratio. Even statutory provisions would have to provide for a reasonable range to allow for local budget and time constraints.

The question of ultimate authority for an across the board reduction or increase for a portion or even all of an assessment roll, by any class of city or borough would be referred to the Department of Law. From a practical point of view it would appear that the real property assessment ratios for the municipalities reviewed were fairly consistent and fell within a reasonable range. The average rate for 1981 was 85.20 percent and range from a low of 70 percent to a high of 93.11 percent. For 1982 the

spread is even narrower, with an average ratio of 84.51 percent with a low of 76 percent and a high of 93.84 percent.

For reasons already mentioned it is not unreasonable for the average ratio to be below 100 percent and the spread or range or ratios also appears to be within tolerable limits.

GDH:il

MEMORANDUM

State of Alaska

TO: Joseph K. Donohue
Deputy Commissioner

DATE: February 9, 1983

FILE NO:

TELEPHONE NO:

Through ^{FROM:} Fred Boetsch, Director *FB*
Petroleum Revenue Division

SUBJECT: Valdez oil and gas
property taxation

From: Gerald D. Heier *GDH*
Petroleum Property Assessor

I have checked into the Valdez oil and gas property tax situation and was informed by Terry Early, the State Assessor with the Department of Community and Regional Affairs that the 1981 locally taxed assessed value for Valdez was \$87,412,330 and that the 1982 value was \$91,811,450. These would be the 85% numbers derived from the 100% appraised values.

The original appraised values can be calculated as follows:

$$1981 = 87,412,330 \div .85 = 102,838,035$$

$$1982 = 91,811,450 \div .85 = 108,013,470$$

The differences in local taxes paid on state assessed oil and gas properties and 85% or 100% locally assessed properties can be calculated as follows:

	<u>1981</u>	<u>1982</u>
Locally Assessed, actual	87,412,330	91,811,450
State Assessed	+ 1,619,140,000	+ 1,575,389,000
Total Value	<u>1,706,552,330</u>	<u>1,667,200,450</u>
Actual local mill levy	x .006364	x .0069009
Taxes collected	<u>10,860,499</u>	<u>11,505,183</u>
Locally assessed, adjusted	102,838,035	108,013,470
State Assessed	+ 1,619,140,000	+ 1,575,389,000
Total adjusted value	<u>1,721,978,035</u>	<u>1,683,402,470</u>

An adjusted mill rate can now be determined as follows:

Taxes collected -- Total adjusted value equals adjusted mill levy.

<u>1981</u>		<u>1982</u>	
10,860,499	=	11,505,183	=
<u>1,721,978,035</u>	=	<u>1,683,402,470</u>	=

The difference between the actual local mill levy times the state assessed property value yields the additional local tax imposed on state assessed properties.

	<u>1981</u>	<u>1982</u>
Actual mill levy	.006364	.0069009
Adjusted mill levy	- .006307	- .0068345
	<u>.000057</u>	<u>.0000664</u>
State Assessed Property	1 619,140,000	1,575,389,000
	<u>.000057</u>	<u>.0000664</u>
	92,290.98	104,605.83

The above scenario assumes that the information obtained from Terry Early is the actual assessed values used by Valdez for tax purposes and that the assessed value was actually 85% of the original appraised value as determined by their contract appraisers.

I have discussed the Valdez situation with Dave LeBlond of the Attorney General's office here in Anchorage and he mentioned several points of concern.

Valdez is a Home Rule City and may or may not operate under the same rules and regulations as an organized borough. It should be assumed that the city manager has the authority to reduce the appraised values and establish the local assessment roll as he thought best. His opinion of value for the city properties may be different than the contract appraisers. It is not unusual for "appraised" values and "assessed" values to differ by 10% to 15%. Any formal investigation would be time consuming, probably involving subpoenas and interrogatories. It would be difficult to prove that anyone acted in bad faith or conspired to cheat the state.

Enclosed is a copy of "Alaska Taxable" - 1981, please refer to Table III "Local Assessment Vs. Full Value" on pages 20 and 21. Valdez has a real property assessment ratio of 89.6; North Slope Borough, 70.00; Mat-Su, 80.84; Kenai Peninsula, 90.39; Fairbanks North Star, 93.11 and Anchorage 87.24. This would seem to indicate that the assessment ratio for Valdez for 1981 did fit the general pattern of ratios determined for other oil and gas related property boroughs.

RECEIVED

MAR 01 1983

September 1, 1981

RE: City of Valdez
Tax Assessments
Petroleum Tax and District Tax Year 1981

City Manager
City of Valdez
P O Box 307
Valdez, Alaska 99686

ATTENTION: MARK LEWIS

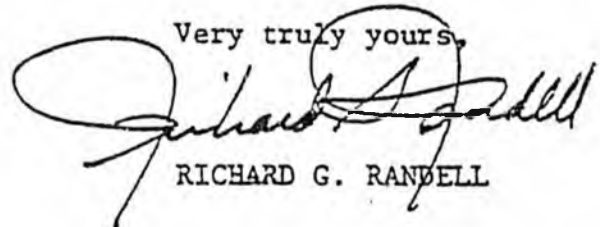
Dear Mr. Lewis:

I hereby certify, as the Tax Assessor for the City of Valdez, that the tax roll for the year 1981 is true and correct. And that any and all appeals have been answered and rectified.

If you have any questions do not hesitate to contact me.

quest

Very truly yours,



RICHARD G. RANDELL

RGR/km



Rich Randell Appraisal Co.
P.O. Box 747
Valdez, Alaska 99686

March 1, 1982

City of Valdez
P.O. Box 307
Valdez, Alaska 99686

Attn: Mr. Tom Gilson/Finance Director

Re: Real Estate Appraisals
for Assessment Purposes
Valdez, Alaska

Dear Tom:

I hereby certify, as the tax assessor, that the appraisals for tax purposes are completed and the tax roll for the year 1982 is true and correct as submitted. However, in the event that any appeals to this tax roll and/or the appraised values prove correct, the tax roll will be amended.

This year we were asked to value certain city owned lands and these values follow.

<u>Legal Description</u>	<u>Area.</u>	<u>Estimated Value as of 1/1/82</u>
Lot 25, Block 1 Mineral Creek	18,863 sq.ft.	\$56,600-
Lot 1, Block 20 Mineral Creek	8,800 sq.ft.	30,800-
Lot 2, Block 20 Mineral Creek	8,800 sq.ft.	30,800-
Lot 3, Block 20 Mineral Creek	8,800 sq.ft.	30,800-
Lot 4, Block 20 Mineral Creek	8,800 sq.ft.	30,800-
Lot 5, Block 20 Mineral Creek	8,856 sq.ft.	31,000-
Lot 20, Block 22 Mineral Creek	8,787 sq.ft.	30,800-
Lot 21, Block 22 Mineral Creek	8,273 sq.ft.	29,000-
Lot 2, Block 23 Mineral Creek	20,370 sq.ft.	61,100-
Lot 3, Block 23 Mineral Creek	1.997 Acres	174,000-
Lot 2, Block 25 Mineral Creek	20,160 sq.ft.	70,600-
Lot 11, Block 27 Mineral Creek	20,160 sq.ft.	70,600-
Lot 7, Block 28 Mineral Creek	10,000 sq.ft.	40,000-
Lot 2, Block 29 Mineral Creek	14,643 sq.ft.	58,600-
Lot 9, Block 31 Mineral Creek	14,897 sq.ft.	59,600-
Lot 15, Block 34 Mineral Creek	7,500 sq.ft.	22,500-
Lot 16, Block 34 Mineral Creek	7,500 sq.ft.	22,500-
Lot 17, Block 34 Mineral Creek	7,500 sq.ft.	22,500-
Lot 18, Block 34 Mineral Creek	7,500 sq.ft.	22,500-
Lot 13, Block 35 Mineral Creek	4,416 sq.ft.	13,200-
Lot 14, Block 35 Mineral Creek	4,249 sq.ft.	12,700-
Lot 23, Block 35 Mineral Creek	6,500 sq.ft.	19,500-
Lot 24, Block 35 Mineral Creek	7,500 sq.ft.	22,500-
Lot 12, Block 36 Mineral Creek	1.016 Acres	44,300-
Lot 7, Block 37 Mineral Creek	7,774 sq.ft.	23,300-

<u>Legal Description</u>	<u>Area</u>	<u>Estimated Value as of 1/1/82</u>
Lot 1, Block 40 Harbor	6,500 sq.ft.	19,500-
Lot 2, Block 40 Harbor	6,500 sq.ft.	19,500-
Lot 3, Block 40 Harbor	6,500 sq.ft.	19,500-
Lot 4, Block 40 Harbor	6,500 sq.ft.	19,500-
Lot 12, Block 40 Harbor	6,048 sq.ft.	24,200-
TR.C., Block 49 Harbor	17,977 sq.ft.	44,900-
TR.D., Block 49 Harbor	12,362 sq.ft.	30,900-
Ptn. Block 8 Black Gold #1	23,168 sq.ft.	57,900-
TR.F. USS 495 Port Valdez	17,165 sq.ft.	47,200-
USS 455	125 Acres	625,000-
USS 439	470.628 Acres	1,647,000-
Lot 11, Block 35 Min. Creek	5,625 sq.ft.	16,900-
Lot 12, Block 35 Min. Creek	4,875 sq.ft.	14,600-
Lot 22, Block 35 Min. Creek	5,500 sq.ft.	16,500-
Lot 31, Block 33 Min. Creek	7,500 sq.ft.	22,500-
Block 5, Block 20, Add. #2 Mineral Creek	3.81 Acres	415,000-
Block 6, Block 20, Add. #2 Mineral Creek	2.92 Acres	318,000-
Tr.B, Block 20, Add #2 Mineral Creek	46,000 sq.ft.	138,000-
Lot 11, Block 1 Min. Cr. Hts.	9,073 sq.ft.	31,800-
Lot 39, Block 1 Min. Cr. Hts.	10,154 sq.ft.	35,500-
ASLS 79-117(W. Min. Cr.) Tr. A.	406.46 Acres	488,000-
ASLS 79-117(Harbor) Tr.B. (Island "A")	25.63 Acres	89,700-
ASLS 79-116(Industrial Tract) TR.A.	1,657.7 Acres	1,326,000-
ASLS 79-116 TR.B.	1,488.42 Acres	1,191,000-
ASLS 79-116 TR.C.	188.67 Acres	283,000-
ASLS 79-116 TR.D.	106.81 Acres	171,000-
ASLS 79-115 TR.E.	21.66 Acres	75,800-
ASLS 79-116 TR.F.	364.21 Acres	437,000-
ASLS 79-116 TR.G.	34.56 Acres	121,000-

These values are opinions based on factors found in the Valdez real estate market while doing our assessment work. However, many of these parcels are so large and/or so untypical that no comparable sales data was available and therefore are extremely rough estimates.

Also, many of the property cards need to be updated, and in order to accomplish this, we must personally inspect each of the properties in question. The accomplishment of this will take time as it is difficult to find owners at home during day-time hours and many do not want to be bothered in the evening.

We have been, and are making, telephone calls to try and set up appointments. Those that cannot be reached by telephone will have to be canvassed.

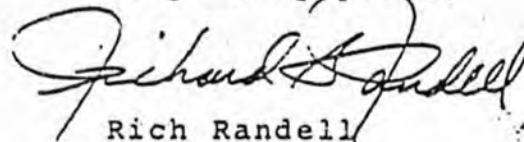
We are also planning to take new photographs of all improved properties during the late spring and summer of 1982. We propose to have the majority of the property cards completed and have new photographs with them by December 15, 1982 and if not, we recommend that the payment of \$8,400 due us on that date be held back until this requirement is met.

One other subject I would like to discuss with you is the appraisal of mobile homes as real property. Anything that is permanently affixed to the land is real property; mobile homes are personal property. There is no way to accurately keep abreast of ownership changes in the mobile home market as there is no requirement to file any sort of deed, like in a real property transaction. Also, mobile home owners move their units from one court to another without any notification to the city. The city then expends a large amount of effort, as well as money, in locating the correct owner and/or unit.

I would recommend that any mobile home that is not set up on a full (permanent style) foundation be considered personal property and removed from the real property tax roll.

If you have any questions regarding any part of this letter please contact me.

Very truly yours,


Rich Randell

RR/mmp

CONTRACT FOR PROFESSIONAL APPRAISAL SERVICES

THIS AGREEMENT, made and entered into this 15th day of December, 1981, by and between the CITY OF VALDEZ, a municipal corporation organized under the laws of the State of Alaska, hereinafter referred to as the "City," and Rich Randall Appraisal Company, hereinafter referred to as the "Appraisers".

WITNESSETH:

1. The Appraiser shall:

- (a) Appraise, in accordance with standard Alaska tax practice, all taxable real property located within the existing limits of the City at true value, furnishing all necessary cards, photographs and forms required for such appraisal, for tax year 1982 and 1983.
- (b) Appraise, in accordance with standard Alaska tax practice, all City, State, and Federal property located within the existing limits of the City at true value, furnishing all necessary property cards with photographs and information on acreage and dimensions as well as a description of any improvements, for tax year 1982 and 1983.
- (c) Furnish all necessary equipment and labor, other than legal and/or location descriptions and ownership records of those parcels to be appraised, in connection with the appraisal required in the preceding paragraphs, and make a final report to the City in the manner required by law.
- (d) Investigate, evaluate and report to the City the merits of all written complaints received by the City and forwarded to the appraisers after evaluation notices have been mailed and prior to Board of Equalization hearings. The City shall determine which complaints are to be forwarded to the Appraiser for further investigation and evaluation.
- (e) Attend hearings of the Board of Equalization at such times as required by law.

(f) Complete, prior to March 1, of each year, all obligations to be performed on the part of the Appraiser with the exception of investigation of complaints and attendance at the Board of Equalization hearings.

2. The City shall:

(a) In consideration of the performance of the obligations undertaken under paragraph 1, Sections (a), (b), (c) and (f), by the Appraiser, pay to the Appraiser the sum of twenty-five thousand two hundred dollars (\$25,200) for the 1982 tax year and the sum of twenty-five thousand (\$25,000) for the 1983 tax year. Eight thousand four hundred dollars (\$8,400) shall be paid not later than December 15th of each year with the remainder to be paid within thirty days of delivery to the City of the tax roll and satisfaction of all contract requirements for that year.

(b) In consideration of the obligations undertaken by the Appraiser under Paragraph 1, Sections (d) and (e) herein pay to the Appraiser amount of FIFTY DOLLARS (\$50.00) per hour for the time spent performing these services, except that no additional fee shall be paid for appeals caused by Appraiser negligence, such as appraising non-existent property or misidentifying property.

(c) Provide the Appraiser, prior to commencement of field work in Valdez, with legal or location descriptions, ownership records, owners' addresses, and the existing property cards with photographs from the previous tax year. The property cards and city records shall be returned to the City as soon as possible after use by the Appraiser.

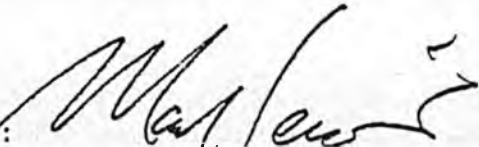
(d) Provide the Appraiser with copies of existing City maps, plats and zoning maps covering the properties to be appraised.

3. The parties agree that the Appraiser shall have no responsibility for the appraisal of either the Pipeline-oriented property which has been appraised by the State or any property, the location and description of which, the City has not provided to the Appraiser.

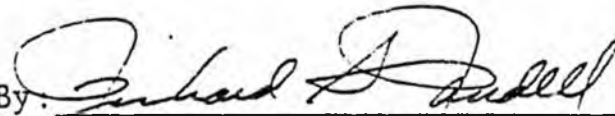
4. The parties agree that all existing property cards and tax records, as well as those cards and records which may be created by the Appraiser while performing this contract, are and shall remain the property of the City.


IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

CITY OF VALDEZ, ALASKA

By: 
Mark Lewis, City Manager


Rich Randall Appraisal Company

By: 
Richard G. Randell

By: 
Ralph Ellinger

APPROVED AS TO FORM:

HUGHES, THORSNESS, GANTZ,
POWELL & BRUNDIN, Attorneys
for the City of Valdez

By: 
Kenneth P. Jacobus

(g) The council has the power to:

(1) Delegate the power to invest the fund to the city manager or other city official, and require reports relating to the investment as it prescribes;

(2) Hire other persons as necessary to assist the council in the exercise of its powers; and

(3) Take whatever other actions are reasonably necessary in furtherance of the purpose of this section. (7-19-77.)

Chapter VII. Taxation.

Sec. 7.1. Taxation by ordinance.

The council shall provide in the Code for the annual assessment, levy and collection of city taxes. Council may provide for differential taxation based upon differences in kind or level of services provided within service areas established by ordinance.

Sec. 7.2. Exemptions.

The power of taxation shall never be surrendered. No exemptions from taxation shall be allowed, except such as are expressly provided by law. Private leaseholds, contracts or interests in land or property owned or held by the United States, the state or its political subdivisions, shall be taxable to the extent of the interests.

Sec. 7.3. Assessment day.

The taxable status of property shall be determined as of the first day of January, or such other date as may subsequently be required by law, which shall be the assessment day. Values on the assessment roll shall be determined according to the facts existing on the assessment day for the year for which the assessment roll is made, and no change of the status of any property after that day shall be considered by the council when acting as a board of equalization. Standards of appraisal shall be followed by the council when established as a board of equalization.

Standards of appraisal shall be followed by the council when established by law.

Sec. 7.4. Security for taxes on real property.

The city shall have a first lien upon all real property against which taxes are assessed for the taxes and any collection charges, penalties and interest which may accumulate thereto, which lien shall continue until the taxes are paid.

Sec. 7.5. Protection of city's real property tax liens.

The city may protect its lien for taxes upon real property by sale at tax sale, or by purchasing the real property at any tax sale or other public sale, or by direct negotiation with the owner. Any such procedure shall be deemed to be for a public purpose. When the city has acquired an interest in real property to protect a tax lien thereon, the owner of any interest in such real property may redeem the same by paying the delinquent city taxes and all accrued charges, penalties and interest thereon. After the city has held any tax delinquent real property for one year, it may hold the same for public use or sell it at public auction to the highest bidder.

Sec. 7.6. Security for taxes on personal property.

City taxes on personal property shall be a debt to the city from the persons to whom they are assessed. If any person to whom such taxes are assessed fails or refuses to pay the taxes, or if the collecting officer reasonably believes that any person will not pay such taxes, the taxes and accrued charges, penalties and interest may be collected by a personal action in the name of the city against the person to whom assessed in a court of competent jurisdiction, or by distraint and sale of any personal property of the person assessed. Neither of the remedies herein given shall be exclusive of the other at any time.

Chapter VIIA. Service Areas.

Sec. 7A.1. Purpose.

Service areas may be established to provide services not provided on an area-wide basis or to provide a higher level of service than that provided on an area-wide basis.

Sec. 7A.2. Establishment.

(a) The council by ordinance may establish, alter, consolidate or abolish service areas. The council by ordinance may add or eliminate services to a service area. The ordinance shall contain the following:

- (1) Boundaries and area to be included;
- (2) Service to be provided or be eliminated; and
- (3) Other provisions the council includes.

(b) If a petition of protest is filed with the council before the effective date of the ordinance adopted under this section, the ordinance shall be submitted to the qualified voters residing in the service area or proposed service area and if ratified shall take effect upon certification of the election. The petition shall contain signatures of at least ten percent or 100 of the qualified voters residing in the service area or proposed service area, whichever is the lesser. Each new service or each service to be eliminated shall be placed separately on the ballot and shall require ratification by a majority of the qualified voters voting on the question. There shall be no election under this subsection to eliminate a service to be provided on an area-wide basis.

Taxation

CHAPTER 25.

TAXATION.¹Article I. Assessment, Levy and Collection of Taxes.Division 1. Generally.

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- § 25-2.1. Exemptions required by state law.
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Division 3. Levy and Collection.

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- § 25-13. Delinquent tax roll; foreclosure lists; payment of taxes prior to sale; giving of notices.
- § 25-14. Foreclosure and sale of real property for delinquent taxes; redemption.
- § 25-15. Foreclosure on personal property.

Article II. Sales Tax.

§§ 25-16 to 25-33. Repealed.

1. As to finance generally, see ch. 9 of this Code.

Valdez City Code

§§ 25-34 to 25-99. (Blank.)

Article III. Special Assessments.

- § 25-100. Authorized improvements.
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- § 25-111. Computation of assessments.
- § 25-112. Levy of assessments; notice of hearing on objections.
- § 25-113. Hearing on objections; signing of assessment roll.
- § 25-114. Notice to owner of assessment.
- § 25-115. Assessments to be lien on property.
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 § 25-136. Civil penalties for violations.
 § 25-137. Use of funds generated; creation of advisory board.

Article I. Assessment, Levy and Collection
of Taxes.

Division 1. Generally.

Sec. 25-1. Property subject to taxation generally.

All property not expressly exempt by the city, or exempted from taxation by the city under federal or state constitutional provisions, shall be subject to annual taxation at its full and true value based upon the actual value of the property assessed. (Ord. No. 6803, § 1.)

Sec. 25-2. Exemption of personal property from taxation;
mobile homes classified as real property.

(a) Effective January 1, 1968, all personal property located within or owned by residents of the city shall be exempt from the Valdez personal property tax. This exemption includes, but is not limited to, household furniture and effects, intangibles, inventories and goods in process, and boats and vessels of all types.

(b) For the purposes of this chapter, real property includes, among other things, trailers and mobile homes, and lean-tos and similar structures attached or contiguous thereto. The words "trailers and mobile homes" include all forms of housing adaptable to being moved by a power connected thereto, and which are or can be used for residential, business, commercial or office purposes. Provided, however, that those trailers which are (1) used for camping or recreational purposes only, or (2) not affixed to the site and not con-

nected with utilities, shall be considered to be personal property and exempt from taxation. A trailer or mobile home is conclusively presumed to be affixed to the land and real property for the purposes of taxation when it has remained at a fixed site for more than ninety days. When the ownership of a trailer or mobile home and attachments and appurtenances is different from the land upon which it rests, the city may, in its discretion, assess and tax the ownerships separately. (Ord. No. 6803, § 2.)

Sec. 25-2.1. Exemptions required by state law.

(a) The following property is exempt from general taxation:

(1) Municipal, state or federally owned property; except, that private leaseholds, contracts or other interest in the property shall be taxable to the extent of those interests.

(2) Household furniture of the head of a family or a householder not exceeding five hundred dollars in value.

(3) Property used exclusively for nonprofit religious, charitable, cemetery, hospital or educational purposes. "Property used exclusively for religious purposes" includes the following property owned by a religious organization:

a. The residence of the pastor, priest, rabbi, minister or religious order of a recognized religious organization;

b. A structure, its furniture and its fixtures used solely for public worship, charitable purposes, religious education or a nonprofit hospital;

c. Lots supporting and adjacent to a structure or residence mentioned in subparagraphs a. or b. of this subsection which are necessary to convenient use; and

d. Lots required by local ordinance for parking near a structure defined in subparagraph b. of this subsection.

(4) Property of a nonbusiness organization composed entirely of persons with ninety days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of the auxiliary of such organization.

(5) Money on deposit.

(6) After January 1, 1973, the real property owned and occupied as a permanent place of abode by a resident sixty-five years of age or over is exempt from taxation of the assessed value of the real property. Only one exemption may be granted with respect to the same property and, if two or more per-

sons are eligible for an exemption with respect to the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under Alaska Statutes, sections 44.62.560--44.62.570.

(b) Property described in subsection (a) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable or hospital groups or by educational groups for classroom space.

(c) No exemption may be granted except upon written application for the exemption on a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assess-

ment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section. (Ord. No. 7538, § 1.)

Sec. 25-2.2. Additional exemptions.

Thirty percent of the assessed value, up to a maximum of ten thousand dollars, of a principal residence owned and occupied by the taxpayer is exempt from taxation. (Ord. No. 7611, § 1.)

Sec. 25-3. Determination of annual levy, due dates, etc.; limitation on amount of levy.

The rate of levy of tax, the date of equalization of the tax and the date when taxes shall become delinquent shall be fixed by resolution of the city council, and the levy for school and municipal purposes shall be separately made and fixed, but the aggregate thereof shall not exceed three per cent of the assessed value of the property assessed. (Ord. No. 218, § 1.)

Division 2. Assessments.

Sec. 25-4. Assessment procedure generally; preparation of assessment roll.

(a) All taxable property shall be assessed at its true and full value and all assessments shall be uniform and equal and based upon the actual value of the property assessed. The "full and true value" is the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

(b) The city assessor shall annually assess and list on a tax roll all real property in the name of the person by whom it is owned on the first day of January. If no owner or claimant to the property can be discovered, the property shall be assessed to the unknown owner.

(c) The assessor shall complete the listings for the annual assessment roll of all real property within the city before March 1, or other such date as may be established by the city council each year. The listing of all taxable property may be made upon permanent separate ledger cards which will be the combined assessment roll and tax ledger. Real property shall be assessed to the owner of record as shown in the records of the recorder of the district; provided, that any other person having an interest in the property may be listed on the assessment records with the owner. The person in whose name any property is listed as owner thereof shall be conclusively presumed to be the legal owner of record. If the owner of land is unknown, such land may be assessed to an "Unknown Owner" or "Unknown Owners." No assessment shall be invalidated by a mistake, omission or error in the name of the owner of the real property assessed, if the property is correctly described.

(d) The assessor may list real property located in any subdivision by lot and block or tract description, and unsubdivided property according to the land office section and township survey description, or by giving the boundaries thereof, or by reference to the book and page of the records of the recorder where the description may be found or by designation of tax lot number, referring to a public record kept by the assessor of descriptions of real property, or in such other manner as to cause the description to be capable of being made certain. Initial letters, abbreviations, fractions and exponents to designate the township, range, section or part of a section, or the number of any lot or block or part thereof, or any distance, course, bearing or direction, may be employed in any such description of real property.

(e) The assessor personally, or by any designated assistant, shall, after identifying themselves, have the right to enter upon and inspect the premises of any person at reasonable times for the purpose of making an examination, valuation, or assessment of real property. He shall have access to and may examine all property records involved, and any person shall, upon request, furnish to the assessor or his assistant every facility and assistance for the purposes of such examination, valuation or assessment. (Ord. No. 6803, § 3; Ord. No. 7539, § 1.)

Sec. 25-4.1. Reevaluation.

A systematic reevaluation of taxable real and personal property undertaken by the assessor, whether of specific areas in which real property is located or of specific classes of real or personal property to be assessed, shall be made only in accordance with a resolution or other act of the city council directing a systematic reevaluation of all taxable property within the city over the shortest period of time practicable, as determined by the city council and fixed in the resolution or other act of the council. (Ord. No. 7539, § 2.)

Sec. 25-5. Contents of assessment roll.

The assessor shall prepare an annual assessment roll, in duplicate, upon which he shall enter the following particulars:

- (a) The names and last known addresses of all persons with property liable to assessment and taxation.
- (b) A description of all taxable property.
- (c) The assessed value, quantity or amount of such property.
- (d) The arrears of taxes, if any, owed by any person. (Ord. No. 218, § 4.)

Sec. 25-6. Notices of assessment to be given; corrections in assessment roll by assessor.

(a) The assessor shall give to every person named in the assessment roll a notice of assessment, showing the assessed value of his property, at least

thirty days before the equalization hearings. On the back of each assessment notice shall be printed a brief summary, for the information of the taxpayer, of the dates when the taxes are payable, delinquent and subject to interest and penalty, dates when the board will sit for equalization purposes and any other particulars specified by the city council. The assessment notice shall be directed to the person to whom it is to be given, and shall be sufficiently given if it is mailed by first class mail addressed to, or is delivered at, his address as last known to the assessor; or if the address is not known to the assessor, the notice may be addressed to the post office nearest to the place where the property is situated. The date on which the notice is mailed, or if delivered by a city official or employee then on the date of such delivery, shall be deemed to be the date on which the notice is given.

(b) When valuation notices have been mailed, the assessor shall cause notice that the assessment rolls have been completed to be published in a newspaper of general circulation once each week for two successive weeks. In the event no newspaper of general circulation is published in the city, the assessor shall cause such notices to be posted at two public places for a period of two weeks. Such notice shall also state when and where the equalization hearings shall be held, and that an appeal may be taken to the board of equalization upon the filing of notice, in writing, with the board specifying the grounds for the appeal.

(c) The assessor may correct any error or supply any omission made or arising in the preparation of the assessment roll at any time before the sitting of the board of equalization. It shall be the duty of every person receiving a notice of assessment to advise the assessor of any error or omission he may have observed in the assessment of his property, in order that the assessor may correct the same.

If errors found in the preparation of the assessment roll are adjusted, the assessor shall mail a corrected notice allowing thirty days for appeal to the board. (Ord. No. 218, § 5; Ord. No. 7539, §§ 3, 4.)

Sec. 25-7. Appeals to board of equalization.

(a) Any person who receives notice or whose name appears on the assessment roll may appear to the board of equalization with respect to any alleged error in the valuation, overcharge, omission or neglect of the assessor not adjusted to the taxpayer's satisfaction. Whenever it appears to the board that there are overcharges or errors or invalidities in the assessment roll, or in any of the proceedings leading up to or subsequent to the preparation of the roll, and there is no appeal before the board by which the same may be dealt with, or where the name of any person is ordered by the board to be entered on the assessment roll, by way of addition or substitution, for the purpose of assessment, the board shall cause notice of assessment to be mailed by the assessor to that person or his agent giving him at least thirty days from the date of such mailing within which to appeal to the board against the assessment.

(b) Notice of appeal, in writing, specifying the grounds for the appeal, shall be filed with the board of equalization within thirty days after the date on which the assessor's notice of assessment was given to the person appealing. Such notice shall contain a certification that a true copy thereof was mailed or delivered to the assessor. If notice of appeal is not given within that period, the right of appeal shall cease as to any matter within the jurisdiction of the board, unless it is shown to the satisfaction of the board that the taxpayer was unable to appeal within the time so limited. A copy of the notice of appeal shall be sent to the assessor as above indicated.

(c) Upon receipt of the notice of appeal, the assessor shall make a record of the same in such form as the city council may direct, which record shall contain all the information shown on the assessment roll in respect of the subject matter of the appeal, and the assessor shall place the same before the board of equalization from time to time as may be required by the board. The board shall cause a notice of the sitting at which the appeal is to be heard to be mailed by the assessor to the person by whom the notice of appeal was given, and to every other person in respect of whom the appeal is taken, to their respective addresses last known to the assessor.

(d) The city may appeal an assessment to the board of equalization in the same manner as a taxpayer. Within five days after receipt of the appeal, the assessor shall notify the person whose property assessment is being appealed by the city. (Ord. No. 218, § 6; Ord. No. 7539, § 5.)

Sec. 25-7.1. Hearing.

(a) If an appellant fails to appear, the board of equalization may proceed with the hearing in his absence.

(b) The appellant bears the burden of proof.

(c) The only grounds for adjustment is proof of unequal, excessive or improper valuation based on facts which are stated in a valid written appeal timely filed or proved at the hearing.

(d) The board shall certify its actions to the assessor within seven days.

(e) The assessor shall enter the changes and certify the final assessment roll by June 1.

(f) An appellant may appeal to the superior court for, and is entitled to, trial de novo of the board's action. Either party to the appeal may demand a jury trial. (Ord. No. 7539, § 6.)

Sec. 25-8. Completion of assessment roll; records of board of equalization; certification of assessment roll.⁹

(a) The assessor shall enter the changes, so certified upon his records, and no assessed valuations shall thereafter be changed. After the hearings held by the board of equalization are concluded, the assessor shall complete the annual assessment roll, at a time to be determined by the city council, which shall be based on values as of January 1 immediately preceding, and he shall certify the same. Such supplementary assessment rolls shall be prepared and certified as may be expedient or necessary.

(b) The city clerk shall be ex officio clerk of the board of equalization and shall record in the minutes of the meeting all proceedings before the board and the names of all persons protesting assessments. All changes, revisions, corrections and orders relating to claims or adjustments and all final decisions shall be recorded in a record to be kept by the city clerk and to be known as the appeal record. Within three days following the final hearings of the board, the city clerk shall transmit to the assessor all corrections, revisions or changes authorized and approved by the board and shall certify that the changes so reported are as approved by the board of equalization.

(c) All taxes to be levied or collected, except as otherwise provided, shall be calculated, levied and collected upon the assessed values entered in the assessment roll and certified by the assessor as correct, subject to the taxpayer's right of appeal and to the corrections and amendments made in the rolls pursuant to this article. (Ord. No. 218, § 7.)

Sec. 25-9. Appeals to superior court.¹

Any person feeling aggrieved by any order of the board of equalization shall have the right of appeal on a de novo basis to the superior court; provided, that the person has first taken his appeal to the board of equalization. (Ord. No. 218, § 8.)

Sec. 25-10. Supplementary assessment rolls.²

All the duties imposed upon the assessor and the city clerk with respect to the annual assessment roll and all the provisions of this article relating to assessment rolls shall, as far as applicable, apply to supplementary assessment rolls. The delinquent date when taxes shall become delinquent, as determined by the city council, shall also apply to property listed on the supplementary assessment rolls. (Ord. No. 218, § 9.)

9. For similar state law. see A. S., §§ 29.10.432, 29.10.435, 29.10.429, 29.10.438.

1. For similar state law, see A. S., § 29.10.426.

2. For similar state law. see A. S., § 29.10.441.

Sec. 25-11. Delivery of assessment roll to city council; validity of assessment rolls.³

(a) When the final assessment records have been completed by the assessor as provided in this division, the assessor shall deliver to the city council a statement of the total assessed valuation of all real property within the city.

(b) Every assessment roll as completed and certified by the assessor, and as corrected and amended by him from time to time in conformity with this article and the decisions of the board of equalization, shall, except insofar as the same may be further amended as a result of an appeal to the court, as provided by this article, be valid and binding on all persons, notwithstanding any defect, error, omission or invalidity existing in the assessment roll or any part thereof, and notwithstanding any proceedings pertaining thereto. (Ord. No. 6803, § 4.)

Division 3. Levy and Collection.⁴

Sec. 25-12. Determination of tax rate and delinquent date; tax statements; penalties for delinquent payment.⁵

The city council shall thereupon, by resolution, fix the rate of tax levy and designate the number of mills upon each dollar of assessed real and personal property that shall be levied, and shall levy such tax in accordance therewith and shall determine the date when taxes shall become delinquent. If the total tax assessed to any owner is less than one dollar, then the administration may delete such tax obligation from the tax roll.

The assessor shall then prepare and mail tax statements to the persons listed as the owners on the tax rolls. If the total tax assessed against the taxpayer is in excess of ten dollars, the taxpayer shall be given the right to pay such taxes in two installments. If the first half tax is not paid when due, the entire tax becomes delinquent and penalty and interest accrue as provided in this article. If the first half is paid when due, the second half of such taxes shall be payable on the date fixed by the city council for such second half, and if not paid shall be delinquent after such date.

A penalty not to exceed eight per cent shall be added to all taxes delinquent until the due date fixed for the payment of the second half, and interest at the rate of eight per cent a year shall be charged on the whole of the unpaid taxes, not including the

3. For similar state law, see A. S. , §§ 29.10.444, 29.10. - 447.

4. For state law authorizing city to enforce tax liens by foreclosure and sale, see A. S. , § 29.10.456.

5. For similar state law, see A. S. , §§ 29.10.447, 29.10. - 450, 29.10.453.

penalty, from the due date until paid in full. After the due date for the payment of the second half, a total penalty of ten per cent shall be added to all delinquent taxes, and interest at the rate of eight per cent per annum shall accrue as provided in this section upon all unpaid taxes, not including the penalty, from the due date until paid in full. (Ord. No. 218, § 11; Ord. No. 6521, § 1.)

Sec. 25-12.1. Deadlines for rate of levy determinations and tax statement mailing.

The city council shall annually determine the rate of levy before June 15. By July 1, the city shall mail tax statements setting out the levy, dates when taxes are payable and delinquent, and penalties and interest. (Ord. No. 7539, § 7.)

Sec. 25-13. Delinquent tax roll; foreclosure lists; payment of taxes prior to sale; giving of notices.

(a) The city clerk shall, within such time as the city council may direct, after such taxes have become delinquent and due, make up a roll in duplicate of all real property then subject to foreclosure. Such roll shall show therein the names of the persons appearing in the latest tax roll as the respective owners of the tax delinquent properties, a description of each such property as it appears on the latest tax roll, the years for which taxes are delinquent, the amount of delinquent taxes for each year and penalty and interest thereon, and thereon shall be endorsed under the hand of the city clerk and the corporate seal, a certificate to the effect that such roll is a true and correct roll of the delinquent taxes of the city for the years there shown. Such roll so made up shall be known as the foreclosure list of the city for the year in which the same is made up, the original of which shall be filed with the city clerk and remain open to inspection of the public. After the completion of the foreclosure list, the city clerk shall cause to be published in a newspaper of general circulation in the city, to be designated by the city council, or posted, a notice under the hand of the city clerk setting forth that the foreclosure list of real property for the year, naming it, has been completed and is open for public inspection at the office of the city clerk and that on a certain day not less than thirty days after publication or posting of such notice, the foreclosure list will be presented to the superior court for judgment and order of sale.

(b) On the day designated in the publication, a certified copy of the foreclosure list, together with a petition for judgment, shall be presented to the superior court. Notice of such foreclosure proceeding shall be given by four weekly publications of the foreclosure list in a newspaper to be designated by the city council. The first such publication shall commence on the day of the filing of the list and petition, and it shall not be necessary to mail a copy of any notice to the owner or to any other person interested in the property. If no newspaper is published, the city council may, in lieu of publication in a newspaper, cause the thirty days notice that the foreclosure list will be presented to the superior court for judgment and order of sale, and also the foreclosure

list filed with the court, to be posted at the front door of the post office and in three other conspicuous public places in the city. The posting of the foreclosure list shall be sufficient service on each person interested in any of the properties; provided, that when the foreclosure list is not published in a newspaper but notice thereof is given by posting, the city clerk shall, within ten days after such posting, mail to each person to whom a tract is assessed, at his last known address, a notice describing the tract and the amount due as stated on the foreclosure list. All persons owning or claiming to own, or having or claiming to have, any interest in any property included in the foreclosure list are charged with notice of such proceeding and of all steps thereunder.

(c) During the time of the publication or posting of the foreclosure list and up to the time of sale, any person may make payment on any piece or tract set forth therein, together with the penalty and interest, and proportionate share of the costs of publication and foreclosure; and the city clerk shall make proper notation of such payment on both the original delinquent tax roll and foreclosure list. On receipt of the delinquent tax payments as to a particular property any time one week prior to the filing of the foreclosure list and petition, the city clerk shall remove the property from both the list and the petition.

(d) A mortgagee or other holder of a recorded lien on real property may file with the city clerk a written request that notice of any foreclosure list including such real property be given to such mortgagee or other lien holder. The request shall contain the name and address of the person filing it, the description of the property and the name of the owner or reputed owner thereof, and the date of expiration of the mortgage or lien. Notice need not be given after the expiration of the mortgage or lien, unless a further request therefor is filed. If the mortgagee or lien holder furnishes a duplicate form of request for the notice, the city clerk shall certify thereon to the filing and return the duplicate to the person making the request. Whenever any property described in the request for notice is included in a foreclosure list, the city clerk shall send by registered mail, written notice thereof to the mortgagee or other lien holder. At the time of mailing the notice, the city clerk shall note that fact in ink in the latest tax roll. The notation in the tax roll is prima facie evidence that the notice was mailed. Where the same mortgagee or lien holder has filed requests for notices on two or more properties included in a foreclosure list, one notice may be issued covering all such properties. (Ord. No. 218, § 12.)

Sec. 25-14. Foreclosure and sale of real property for delinquent taxes: redemption.

(a) One general proceeding shall be brought on the part of the city to foreclose the tax liens against each of the properties included in the foreclosure list. Foreclosure proceedings shall be in accordance with state law. A certified copy of the judgment of the district court shall constitute a certificate of sale to the city of the several properties described in the judgment and decree.

(b) All real property sold to the city pursuant to law shall be held by the city for the period of one year from and after date of the judgment and decree of

foreclosure, unless sooner redeemed. During the one year period, any person having an interest in the property at the date of the judgment and decree of foreclosure, or any heir or devisee of such person, or any person holding a lien of record on the property, or any independent school district or public utility district having a lien on the property, may redeem the property by payment of the full amount applicable to the property under the judgment and decree, with interest thereon as provided by law, and the costs charged against such property. Property so redeemed shall be subject to assessment for taxation during the period of redemption, as though it had continued in private ownership. Any person holding a mortgage or other lien of record covering a part only of a particular parcel of real property included in the judgment and decree of foreclosure may redeem such part by payment of the proportionate amount applicable thereto under the judgment and decree.

(c) Not earlier than thirty days before the expiration of the redemption period the clerk shall publish a redemption period expiration notice. The notice shall contain the date of judgment, the date of expiration of the period of redemption and a warning to the effect that all properties ordered sold under the judgment, unless redeemed, shall be deeded to the city immediately on expiration of the period of redemption and that every right or interest of any person in the properties will be forfeited forever to the city. The notice shall be published once a week for four consecutive weeks in a newspaper of general circulation distributed within the city. If there is no newspaper of general circulation distributed within the city, the notice shall be posted in three public places for at least four consecutive weeks. The clerk shall send a copy of the published notice by certified mail to each record owner of property against whom a judgment of foreclosure has been taken. The notice shall be mailed within five days of the first publication. The mailing shall be sufficient if mailed to the property owner at the last address of record. The right of redemption shall expire thirty days after the date of the first publication notice.

(d) Upon filing proof of publication of notice of expiration of the redemption period as a part of the foreclosure proceedings, the properties not redeemed within the one-year period prescribed shall be deeded to the city by the clerk of the court. All rights of redemption, with respect to the real properties therein described, shall terminate on the execution of the deed to the city. No return or confirmation of the sale or deed to the city is required.

(e) When the city acquires real property under foreclosure procedures, the conveyance vests in the city title to the property, free from all liens and encumbrances except unpaid taxes and assessments duly levied for local improvements to the property, and liens of the United States and the state.

(f) No deed is invalid for irregularities, omissions or defects, unless the former owner has been misled to his injury. After two years from the date of the deed, its validity is conclusively presumed and any claim of the former owner is forever barred. (Ord. No. 218, § 13; Ord. No. 7539, §§ 8, 9.)

Sec. 25-15. Foreclosure on personal property.

(a) Owners of personal property assessed shall be personally liable for the amount of taxes assessed against their personal property and such tax, together with penalty and interest, may be collected after the same becomes due by a personal action brought in the name of the city against such owner in the courts of the state.

(b) In addition to the remedy given by the preceding subsection, which shall not be construed as exclusive, the lien of personal property taxes may be enforced by distraint and sale of the personal property of the person assessed. The city clerk shall first make demand of the person assessed for the amount of the tax, penalty and interest, and the sale shall be made at public auction after at least ten days' notice given by posting or publication. The city clerk shall issue a warrant directing the chief of police or any other officer of the city to forthwith seize, levy upon, distraint and sell such personal property of the person assessed as the tax may have been levied upon; and if the same is not sufficient to satisfy the tax, penalty and interest, and costs and expenses of such sale, such warrant may authorize the seizure, levy, distraint and sale of such other property of the person against whom the tax was assessed as may be sufficient to satisfy the tax, penalty, interest and cost of sale. The costs and expenses of such proceedings may be satisfied out of the proceeds of the property sold. The cost and expenses of such proceeding that may be satisfied from the proceeds of the property sold shall in no event exceed twenty per cent of the proceeds received from such sale.

(c) The lien of real property taxes on trailers and mobile homes which are about to be removed or have been removed from the city or which, subsequent to the accrual of the real property tax lien, become personal property within the meaning of this chapter, may be foreclosed by distraint and sales as set forth in subsection (b) of this section. (Ord. No. 218, § 14; Ord. No. 7008, § 1.)

Article II. Sales Tax.

Secs. 25-16 to 25-33. Repealed by Ordinance No. 7608, § 1.

Secs. 25-34 to 25-99. (Blank.)

Article III. Special Assessments.¹

Sec. 25-100. Authorized improvements.

A special assessment district may be initiated either by council or by petition for any public improvements including but not limited to the following:

- (1) Streets, alleys, curbs and gutters, driveways, curbcuts and sidewalks;
- (2) Storm sewers or drains;
- (3) Sanitary sewers.
- (4) Parks or playgrounds;
- (5) Off-street parking facilities;
- (6) Changes in channels of streams or watercourses;
- (7) Bridges, culverts, bulkheads, embankments or dikes for streams or watercourses;
- (8) Water supply system including water mains, water connections and fire hydrants; or
- (9) Fallout or disaster shelters;
- (10) Windbreaks. (Ord. No. 6705, § 1.)

Sec. 25-100.1. General limitations.

Notwithstanding any other provision of this article, the city may:

- (a) Refuse to proceed with the construction of any improvements or the creation of any district, if deemed not in the public interest, whether council or petition initiated; and
- (b) Advance or delay the construction of any improvements or the creation of any district based on city priorities, available funding, need to coordinate with other projects or any other reason whatsoever. (Ord. No. 8003, § 1.)

1. For state law as to local improvements and assessments, see A.S., § 29.63.010 et seq.

Sec. 25-101. Property to be assessed.

The council may assess for an improvement any real property, or any interest in real property, and the property specially benefitted may include abutting, adjoining, adjacent, contiguous, noncontiguous or other property or interest in property benefitted directly or indirectly by the improvement. The property to be assessed may include any property which is otherwise, for any reason, exempt from taxation by law. A benefitted property may be included in whole or in part in more than one special assessment district. (Ord. No. 6705, § 1.)

Sec. 25-102. Property owner.

The person whose name is listed on the latest city tax roll as the owner of the property to be assessed is presumed to be the legal owner of the property. If the property owner is unknown, the property may be assessed in the name of the "unknown owner." No assessment is invalidated by a mistake, omission or error in the name of the owner if the property is correctly described. (Ord. No. 6705, § 1.)

Sec. 25-103. Amount to be assessed.

The council may assess one hundred percent of any or all costs of a public improvement against each parcel of property benefitted by the improvement. Unless a specific method of computation of the benefit to the property is expressly provided for ascertaining the amount to be assessed against the property benefitted by a particular improvement, the council shall assess each parcel of property in a special assessment district in proportion to the value of the benefit received from the improvement using any reasonable method of apportionment.

Unless the council determines otherwise, the following general standards are applicable for assessments for public improvements:

(a) The city shall pay one hundred percent of the cost of the following improvements:

- (1) Reconstruction and maintenance of existing improvements;
- (2) Sewer interceptor and collector improvements;
- (3) Water transmission mains, supply and storage;
- (4) Storm sewer collectors and regional drainage improvements;
- (5) Collector roads; and
- (6) Sidewalks.

(b) The city shall pay fifty percent and the property owners shall be assessed for fifty percent of the cost of the following improvements:

- (1) Local sewer service improvements;
- (2) Local water service improvements;
- (3) Local road improvements; and
- (4) Local drainage improvements.

(c) The property owners shall be assessed one hundred percent of the costs of the following improvements:

- (1) All improvements to new subdivision; and
- (2) All improvements to which the council cannot or does not desire to contribute city funds.

The city may deviate from these general guidelines at any time for any reason whatsoever. (Ord. No. 6705, § 1; Ord. No. 8003, § 2.)

Sec. 25-104. Costs of improvements.

The costs of an improvement shall be the actual costs of the improvement, including acquisition of interests in land for the improvement, design, engineering, administration, overhead, professional services, bond costs and interest incurred as a result of the improvement and all other costs resulting from the construction of the improvement. Unless otherwise provided in the resolution confirming the assessment roll, the actual bond interest costs shall be considered to be four percent per annum of the costs, less bond interest, of the improvement calculated from the date of completion of the construction of the improvement until the special assessment is scheduled to be paid in full. (Ord. No. 6705, § 1.)

Sec. 25-105. Council initiated improvement districts--Authorized.

Council planning to make a public improvement shall establish local special improvement districts and the cost of the improvement shall be assessed against the property in any such local special assessment district. Council may determine upon and use any method for spreading the assessment among the properties within the district, which bears a reasonable relationship to the benefit received by the properties, including but not limited to assessments measured by the front foot and by the number of square feet in the property benefitted. The cost per unit of assessment need not be the same for all parcels

within the district, but insofar as is reasonable, properties similarly situated shall bear the same cost per assessment unit. Council shall also have power to enlarge or decrease the area of an improvement district and to change and revise the boundaries thereof from time to time. (Ord. No. 6705, § 1.)

Sec. 25-106. Same--Procedures for creation.

The council planning to make a public improvement at the expense in whole or in part of the owners of the properties benefitted shall order prepared the preliminary plans for the work and estimates of the cost of the same, and then before proceeding with the work, publish a notice of such fact at least once a week for two consecutive weeks in a newspaper of general circulation within the city and shall further post such notice in three public places within the city.

The notice shall state the nature, extent and approximate cost of such improvement and give the boundaries of the local special assessment district to which the costs of the improvements will be assessed. The notice shall contain a date not less than thirty days from the beginning of such publication on or before which time the owners of the properties affected may file their objections in writing with the city clerk to the work.

The council shall cause a plat of the improvement district to be made showing thereon the boundaries of the proposed improvement district with the various lots, tracts and parcels of land that will be included therein and affected thereby; together with a list of such various lots, tracts and parcels of land; a statement of the general method of assessment to be used, and a statement of the estimated cost of the improvement that will be assessed against each such lot, tract or parcel. The plat, method of assessment and list of parcels with estimated costs shall be available for public inspection during normal working hours of each working day during the period of publication of notice of the proposed assessment.

Five days or more after the termination of the thirty day publication period above described, council may proceed with the proposed improvement unless objection be filed either severally or by petition by the owners of property affected. (Ord. No. 6705, § 1.)

Sec. 25-107. Same--Objections and hearings.

(a) In the event objection is filed by the owner or owners of property affected, the council shall proceed to hold a public hearing. Notice shall be given of such hearing by one publication in a newspaper of general circulation in the city and by posting in three places within the city. The notice shall set forth the time and place of the hearing and that the council will consider the establishment of the improvement districts. Such notice shall be given at least one week prior to the time set for hearing.

(b) At the hearing, all of those appearing for or against the establishment of the improvement district may be heard, including any officer or employee of the city. After the hearing, the council may, if it determines that the improvement district is in the public interest and necessary, order the work to proceed, or may modify the plans of the improvement district or may order further proceedings suspended or terminated. However, if protests in writing as to the necessity of of the local improvement are made by owners of property who will bear fifty per

cent or more of the estimated cost of the improvement, council shall not proceed with the improvement until the protests have been reduced to less than fifty per cent, except upon the approval of at least five members of the council.

(c) After the public hearing is closed, council shall adopt a resolution determining either to proceed or not to proceed with the proposed improvement. The resolution to proceed shall find that the improvement is necessary and will benefit the properties within the district. The findings of the council are conclusive. The resolution shall require an account to be kept of all costs of the improvements and direct the proper city official to prepare the assessment roll. The council, in the resolution, shall assess the authorized percentage or rate of the cost of the improvement against the property within the district. (Ord. No. 6705, § 1.)

Sec. 25-108. Petition initiated improvement districts -- Authorized.

In addition to improvement districts initiated by council, improvement districts and assessments may be initiated by petition in a form prescribed by the city administrator which shall include a description of the improvement sought by the petition. The original or copies of the petition shall be signed by the owners of property which will bear at least fifty per cent of the estimated cost of the improvement sought by the petition. The petition, when signed, shall be filed with the city clerk. No property owner may withdraw his signature of approval after the petition has been filed with the city clerk unless authorized so to do by council.

Upon receipt by the city administrator of the petition from the city clerk, the city administrator shall cause a survey and report to council to be made concerning the needs for and the estimated cost of the district. The report shall contain a plan defining the district, outlining the properties to be assessed and showing the desirable extent of the proposed improvement. The district may be defined by any convenient means, whether by a designation of the property to be assessed or by a boundary description. The survey and report of the city administrator may be made either before or at the time of a public hearing on the necessity for the proposed improvement. (Ord. No. 6705, § 1.)

Sec. 25-109. Same -- Public hearings and notice thereof.

Before council shall take action on a proposed petition initiated improvement district, a public hearing shall be held at a time and place set by council or the city administrator, which public hearing may be continued from time to time as council may decide. After hearing the interested persons favoring or opposing the proposed improvement, council may decrease the extent or value of the improvement or may delete from the district properties not benefitted in whole or in part by the improvement. No change may be made resulting in an improvement district containing petitioners owning properties bearing less than fifty per cent of the estimated costs, unless other sufficient property owners are added to the petition.

Notice of the public hearing shall be published in a newspaper of general circulation in the city at least once a week for two consecutive weeks prior to the time fixed for the hearing. The city clerk shall send a written notice by first class mail at least fifteen days prior to the time of hearing to each owner of property to be assessed. The notice to be published shall include a summary of the improvement, the designation of the properties to be assessed in the special improvement district, the purpose of the public hearing and the time and place fixed for the public hearing. The notice by mail shall include a summary of the improvement, the designation of the addressee's property to be assessed, the purpose of the public hearing, the amount of the estimated or actual assessment against the property and the time and place for the public hearing. Each notice shall generally inform the property owner of the manner and method of protesting or objecting to the action to be taken at the public hearing.

After the public hearing is closed, council shall proceed to adopt a resolution determining to proceed or not to proceed with the proposed improvement. The council resolution to proceed shall find that the improvement is necessary and of benefit to the properties to be assessed and that the petition for the improvement has been signed by sufficient and proper petitioners. The findings of the council are conclusive. The resolution shall require an account to be kept of all the costs of the improvement and direct the proper city officials to prepare the assessment roll. The council, in its resolution, shall assess the authorized percentage or rate of the cost of the improvement against the properties within the district. Thereafter, the improvement shall proceed and the cost thereof be assessed in the same manner as assessments are levied for special improvement districts initiated by council action. (Ord. No. 6705, § 1.)

Sec. 25-110. Same -- Maximum assessment.

No parcel of property within a special improvement district initiated by petition shall be assessed in an amount greater than its proportionate share of two-thirds of the cost of the improvement unless the petition shall be signed by the owners of the properties which will bear at least seventy-five per cent of the cost of the improvement and unless such petition requests an assessment in an amount greater than two-thirds of the cost of the improvement. (Ord. No. 6705, § 1.)

Sec. 25-111. Computation of assessments.

Except in cases otherwise specifically provided for, and unless otherwise provided in the resolution ordering such improvement, the improvement district shall include all of the property within the boundaries established by city council. All property included within such limits of the district shall be considered and held to be the property and to be all the property specially benefitted by such public improvement and shall be the property to be assessed to pay the cost and expense thereof or such part thereof as may be chargeable, which cost and expense shall be assessed upon all such properties to be benefitted in accordance with the special benefits conferred on such property in the proportion determined by the assessments method adopted by the city council for the particular public improvement.

Property may be included in more than one assessment district; provided, it is benefitted by the public improvements for which such districts are created. (Ord. No. 6705, § 1.)

Sec. 25-112. Levy of assessments; notice of hearing on objections.

(a) When it has been decided to make such public improvement and to levy such assessments, correct account shall be kept of all expense of such improvement and as soon as the latter shall be completed, the city council shall apportion such percentage of the cost as was previously determined upon and shall assess the same against the various tracts of real property in proportion to and consistent with the apportionment method set forth in the resolution authorizing the improvement.

(b) Such apportionment of costs shall be designed the assessment roll and shall contain a brief description or designation of each tract or parcel of property, the name of the owner or reputed owner thereof and the amount of the assessment. When the same is completed, the council shall fix a time at which to hear objections to such assessment. The city clerk shall then send a written notice by mail to each owner of a tract against which an assessment is made, which notice shall state the amount of the assessment against any particular tract, and the time fixed by the council for hearing objections. Such notice shall be mailed at least fifteen days before the date of the hearing. (Ord. No. 6705, § 1.)

Sec. 25-113. Hearing on objections; signing of assessment roll.

At the time of such hearing, all persons concerned shall have a right to present their objections to the assessment or any part thereof and to point out errors and inequalities and submit such reasons for amendments and corrections as they may have and such hearings may be continued from time to time as council shall decide. Council shall have power to vary the assessments made according to the formula set forth for the particular improvement in individual cases where, because of peculiar circumstances, the property assessed is not benefitted commensurate with the amount of the assessment. After the council has heard all objections and suggestions, it shall correct all errors, if any, which it finds to exist in the assessment roll as originally made, and when the same is finally settled, the mayor shall sign the assessment roll and provide for the terms of payment of the assessments contained therein. (Ord. No. 6705, § 1.)

Sec. 25-114. Notice to owner of assessment.

Within ten days after final passage of the ordinance levying the assessment, the city clerk shall mail, postage prepaid, a notice to the owner of each property assessed which notice shall designate the property, the amount of the assessment, the time of delinquency and the amount of penalty, if any. Within five days after the notices have been mailed, the clerk shall file his affidavit setting forth such mailing, which affidavit shall be conclusive as to the facts therein set forth. (Ord. No. 6705, § 1.)

Sec. 25-115. Assessments to be lien on property.

Such assessments shall be a lien upon the property assessed from the time the assessment is levied, which lien shall be paramount and superior to any other lien heretofore or hereafter created whether by mortgage or otherwise, except a lien for prior assessments and for general taxes, and shall be payable at such time and when delinquent, shall bear such interest and penalty as city council may prescribe and may be enforced in the same manner provided for the collection and enforcement of general taxes. (Ord. No. 6705, § 1.)

Sec. 25-116. Assessments to be binding.

The regularity or validity of assessments as provided herein may not in any manner be contested or questioned by any proceeding whatsoever by any person not filing objections to such assessment roll prior to the confirmation thereof. (Ord. No. 6705, § 1.)

Sec. 25-117. Appeal.

The decision of council upon any objection may be reviewed by the state superior court in the manner prescribed by law. (Ord. No. 6705, § 1.)

Sec. 25-118. Reassessment--To be made where original assessment invalidated.

Whenever an assessment provided for in this article is set aside, annulled or declared void, or its enforcement refused by a court of the state or the United States, whether directly or by virtue of a decision of a court, the council may, by ordinance or resolution, make a new assessment or reassessment upon the lots, blocks, or parcels of land benefitted by the improvement, not to exceed, however, two-thirds of the cost of the improvement. The reassessment shall be based on the special and peculiar benefit of the improvement to the respective parcels of land assessed at the time it was originally made. (Ord. No. 6705, § 1.)

Sec. 25-119. Same--Valid notwithstanding irregularities.

The proceedings required by law to be taken before the making of an original assessment are not required to be taken in connection with a reassessment under this article. The reassessment shall be made and become a charge upon the property notwithstanding the omission, failure or neglect of an officer, body or person to comply with the provisions of law relating to improvement and assessment, and whether or not the proceedings of the council or a person connected with the work may have been irregular or defective and whether or not an irregularity was jurisdictional. (Ord. No. 6705, § 1.)

Sec. 25-120. Foreclosure of liens for unpaid assessments.

Liens for unpaid assessments shall be foreclosed and the property sold in the same manner as provided for foreclosure of property for taxes. (Ord. No. 6705, § 1.)

Article IV. Municipal Service Areas.Sec. 25-121. Created.

There is hereby created two service areas within the city denominated Zone One and Zone Two. Zone One shall receive all municipal services. (Ord. No. 7011, § 1; Ord. No. 7810, § 1.)

Sec. 25-122. Boundaries designated.

These zones are described as follows:

(1) Zone One shall be that area included within the boundary described as follows:

Beginning at the northeast corner of Section 29, Township 8 South, Range 6 West, Copper River Meridian; thence West 39.78 chains to a point on the South boundary of Section 20, Township 8 South, Range 6 West, Copper River Meridian; thence North 80.0 chains more or less to a point on the North boundary of Section 20, Township 8 South, Range 6 West, Copper River Meridian; thence West 80 chains more or less to the intersection point of the North-South centerline and the North boundary of Section 19, Township 8 South, Range 6 West, Copper River Meridian; thence South along the North-South centerline of Sections 19, 30 and 31, Township 8 South, Range 6 West, Copper River Meridian to the point of intersection with the West boundary of U. S. Survey No. 639; thence on a bearing South 45° 57' West, along the West boundary of said U. S. Survey 639, a distance of 29.4 chains, more or less, to the Southwest Corner of U. S. Survey 639; thence on a bearing South 80° 55' East, along the South boundary of said U. S. Survey 639, a distance of 23.0 chains, more or less, to the Southeast Corner of U. S. Survey 639, also being a point of angulation on the westerly boundary of Black Gold No. 2 Subdivision as per plat, recorded in the Valdez Recording District, Valdez Reception No. 74-661, Plat 74-5, thence on a bearing South 0° 43' 56" East, along said westerly boundary a distance of 110.00 feet to the Southwest Corner of said Black Gold No. 2, thence on a bearing South 89° 11' 04" East along the South boundary of said Black Gold No. 2 Subdivision, a distance of 102.42 feet; thence in a southerly direction, a distance of 14.88 chains, more or less, along a line of intersection with the Northwest Corner of the Standard Oil Company of California parcel of land, Tract "A," common with the Northeast Corner of the Standard Oil Company of California parcel of land, Tract "B," and identified on the ground by a brass disc embedded in a concrete pillar, flush with the ground, and marked NW COR STD OIL; thence on a bearing North 79° 55' West, along the North boundary of the Standard Oil Company of California parcel of land, Tract "B," a distance of 7.378 chains, more or less, to the Northwest Corner of Tract "B." Tract "B" is defined by Deed dated November 14th, 1967, and recorded in the Valdez Recording District in Book 60, page 18, Reception No. 67-578; thence on a bearing South along the West boundary of Standard Oil Company of California Tract "B," a distance of 6.95 chains, more or less, to the Southwest Corner of Tract "B"; thence on a bearing

South 80° 55' East, along the South boundary of Tract "B," a distance of 7.36 chains, more or less, to the Southeast Corner of Tract "B," identified on the ground by a brass disc embedded in a concrete pillar, flush with the ground, and marked on the west side of the disc SE COR STD OIL TRACT B, and on the east side of the disc STD OIL CO, TRACT A; thence in a southerly direction a distance of 21.21 chains, more or less, to the point of intersection with the line of mean low, low water of Valdez Bay; thence easterly, along the line of mean low, low water of Valdez Bay to the point of intersection with the North-South centerline of Section 33, Township 8 South, Range 6 West; Copper River Meridian; thence North along the North-South centerline of Sections 33 and 28, Township 8 South, Range 6 West, Copper River Meridian, to the point of intersection with the East-West centerline of Section 28, Township 8 South, Range 6 West, Copper River Meridian; thence West along the East-West centerline of Section 28, Township 8 South, Range 6 West, Copper River Meridian to the point of intersection with the East Boundary of Section 29, Township 8 South, Range 6 West, Copper River Meridian; thence North along the East boundary of Section 29, Township 8 South, Range 6 West, Copper River Meridian to the Northeast corner of Section 29, Township 8 South, Range 6 West, Copper River Meridian, the point of beginning.

This area may also be described as all of that portion of the city located within its boundary, as that boundary existed subsequent to the deannexation of May 5, 1969, and prior to the annexation of March 8, 1970, and also located to the West of the North-South centerline of Sections 33, 28 and 21, Township 8 South, Range 6 West, Copper River Meridian.

(2) Zone Two shall be all of that portion of the city that is not located within Zone One. (Ord. No. 7011, § 2; Ord. No. 7609, § 1; Ord. No. 7810, § 2.)

Sec. 25-123. Differential tax levied.

There shall be a differential tax rate levied in each zone, and that rate shall be related to the estimated cost of services provided in that zone. (Ord. No. 7011, § 3.)

Article V. Tax on Pipeline Property.

Sec. 25-124. Levied on "taxable property."

There is hereby levied a tax on all pipeline and terminal property as defined in House Bill No. 1 as "taxable property." (Ord. No. 7316, § 1.)

Sec. 25-125. Levied on "construction equipment."

There is hereby levied a tax on all "equipment used in the construction of the pipeline" as described in item 4 of the Free Conference Committee report on Free Conference CS for Senate CS for House Bill No. 1. (Ord. No. 7316, § 2.)

Township 8 South, Range 7 West, Copper River Meridian, to the point of intersection with the line of mean low, low water of Valdez Bay; thence in a generally easterly and southerly direction along the line of mean low, low water of Valdez Bay to the point of intersection with the thread of the main channel of the Lowe River; thence in an easterly direction along the thread of the main channel of the Lowe River to the point of intersection with the north-south centerline of Section 20, Township 9 South, Range 5 West, Copper River Meridian; thence north along the centerline of Sections 20, 17, 8 and 5, Township 9 South, Range 5 West, Copper River Meridian, to the point of intersection with the south boundary of Section 32, Township 8 South, Range 5 West, Copper River Meridian; thence east along the south boundary of Section 32, Township 8 South, Range 5 West, Copper River Meridian, to the southeast corner of Section 32, Township 8 South, Range 5 West, Copper River Meridian; thence north along the east boundary of Sections 32 and 29, Township 8 South, Range 5 West, Copper River Meridian to the northeast corner of Section 29, Township 8 South, Range 5 West, Copper River Meridian; thence west along the north boundary of Sections 29 and 30, Township 8 South, Range 5 West, Copper River Meridian, and Sections 25 and 26, Township 8 South, Range 6 West, Copper River Meridian, to the northeast corner of Section 27, Township 8 South, Range 6 West, Copper River Meridian; thence south along the east boundary of Section 27, Township 8 South, Range 6 West, Copper River Meridian to the point of intersection with the east-west centerline of Section 27, Township 8 South, Range 6 West, Copper River Meridian; thence west along the east-west centerline of Sections 27 and 28 to the point of intersection with the east boundary of Section 29, Township 8 South, Range 6 West, Copper River Meridian; thence north along the east boundary of Section 29, Township 8 South, Range 6 West, Copper River Meridian, to the northeast corner of Section 29, Township 8 South, Range 6 West, Copper River Meridian, to the point of beginning.

(3) Zone Three shall be all of that portion of the city that is not located within Zone One or Zone Two. (Ord. No. 7011, § 2; Ord. No. 7609, § 1.)

Sec. 25-123. Differential tax levied.

There shall be a differential tax rate levied in each zone, and that rate shall be related to the estimated cost of services provided in that zone. (Ord. No. 7011, § 3.)

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There is hereby levied a tax on all "equipment used in the construction of the pipeline" as described in item 4 of the Free Conference Committee report on Free Conference CS for Senate CS for CS for House Bill No. 1. (Ord. No. 7316, § 2.)

Article VI. Hotel-Motel Room Tax.

Sec. 25-126. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Contractor. A person or organization who undertakes to construct, alter, repair, move or demolish a building, highway, road, railroad or any type of fixed structure, including excavation, site development and erection of scaffolding.

Guest. An individual, corporation, partnership or association paying or agreeing to pay monetary consideration for the use of a room or rooms in a hotel-motel.

Hotel-motel. A structure or portion of a structure which is occupied or intended and designed for occupancy by transients for dwelling, lodging or sleeping purposes and includes any construction camp, hotel, motel, inn or similar structure.

Operator. A person who furnishes, offers for rent or otherwise makes rooms available in a hotel-motel in the city for monetary consideration, whether acting directly or through an agent or employee.

Person. An individual and entities recognized by law.

Quarter. Computed by use of the calendar year beginning with January and shall consist of a three-month period.

Rents. The amount paid as monetary consideration for the use of a room or rooms in a hotel-motel or other place of public accommodation by a transient.

Transient. A person who occupies or has available for occupancy a suite, room or rooms in a hotel-motel for fewer than thirty consecutive days. An employee who occupies or has available for fewer than thirty days a suite, room or rooms rented or leased for more than thirty consecutive days by an employer for use on a rotating basis by employees is not a transient. (Ord. No. 8112, § 1; Ord. No. 8126, § 1.)

Sec. 25-127. Levied; responsibility for payment; collection.

(a) The city hereby levies a tax on transient hotel-motel room rentals within the city equal to six percent of the room rental, effective October 1, 1981. The tax shall be applicable to all transient room rentals unless the rental is specifically exempted from taxation, as follows:

(1) The rent paid for a hotel-motel room by a federal, state or municipal officer or employee who is on official business is exempt from taxation.

(2) The rent paid for a hotel-motel room by an officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty is exempt from taxation.

(3) The rent paid for a hotel-motel room by a contractor or employees of a contractor who are occupying or using the room while engaged in the actual construction of a project in the city is exempt from taxation.

No exemption shall be granted except upon a claim therefor made at the time rent is collected. Applications for exemptions under this subsection shall be made under penalty of perjury upon a form prescribed by the city.

(b) Each transient guest is responsible for the room rental tax imposed by this article, and the tax shall be due and payable at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due when the transient guest ceases to occupy or use space in the hotel-motel.

(c) Every operator renting rooms subject to taxation under this article shall collect the taxes imposed by this article from the transient guest at the time of collection of the room rental and shall transmit the same quarterly to the city. The tax imposed shall be shown on the billing to the guest as a separate and distinct item. (Ord. No. 8112, § 1; Ord. No. 8126, § 2.)

Sec. 25-128. Certificate of registration.

(a) Operators shall apply to the city for a certificate of registration not later than ten days from the effective date of the ordinance codified in this article, the date of commencement of business or the opening of additional places of business. Upon receipt of a properly executed application, the city may issue without charge a certificate of registration to the operator authorizing the operator to collect the tax at the business address stated on the certificate.

(b) The certificate must be displayed prominently at the registered place of business.

(c) The certificate of registration is nonassignable and nontransferable and must be surrendered to the city by the operator to whom it was issued upon the operator's cessation of business at the location stated in the certificate. If the business is continued at the same location but the form of business organization is changed, the operator shall surrender his old certificate to the city for cancellation. The new operator shall file a new application for the certificate of registration and, upon receipt of a properly executed application, a new certificate will be issued. If there is a change of address for the operator's place of business, a new certificate of registration is required showing the new location or address. (Ord. No. 8112, § 1.)

Sec. 25-129. Receipts--Segregation.

Title to the taxes collected pursuant to this article shall vest in the city upon collection. Such taxes shall be segregated by the operator from the funds of the operator or the hotel-motel and safeguarded until transmitted to the city as hereinafter provided. A separate account shall be maintained for all taxes collected. (Ord. No. 8112, § 1.)

Sec. 25-130. Same--Transmittal; due date; penalty.

(a) On or before thirty days after the end of each quarter, each operator shall prepare and submit to the city a return for the preceding quarter upon forms furnished by the city setting forth the amount received for:

- (1) Rentals within the city;
- (2) The amount received from nontaxable rents;
- (3) The amount received from all taxable rentals; and
- (4) The taxes collected.

In addition, the operator shall submit such other information and supporting papers as may be required by the city.

(b) The operator shall sign the return and transmit it together with the taxes collected to the city on or before the due date. A return shall be filed even if none of the reported rentals were taxable.

(c) Taxes collected by an operator as provided by this article shall be due thirty days after the end of each quarter. If taxes collected by an operator have not been received by the city on or before the due date, the operator shall incur a penalty equal to ten and one-half percent of the taxes which are due and shall be charged interest at the rate of ten and one-half percent per annum for each day the tax is delinquent.

(d) Where the city has reasonable grounds to believe that taxes due were not collected or taxes collected were not transmitted on or before the due date, or if the operator of a hotel-motel has failed to file a return as required by this article, the city shall prepare a notice of delinquency and shall deliver such notice to the operator. Payment of delinquent tax under a notice of delinquency shall include penalty and interest which shall be calculated as provided above. (Ord. No. 8112, § 1.)

Sec. 25-131. Returns to be confidential.

All returns filed with the city pursuant to the provisions of this article and all data obtained from such returns are confidential and may not be released for inspection by the public, except upon court order. (Ord. No. 8112, § 1.)

Sec. 25-132. Records--Maintenance and inspection.

Every operator of a hotel-motel engaged in business within the city shall keep and preserve suitable records of all rentals made and such other books or accounts as may be necessary to determine the amount of tax required to be collected. All books, invoices and other necessary records shall be maintained by the operator for a period of two years and shall be available for examination at reasonable times by the city for the purpose of ascertaining the correctness of a return or for the purpose of determining the amount of tax collected or levied. (Ord. No. 8112, § 1.)

Sec. 25-133. Same--Investigation by city.

The city may conduct investigations and hearings concerning any matters covered by this article, may examine relevant books, papers, records or memoranda of any operator and may require the attendance of the operator, his officers or employees. The city shall have the power to administer oaths to persons testifying, and may issue formal subpoenas to compel attendance or to require production of relevant books, papers, records of memoranda. All subpoenas issued under the terms of this article may be served on any person of legal age. The fees paid to witnesses for attendance at the hearings shall be the same as the fees paid to witnesses before the superior court, and such fees shall be paid when the witness is excused from further attendance. When a witness is subpoenaed at the insistence of any party to the proceeding, the cost of service of the subpoena and the fee of the witness shall be borne by the party at whose request the witness is summoned. A subpoena shall be served in the same manner as a subpoena issued by a superior court. The city or any party to an investigation or hearing before the city may cause the deposition of witnesses residing within or without the state to be taken in a manner prescribed by law for depositions in civil actions in the courts of this state and to that end may compel the attendance of witnesses and production of relevant books, papers, records or memoranda. (Ord. No. 8112, § 1.)

Sec. 25-134. Suits for collection.

Taxes due but not paid or taxes collected but not transmitted may be recovered in an action at law against the transient guest or the hotel-motel operator. Tax returns shall be prima facie proof of taxes collected but not transmitted. (Ord. No. 8112, § 1.)

Sec. 25-135. Prohibited acts.

(a) No person may fail or refuse to pay the tax imposed by this article when it is due and payable to an operator authorized to collect the tax.

(b) An operator may not advertise or state to the public or to any guest or renter directly or indirectly that the tax or any part of it will be assumed or absorbed by the operator, or that the tax will not be added to the rental, or that it will be refunded. An operator may not absorb or fail to add the tax or any part of it or refund any tax or fail to state the tax separately to the renter or guest. (Ord. No. 8112, § 1.)

Sec. 25-136. Civil penalties for violations.

An operator who rents accommodations in the city and who thereafter fails to file a tax return as required by this article shall incur civil penalty equal to ten percent of the taxes due to the city for each quarter for which a return was not filed as required by this article. An operator who, in the course of his business, rents accommodations upon which a tax is levied hereunder and who fails to collect such tax shall incur a civil penalty of double the tax which should have been collected. In addition, a violator of this article is subject to criminal penalties as set forth in section 1-7. (Ord. No. 8112, § 1.)

Sec. 25-137. Use of funds generated; creation of advisory board.

The funds generated by the hotel-motel tax, less costs of collection, shall be used only for promotion of tourism and tourist-related activities. Any person or organization which receives an appropriation of any of these funds from the city shall use the funds only for those purposes and under the limitations set forth by the city, and shall provide an accounting and records of the use of the funds in a form satisfactory to the city.

An advisory board is hereby created for the purpose of making recommendations to the council regarding the use of the proceeds of the hotel-motel room tax. This board shall consist of seven members who are appointed and serve at the pleasure of the council. At least three board members shall be connected with the hotel-motel business in the city, at least one board member shall be connected with the transportation industry in the city, and at least two board members shall be from the general business community of the city. (Ord. No. 8112, § 1.)

March 31, 1981

Re: Real Estate Values
for Properties Located
in the City of Valdez.

City of Valdez
P.O. Box 307
Valdez, Alaska 99686

Attention: Mr. Mark Lewis

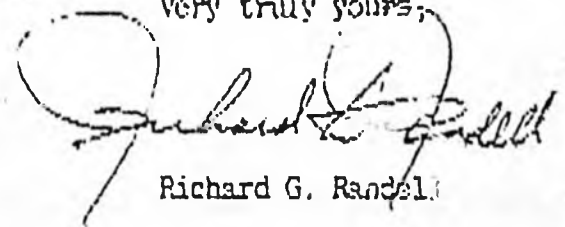
Dear Mr. Lewis,

In reference to our conversation of March 23, 1981 pertaining to assessed values for tax purposes in the city of Valdez, I feel that the valuations I arrived at are 100% of fair market value. However, it is not uncommon for appraisers to be as much as 15% to 20% apart in valuation and two appraisers could arrive at two different values on the same piece of property. Therefore, it would be reasonable to apply a percentage of increase or decrease to the values I arrived at for assessment purposes.

Real estate appraising is not a science, it is an estimation based on knowledge and analysis of the real estate market. The analyses utilized in arriving at an estimation is uniform throughout the appraisal field, but because of the many different variables involved in these processes different appraisers do arrive at different estimations of value.

I hope this satisfactorily answers your questions and if any others should arise please contact me.

Very truly yours,



Richard G. Randell

Patrick J. McKay
ATTORNEY AT LAW

716 W. 4th Avenue, Suite 400, Anchorage, Alaska 99501
(907) 276-5541

March 9, 1983

Mark Lewis
2733 Johr. Street
Juneau, Alaska 99810

Re: Valdez Tax Assessments

Dear Mark:

Pursuant to our recent telephone conversation, I have obtained copies of the Valdez ordinances concerning the real estate tax assessment process in the City of Valdez, and have reviewed the State's statutes, as well. Unfortunately, under the factual situation as described by both yourself and my conversation with Mr. Randell, it appears that there is no clear answer to your question as to "precertified tax roll changes vs. certified tax roll changes." The reason this is unclear is because according to the Valdez City ordinances, section 25-8, the tax rolls are not certified until after the board of equalization has met and heard all appeals. Therefore, it is my opinion that "certified tax rolls" can only be changed by the Superior Court, since all the municipal remedies would have been exhausted by that time.

However, as I understand your factual circumstances, the question really should be "who has the authority to change or suggest changes to tax rolls before the original submission to the City Council?" It appears that in this case the tax rolls were changed even prior to the first submission to the City Council. If my understanding is correct, the tax rolls were changed after a meeting with yourself and the city assessor, Richard Randell, a meeting that was reflected in Mr. Randell's letter of March 31, 1981 to yourself. At this point, the city tax rolls had not even been originally submitted to the City Council.

The original submission of the tax rolls to the City Council is not called for by ordinance, however, is the initial notification to council members that the tax rolls have been completed. Certification is not necessary prior to this original submission and as discussed above, is only necessary after the board of equalization meets.

Therefore, it appears that Mr. Randell, in his role as an expert appraiser as well as a city tax assessor, could receive input from any person he chooses, whether it be from the city administration or the citizenry in order to make determinations necessary as to the "full and true value" of the realty located in the city. Since Mr. Randell was present at the time the City Council received the tax rolls originally, it would appear that he assented to the change. Nothing in the city ordinances nor in the Alaska Statutes prohibit either yourself, other members of the administration, or even the citizenry, from making suggestions to Mr.

Mark Lewis
March 9, 1983
Page Two

Randell. The tax roll was submitted originally to the City Council after consultation with the city assessor and after his professional review, and on the bottom line, that's what really counts.

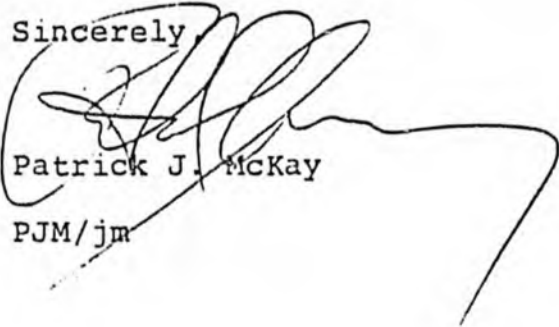
Upon review of your actions, it is my opinion that you did not violate any statutes or ordinances applicable to the situation.

I believe there might be a problem if changes had occurred after the original submission to the City Council. I believe there is a problem if changes would have occurred unilaterally after the rolls were submitted to the board of equalization. Clearly there would be a problem if changes occurred after the review by the board of equalization and prior to the certification by Mr. Randell of the tax rolls. Just as clearly, there would be a problem if any changes were made after certification.

I hope this letter has answered your questions. I also hope this letter finds you in the best of health, and next time you are in Anchorage, give me a call.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Patrick J. McKay

PJM/jm