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29 March 1988

Senator Jay Kerttula,
Chairman of Judiciary Committee

Senator Pat Rodey
Member, Judiciary Subcommittee

Bill file
Re: SB 338, my proposed amend-
ment of

Gentlemen:

By copy of the enclosed correspondence I would wish to appraise you of my interest in SB 338 and my proposal which I believe would add a substantial and measurable value to those splendid achievements SB 338 seeks to accomplish.

Trusting these issues to your own good hands, I remain,

Respectfully,

Robert Emmert Gray
The East Quarter Condominium
4109 Lynn Drive, Unit #203
Anchorage, Alaska 99508
Tel: (907) 338-5881

Robert Emmert Gray

Robert Emmert Gray
A Concerned Homeowner

Enclosures:

- (1) My letter to Senator Jan Faiks, dated 15 February 1988 with five (5) enclosures.
- (2) My letter to Senators Kelly and Halford, Representatives Furnace, Barnes, Cotton, and Randy Phillips copying them with my letter and enclosures to Senator Faiks.
- (3) Copy of Senator Faiks' response to my enclosure (1) above.
- (4) Copy of Senator Rick Halford's response to my enclosure (2) above.

15 February 1988

Senator Jan Faiks
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: SB 338

Dear Senator Faiks:

I first wish to advise that I support your effort to bring greater accountability into the arena of common interest ownership properties. One of the problems that presently prevails is an absence of just such elements. While the ultimate solution would encompass applying the Uniform Common Interest Ownership Act in its entirety to all common interest communities both prior and subsequent to the effective date of the UCIOA statute, AS 34.08, I most certainly do welcome your effort to add further appropriate sections of AS 34.08 to the original thirteen sections which apply to common interest communities created prior to the effective date of the ACT, 1 January 1986.

On release of this bill in Anchorage I obtained a copy, studied it, and addressed a letter to Senator Tim Kelly seeking his counsel as to how I, as a unit homeowner and member of the East Quarter Condominium Association, might offer commentary to both support and enhance the purposes of the bill. I subsequently attended a constituent meeting on 13 Feb 1988 and presented my interest. Senators Kelly and Halford, Representatives Cotton and Phillips were present. Since Senator Halford stated he had been instrumental in sponsoring the Uniform Common Interest Property Act, e.g.- AS 34.08, he suggested that I address correspondence to your office as prime sponsor of SB 338. That seemed to be the sense of each of the legislators present. I shall enclose a copy of my letter to Senator Tim Kelly as Enclosure (1).

I request that SB 338 (page 3, line 9 through 18) Sec. 6 AS ³⁴34.08.040 be further amended to also include AS 34.08.340 as an applicable section under the proposed amendment but excluding it from the exemption of applicability with respect to events and circumstances occurring prior the effective date of AS 34.08. In truth, make it apply retro-actively to AS 34.07, if this can properly be done.

A common interest community as represented by a non-profit association of homeowners is, in fact and reality, a corporate business entity. To be successful, it must be operated as a business entity. To accomplish this requires that the financial and historic records of its decisions and actions be recorded and exposed to commercial verification standards in order to assure its on-going integrity. This is of particular impact due to the probable frequency of change of its administrators. These requirements do not impede the administrative operation of an association. They provide for and assure it a healthy longevity.

Enclosure (1)

The average common interest community unit homeowner is not an experienced "business person". Such homeowner is more generally a lay person without single family home ownership in their background. In any event such person is more familiar with maintenance of a furnace than a "boiler", with a staircase rather than an "elevator", with a "deadbolt" rather than an "electronic security system involving exterior access doors, automatic smoke/fire alarms, automatic fire barrier internal hallway doors, CO sensor controlled automatic garage atmosphere ventilation fans, etc", hand operated rather than radio controlled garage doors, a garden hose rather than a heat sensor controlled full garage sprinkler systems, and ad infinitum.

I would suggest to you that the requirements annotated under AS 34.08.340 have rarely, if ever, been exercised in behalf of condominium associations in Alaska under the Horizontal Property Regimes Act, AS 34.07. It was not required under that Act. The elements contained in Section 340 are imperatives to the successful operation and administration of all associations without regard to when they were created. The need is so great that the elements addressed by Section 340 should be mandated for all associations, whenever they were created. With so many "shell" developers on the Alaskan contractor scene the absence of many of the requirements stated in Section 340 may never be able to be overcome. This, however, is not reason to allow associations for whom these elements do have very real moment to lose the benefits of acquiring all available records and histories of their non-profit corporate entities.

The acquisition of these records and histories could very well contribute to their future improvement, operational and administrative success.

I am a member of the Alaska Chapter, Community Associations Institute. The CAI, as it is more commonly referred to, is a non-profit organization: "Dedicated to the development and effective management of all forms of Homeowner Associations through research, education, guidance, and to provide a forum for informational exchange." The sorry state of the Alaskan private sector economy and particularly the realty industry suggests to me that the kind of leadership being offered through the CAI philosophy might very well find rich and rewarding application to the issues which Alaskans, in both public and private sectors, are presently engaging. A better informed public would perhaps become more responsible which in turn might provide a better foundation upon which and from which to initiate long term economic recovery.

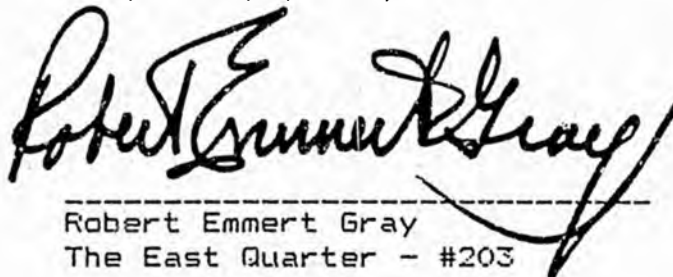
In support of my commentary above I shall enclose my letter, Enclosure (2) with its three enclosures, Enclosures (3), (4) and (5), to the Directors and Officers of my own Homeowner's Association for your perusal. This entire consideration appears to me to require that all the players, purchasers/sellers/managing agents/Association Directors & Officers, must acquire genuine knowledge about the process in which they are engaging themselves and the frequently single-sided view enunciated by sellers that common interest community living is responsibility free. Further, we must protect the owner occupied condominium unit homeowner from being treated as though such homeowner

is no more than a tenent, by the developer, or multi-unit owner/
investor in any given community association.

The magnitude of this issue is so huge that I hesitate to burden you
with unsolicited supporting documentation or testimony, either or both
of which I would welcome to expand upon, given your request for
specific or broad parameter support.

Trusting this matter to your good hands, I shall remain.

Very truly yours,



Robert Emmert Gray
The East Quarter - #203
4109 Lynn Drive
Anchorage, Alaska 99508
Tel: (907) 338-5881

Enclosures:

- (1) My letter dtd 16 Jan 1988 to Sen Tim Kelly - Subj: SB338, my recommended amendment of
- (2) My letter dtd 22 May 1986 to Directors/Officers of the East Quarter Condominium Association - Subj: Transition of Association Control from Developer to Homeowner - preparation, historical record turn over, actual assumption of operation & management
- (3) CAI Seminar Manual titled: Operations and Managment Of Community Associations, Section IV
- (4) CAI - GAP Report #3, Exhibit 2, titled: Association Transition Checklist
- (5) The Alaska Common Interest Ownership Manual derived from the Connecticut Common Interest Ownership Manual, supplemented by Attys Gurdon H. Buck and William L. McNall, and published by the Alaska Real Estate Commission, Section S, pages 58-60

20 Sec. 34.08.340. TRANSFER OF ASSOCIATION CONTROL. (a) Before or
21 not more than 60 days after the termination of declarant control, the
22 declarant shall relinquish control of the common interest community
23 and the unit owners shall accept control. At the same time, the
24 declarant shall deliver to the common interest community all property
25 of the unit owners and of the common interest community held or
26 controlled by the declarant including, but not limited to

27 (1) the original or a photocopy of the recorded declaration
28 and each amendment to the declaration; if a photocopy is provided, it
29 shall be certified by affidavit of the declarant, or an officer or

1 agent of the declarant, as being a complete copy of the actual record-
2 ed declaration;

3 (2) a certified copy of the common interest community
4 articles of incorporation, trust or partnership agreement;

5 (3) a copy of the bylaws;

6 (4) the minute books, including all minutes, and other
7 books and records of the common interest community;

8 (5) any rules and regulations that have been adopted;

9 (6) resignations of officers and members of the executive
10 board who are required to resign because the declarant is required to
11 relinquish control of the common interest community;

12 (7) the financial records, including financial statements
13 of the common interest community, and source documents since the
14 incorporation of the common interest community through the date of
15 turnover;

16 (8) common interest community funds or control of the funds
17 of the common interest community;

18 (9) all tangible personal property that is property of the
19 common interest community, represented by the declarant to be the
20 property of the association or ostensibly the property of the
21 association and an inventory of the property;

22 (10) a copy of the plans and specifications utilized in the
23 construction or remodeling of improvements and the supplying of equip-
24 ment to the common interest community and in the construction and
25 installation of all mechanical components serving the improvements and
26 the site, with a certificate in affidavit form of the declarant or an
27 architect or engineer authorized to practice in the state that the
28 plans and specifications represent, to the best of their knowledge and
29 belief, the actual plans and specifications utilized in the

1 construction and improvement of the common interest community property
2 and for the construction and installation of the mechanical components
3 serving the improvements;

4 (11) insurance policies;

5 (12) copies of any certificates of occupancy that may have
6 been issued for the common interest community property;

7 (13) any other permits issued by governmental bodies appli-
8 cable to the common interest community property in force or issued
9 within one year before the date the unit owners other than the de-
10 clarant take control of the common interest community;

11 (14) all written warranties of the contractor, subcontractors,
12 suppliers, and manufacturers, if any, that are still effective;

13 (15) a roster of unit owners and their addresses and tele-
14 phone numbers, if known, as shown on the declarant's records;

15 (16) leases of the common elements and other leases to which
16 the association is a party;

17 (17) employment contracts or service contracts in which the
18 common interest community is one of the contracting parties or service
19 contracts in which the common interest community or the unit owners
20 have an obligation or responsibility, directly or indirectly, to pay
21 some or all of the fee or charge of the person performing the service;

22 (18) all other contracts to which the common interest commu-
23 nity is a party.

24 (b) The records shall be reviewed by an independent certified
25 public accountant. The minimum report required shall be a review in
26 accordance with generally accepted accounting standards as defined by
27 regulation by the Board of Public Accountancy. The accountant per-
28 forming the review shall examine to the extent necessary supporting
29 documents and records, including the cash disbursements and related

1 paid invoices to determine if expenditures were for the common inter-
2 est community purposes and the billings, cash receipts, and related
3 records to determine that the declarant was charged and paid the
4 proper amounts of assessments.

5 (c) Before the transfer of control from the declarant to the
6 association, an inspection of the common areas and limited common
7 areas subject to the association's control shall be completed by

8 (1) an independent registered engineer, architect, or land
9 surveyor;

10 (2) an appraiser with the designation of Senior Residential
11 Appraiser, Senior Real Property Appraiser or Senior Real Estate
12 Analyst of the Society of Real Estate Appraisers;

13 (3) a Residential Member or Member, Appraisal Institute, of
14 the American Institute of Real Estate Appraisers; or

15 (4) an individual with a designation established by
16 regulation of the Alaska Housing Finance Corporation for fe.
17 appraisers who certify the completion of construction.

18 (d) A report shall be prepared indicating the incomplete work
19 and repairs needed and the method of completing the work and making
20 the repairs. The transfer of control to the association shall be
21 based upon the declarant's obligation to complete all repairs and
22 finish all incomplete work within a reasonable time after transfer of
23 control under representations in the public offering statement.

16 January 1988

Senator Tim Kelly
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: SB338, my recommended
amendment of

Dear Senator Kelly:

I am a Homeowner in the East Quarter Condominium since purchasing a "unit" on 4 October 1985. I am, as well, a member of the East Quarter Condominium Association as of that date. Our Association was brought into being on 2 February 1984 under the auspices of the Horizontal Property Regimes Act, AS 34.07.

With the passage of AS 34.08 and its effective date of 1 January 1986, only thirteen Sections of AS 34.08 were cited under Sec. 34.08.040 to be applicable to pre-existing common interest communities, of which the East Quarter Condominium Association is one. For your information I shall list the Section numbers and titles of those applicable sections of the statute below:

1. 34.08.110: Construction and Validity of Declaration and bylaws
2. 34.08.120: Description of Units
3. 34.08.290: Merger or Consolodation of Common Interest Communities
4. 34.08.320: Powers of Unit Owner's Association (Certain sections only 1-6 and 11-16)
5. 34.08.420: Tort and Contract Liability
6. 34.08.470: Lien for Assessments
7. 34.08.490: Association Records
8. 34.08.590: Resales of Units
9. 34.08.670: Effect of Violations on Rights of Action
10. 34.08.720: Separate Titles and Taxation
11. 34.08.730: Applicability of Local Ordinances, Regulations and Building Codes
12. 34.08.740: Eminent Domain

13. 34.08.990: Definitions

My experience as a member of the East Quarter Condominium Association has occasioned me to learn that it takes a great deal of Homeowner motivation to make things work, including application of the appropriate statutes. Since entering the Association I have become an active member of the national Community Associations Institute (CAI) and through their resources the Alaska Chapter Community Associations Institute. I was privileged to attend the local seminar introducing the Uniform Common Interest Ownership Act (UCIOA) in February 1986.

I find that while the Horizontal Property Regimes Act as represented by AS 34.07 most certainly provided a level of protection in behalf of common interest communities the addition of AS 34.08 did not resolve some of the very real problems for which it purportedly was intended to resolve. One of these problems has become the purpose of my enclosed recommendation for your consideration.

Recommendation:

I request that SB 338 (page 3, line 9 through 18) Sec. 6 AS 34.08.040 be amended to also include AS 34.08.340 as an applicable section under that proposed amendment but excluding it from the exemption of applicability with respect to events and circumstances occurring prior the effective date of AS 34.08. In truth, make it apply retro-actively to AS 34.07.

You see, Senator Kelly, the transfer of control of our Association from the Developer to the Association was accomplished in a manner which permitted the Developer to continue to maintain effective control of the Homeowner Association even after it had purportedly been transferred from his administration.

In this case at hand his daughter and his sales representative, the first of whom owns one unit and the second of whom owns two units, occupied two of three positions as members on the Board of Directors and remained there from the date of transition, 1 November 1984 until our most recent annual meeting on 15 December 1987. On this occasion, the sales representative failed to be nominated for re-election by the Developer.

I believe this failure resulted by virtue of my having distributed a rather extensive examination of our Replacement Reserve Accounts and the AHFC Form 1073 which our managing agent had submitted to date. This examination, report and review suggested that there was ample reason for my call to have the Replacement Reserve Accounts receive an audit and to have them become a part of our annual auditing procedure. The Developer, however, did nominate his daughter and through his holding perhaps thirteen or fifteen unsold units assured her re-election once again as a member of the Board of Directors.

Sec. 34.08.340 establishes a list of events that are to take place upon the transition of administrative and operational control of the Association from the Developer to the Association. In the case of the transition of our Association, many of the events listed therein did not take place. I have made substantial effort in my attempts to attain exercise of these omissions, with very modest results. Lots of words but no action.

What with the controlling presence of persons as members of the Board of Directors, ie: the non-visible (to me as an active Homeowner member of the Association) participation of the Developer's daughter and the singular control exercised by the Developer's sales representative, I was unable to obtain any persuasive motivation to attain these goals even though I exerted a very considerable effort.

As a matter of fact, I was "appointed" as Secretary/Treasurer for 1986. I was advised by the Director who was the Developer's Sales Representative to look at the "books" once every month or so and that it would only take perhaps twenty minutes. I approached the hired managing agent with a request for copies of all the financial records provided monthly to the Board members and was refused. Of course, the By-Laws required the Secretary/Treasurer to exercise certain care of the finances of the Association. AS.34.08.330 (a) states that: "In the performance of their duties, the officers and members of the executive board are required to exercise the care of fiduciaries of the unit owners."

I resigned my position as Secretary/Treasurer immediately, because I recognized being denied an opportunity to exercise my fiduciary responsibilities, and wanted no further part in such an administration.

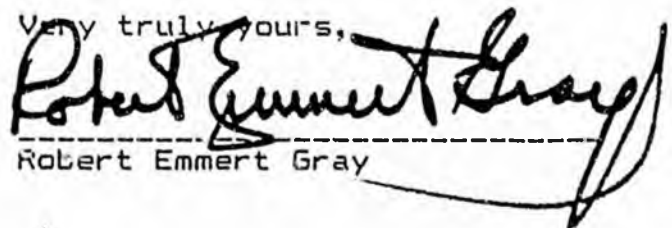
If AS 34.08 fails to permit Associations formed under AS 34.07 to require Developer performance of the obligations cited under Sec. AS 34.08.340 then such things as are endemic to the success of associations formed after the effective date of AS 34.08 will be denied to associations formed prior to the effective date of AS 34.08.

In all good conscience, the failure to include all pre-existing common interest communities, under the auspices of AS 34.08 in its entirety when it became effective, placed a very heavy burden upon those pre-existing common interest communities. My recommendation would serve to alleviate, in a very significant way, at least one of many remaining shortcomings residing in AS 34.07.

I would be pleased to offer further commentary and documentation were you to find it desirable.

Robert Emmert Gray
The East Quarter - #203
4109 Lynn Drive
Anchorage, Alaska 99508
Tel: 338-5881

Very truly yours,


Robert Emmert Gray

22 May 1986

Board of Directors and Officers of
The East Quarter Condominium Association
Director Dan Troxler
Director Susan Crosson
Director Sandy Pickthall
President Jim Sava
Vice President Diane Lempke

Re: Transition of Association
Control from Developer to
Homeowners - preparation,
historical record turn
over, actual assumption of
operations & management

Directors and Officers:

The above referenced subject matter of this correspondence succinctly summarizes the entire process of transition. The scope of this issue, however, requires it being addressed in sufficient detail such that many of the vital events concerned with the process itself will not be lost from the layperson's conscious awareness and recognition of importance.

The texts of the quotations below are taken from both the Seminar Manual, titled: "Operations and Management of Community Associations", published by the Community Associations Institute; and from: "The Alaska Common Interest Ownership Manual", published by the Alaska Real Estate Commission. The quotation sources will be identified.

Perhaps the most important issues to keep in mind regarding the transition process is that the developer designed the Association to become a non-profit incorporated entity at the time of its becoming an institution under the statutes of the State of Alaska. This was the stature of the entity he subsequently turned over to the homeowners on the occasion of that 1 November 1984 meeting wherein he relinquished control to the homeowners' Association. A number of events should have taken place before, during, and perhaps even after this formal transition. Whether or not they actual took place is a matter of continuing interest and concern to all homeowners of record at that time and since.

I wish to bring to your attention that the transition process varies from Association to Association. Some of the matters concerned with this process carry greater importance or lesser importance depending upon the instances involved. However, when applied to the East Quarter Condominium Association, the fact that the recommended schedule was or was not followed does not prevent, prohibit, or diminish the need for a review of the events and engaging the necessary effort to correct inequities, fill in missing segments, expand upon inadequacies, develop record keeping facilities such that

a vastly improved capacity for future administrative and management functions could be accommodated. The issues contained in the "Exhibit: Association Transition Checklist" which will subsequently be discussed are significant examples of this need.

One thing we know for a certainty, the East Quarter Condominium Association, as of 22 May 1986, still has not reinstated its non-profit incorporated status which was involuntarily dissolved by the State of Alaska Commerce Department office of Banking, Securities, and Corporations on 14 February 1986 for the apparent failure of our Management Firm to submit the required Biennial Report correctly prepared and their further failure to resubmit a corrected report upon the return of the initial submission by the State Agency to whom it was submitted in the first place.

This matter was initially brought to the attention of the Board of Directors through my correspondence dated 11 April 1986. The matter was again discussed in my correspondence to the Board dated 5 May 1986. I provided a detailed review of the issues relating to the corporate status of the Association in correspondence dated 8 May 1986. The matter is one of continuing interest and concern. It could and should be promptly resolved, if indeed, it has not yet been done.

The following quotations are taken from the Seminar Manual titled: "Operations and Management of Community Associations", published by the Community Associations Institute.

"THE TRANSITION PROCESS"

". . . . achieve an understanding of the basic process of transition of Association control from the developer to the owners and to achieve successful transition."

". . . . Objectives:"

- "1. To define transition as a process for transfer of control rather than a single event.
3. To review the developer's and the homeowners' roles in successful transition.
4. To define and specify the tasks that must be accomplished upon completion of transition."

"Introduction:"

[My caps]

"TRANSITION OF ASSOCIATION CONTROL FROM THE DEVELOPER TO THE OWNERS IS CONSIDERED BY MOST PRACTITIONERS TO BE THE MOST CRITICAL PHASE IN THE ASSOCIATION'S EXISTENCE. DONE PROPERLY, THE OWNERS WILL BECOME GRADUALLY INDEPENDENT OF DEVELOPER SUPPORT AND CONTROL AND WILL MOVE TO SELF GOVERNANCE WITH THE KNOWLEDGE AND EXPERIENCE NEEDED TO MEET

THAT RESPONSIBILITY. IF DONE IMPROPERLY, THERE WILL BE GREAT DISSENT, SUSPICION, CONFLICT AND DISARRAY FOR THE ASSOCIATION."

[The apparent shortcomings being experienced by the present Association administration processes bear witness to the truth of the above statement. Subsequent quotations and reference material will expand upon the scope of difficulties which our Association has, is, and apparently will be brought to suffer.]

"What is Transition?"

"A. Transition is an orderly process for the transfer of Association control and responsibility from the developer to the unit owners."

- "1. Transition is not a single event, such as an election or turnover or acceptance of common property.
2. The transition process begins with the sale of the first unit and activation of the Association and concludes with the sale of the last unit and the departure of the developer.
3. The elements of a successful transition process include:
 - a. Well-drafted legal documents setting forth minimum legal requirements for transition.
 - b. Owner education by the developer regarding Association operations.
 - c. Gradual involvement and training of the owner leaders in the process of governance and administration.
 - d. Gradual reduction of direct developer involvement in Association decision making."

[My caps]

"e. PROVIDING THE HOMEOWNER LEADERS WITH NECESSARY HISTORICAL CONSTRUCTION AND FINANCIAL INFORMATION TO CARRY ON THEIR JOB."

"Developer's Role in Transition"

"The attitude and approach of the developer toward transition will substantially dictate success. Developer care and attention at the outset, thinking through the process, creating systems for owner education and involvement and attention to long-term information needs

- "A. Developer sets the premise and formal process at the outset:
1. Selects the legal steps and procedures (as outlined above) consistent with the statute.
 2. Sets the time frame within which formal transition occurs."
- "B. Establishes program of owner education and involvement.
1. Education
 - a. Sales personnel provide basic information to owners regarding association obligations, owner responsibilities, etc.
 - c. Periodic informational meetings.

2. Involvement

- a. Sales personal identify/recruit owners for involvement.
- b. Implement gradually and active/meaningful committee process
- c. Identify leaders
- d. Developer personnel gradually disengage at all levels (Committee and Board) as sales continue and owners demonstrate capacity to govern."

"C. Association Information Needs"

[My caps]

"FOR THE ASSOCIATION GOVERNED BY OWNERS TO FULLY CARRY ON AFTER THE DEVELOPER TRANSITION, A COMPLETE HISTORY AND RECORD OF ASSOCIATION AFFAIRS DURING DEVELOPER CONTROL MUST BE MAINTAINED AND AVAILABLE TO THE ASSOCIATION LEADERS AS THEY ASSUME THEIR RESPONSIBILITIES."

"1. Cause to be maintained full written records of association decisions during developer control.

- a. Mairtain Minutes of all Board and Committee Meetings.
- b. mainvain a Book of Resolutions of significant Board actions."

"2. Maintain financial records.

- a. Complete financial records, ledgers, reports, bank statements, etc.
- b. Budgats, budget materials and backup.
- c. Assesment records, documents, correspondence."

"3. Maintain legal and personnel records.

- a. Contracts, agreements and other legal obligations."

This foregoing concludes quotations from the text of the referenced manual. The following quotations are taken from an excerpt included in the referenced manual but originates as an enclosure to the CAI-GAP Report 3. This excerpt from the CAI-GAP Report 3 included in the Manual is titled: "Exhibit: Association Transition Checklist." I shall cite quotations from this "Exhibit." I enclose a copy of the full text of the "Exhibit" for your reference.

"The following information, documents and materials should to the fullest extent possible be provided to the owner-controlled Association Board by the developer. (Originally prepared for California Associatons but has been modified here for nationwide applicability)."

"Copies of the Articles of Incorporation:

- a. Copies of filing for incorporation and acceptance by the Secretary of State.

- b. Copies of annual state franchise tax filings (if applicable) since the date of incorporation.
- c. Copies of annual Federal Tax returns.
- d. Copies of any tax exempt election made by the developer's Board and filed with the State and Federal Government."

"A complete audit of the Association's books prior to transfer to the owner controlled Board:

- a. Provide a complete set of financial books, records and ledgers dating back to the first month of operations.
- b. Obtain an audit from a certified public accountant prior to acceptance.
- c. Provide an audit report to all owners with a copy of the current budget.
- d. Provide a complete set of all bills paid by the Association."

"A complete set of all Association Board Minutes and Resolutions. Special care should be taken to see that all mandated events as specified in the legal documents have been complied with. Adoption of rules concerning use restrictions should be reviewed to determine if the rules were adopted as the result of appropriate public notices and discussions with the affected owners. Failure to adopt rules by appropriate procedures may make the rules unenforceable."

"A complete list of all owners, name and address of mortgage companies along with the individual loan number of each owner. Require that all future sales be registered with the Association."

"A COMPLETE SET OF "AS-BUILT" DRAWINGS OF ALL BUILDINGS, FACILITIES, IRRIGATION, WATER AND SEWER SYSTEMS, ETC., THAT THE ASSOCIATION WILL BE RESPONSIBLE FOR MAINTAINING, IF AVAILABLE."

[The above information is vital in achieving efficient and economical maintenance, repair and restructuring (ie: improvements and replacements). Contractors would be able to bid on what they knew they "would" encounter rather than on what they could only "guess they might" encounter.]

"As many sets of tract maps as possible. These are a great help in planning and maintenance of the grounds."

"A complete set of landscape drawings and specifications showing all plants, lawns, etc."

"A schedule of useful expected life of materials and copies of bonds or warranties where applicable, including:

- a. Roofs
- b. Streets
- c. Paint
- d. Mechanical equipment, e.g. elevators, etc."

"A schedule of quantities, such as:

- a. Square feet of roof

- b. Square feet of private roadway
- c. Square feet of lawn surface, ground cover, number of trees
- d. Square feet of painted surface area"

"Inventories of all Association property.

Copies of warranties on all equipment owned or maintained by the Association."

"A list of manufacturers of paints, roofing materials, etc., used in common areas, with the specifications."

"A complete list of the construction sub-contractors and the principal men within each company, with the name of the foreman responsible for the installation and the names of all officers of the general contractor and th developer if they are different."

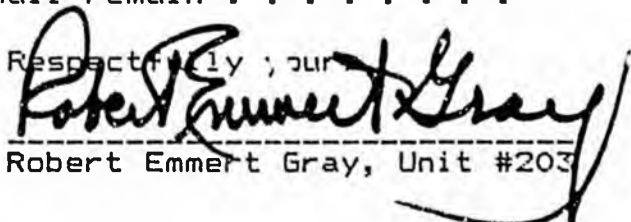
The last document is taken from the Alaska Uniform Common Interest Ownership Manual and is an example of a Proposed Agenda for a new Association's first meeting of the New Executive Board. Its application at this point lies in the enumeration of by and large all the elements which should be addressed by any Board of Directors on a continuing basis. One might say that they are the chronology of the Association's interests. I will not cite quotations from this last document believing it is most effective for you to review it directly. It brings all the issues discussed todate into a perspective from which any Board of Directors may vigorously engage each of the issues.

The foregoing most certainly confirms the importance of the trnsition process. Whether or not all the recommended processes were actually engaged is less important than that the appropriate events which relate to ouw own Association are, indeed, identified and undertaken to a successful conclusion. These can most easily be undertaken while the Association is in its formative years. When the events, persons, and materials are allowed to get too far removed, the recovery process can only become a far more sticky issue than if the issues were to be faced early on.

It appears to me that imposing a degree of foresight early on would be a most welcome quality to pass on to subsequent Directors and Officers of the Association. The probable impact of such a quality would be first noticed in surpressing subsequent maintenance and repair costs which inevitably will arise before the Board of Directors. Those who presently serve are shielded from this eventuality because of the newness of the structure. When it commences to age and deteriorate, the issues become more frequent and grow in scope and cost. Preparing now for those anticipated events in the future can be and is as much a FIDUCIARY REPSONSIBILITY of the present Board of Directors and Officers as of those who serve when the events herein referred occur.

Trusting this matter to your hands, I shall remain

East Quarter Condo - #203
4109 Lynn Drive
Anchorage, Alaska 99508
Tel: (907) 338-5881

Respectfully,

Robert Emmert Gray, Unit #203

The Transition Process

Session Goal: To achieve an understanding of the basic process of transition of association control from the developer to the owners and alternative approaches to achieve successful transition.

Session Objectives:

1. To define transition as a process for transfer of control rather than a single event.
2. To review the legal basis for initiating and completing transition.
3. To review the developer's and the homeowners' roles in successful transition.
4. To define and specify the tasks that must be accomplished upon completion of transition.

Introduction:

Transition of association control from the developer to the owners is considered by most practitioners to be the most critical phase in the association's existence. Done properly, the owners will become gradually independent of developer support and control and will move to self governance with the knowledge and experience needed to meet that responsibility. If done improperly, there will be great dissent, suspicion, conflict and disarray for the association.

Section OutlineI. What is transition?

- A. Transition is an orderly process for the transfer of association control and responsibility from the developer to the unit owners.
 1. Transition is not a single event, such as an election or turnover or acceptance of common property.
 2. The transition process begins with the sale of the first unit and activation of the association and concludes with the sale of the last unit and the departure of the developer.
 3. The elements of a successful transition process include:
 - a) Well-drafted legal documents setting forth minimum legal requirements for transition.
 - b) Owner education by the developer regarding association operations.
 - c) Gradual involvement and training of the owner leaders in the process of governance and administration.
 - d) Gradual reduction of direct developer involvement in association decision making.
 - e) Providing the homeowner leaders with necessary historical construction and financial information to carry on their job.

II. Legal Basis for Transition

A. Statutory Considerations

1. The state condominium statute may set forth broad parameters or outside limits within which transition occurs.
 - a) If the statute deals with transition, it typically is based on a percentage of units sold, eg, "an election by owners occurs by 75% of sales, etc."
 - b) May permit the use of a time frame in conjunction with a limit based on percent of units settled.
 - c) Some state laws and the Uniform Condominium Act provide for gradual takeover of board---such as providing for 25% of board elected by owners for each 25% of sales, with the developer off the board by 75% of sales.
2. Few state statutes deal with transition of homeowner associations:
 - a) Those that do, such as California, follow patterns described above for condominium---sets broad parameters.
 - b) The new Uniform Common Ownership Interest Act, adopted by Connecticut and under consideration in a number of states, sets similar parameters for HOAs as for condos in the UCA.

B. Association Legal Documents

The legal documents, within statutory parameters, if any, should define precisely the process for transition. There are five basic approaches to transition within the documents.

1. Gradual addition of owners to the association board at specified levels or percentages of sales.

The use of an "advisory board" or "interim board" of owners to work with the developer-controlled association board in making association-related operational decisions until an owner election is held.

3. The early transfer of board control to owners through an election with developer retaining a right to review and approve certain types of decisions which might affect the development process.
4. In HOA's, the use of a weighted voting system where the developer-owned units carry a weighted vote and as units are sold, the developer gradually loses voting power until complete majority shifts at some point, generally 75% of closings.
5. Some combination of one or more of the above, such as with the use of an "interim board" and weighted voting system.

III. Developer's Role in Transition

The attitude and approach of the developer toward transition will substantially dictate success. Developer care and attention at the outset, thinking through the process, creating systems for owner education and involvement and attention to long-term information needs at sales completion will assure that success.

A. Developer sets the premise and formal process at the outset:

1. Selects the legal steps and procedures (as outlined above) consistent with the statute.
2. Sets the time frame within which formal transition occurs.
3. Training, orientation of developer staff to style and approach.

B. Establishes program of owner education and involvement.

1. Education

- a) Sales personnel provide basic information to owners regarding association obligations, owner responsibilities, etc.
- b) Periodic newsletter on project progress and association activities.
- c) Periodic informational meetings/socials.

2. Involvement

- a) Sales personnel identify/recruit owners for involvement.
- b) Implement gradually an active/meaningful committee process with full committee changeover to owners by completion of transition of Board.
- c) Identify leaders and those who emerge from initial committee process, select to fill the "Advisory Board" or initial homeowner seats on Board, depending on approach utilized.
- d) Developer personnel gradually disengage at all levels (committee and Board) as sales continue and owners demonstrate capacity to govern.

C. Association Information Needs

For the association governed by owners to fully carry on after the developer transition, a complete history and record of association affairs during developer control must be maintained and available to the association leaders as they assume their responsibilities.

1. Cause to be maintained full written records of association decisions during developer control.
 - a) Maintain Minutes of all board and committee meetings.
 - b) Maintain a Book of Resolutions of significant board actions.
2. Maintain financial records.
 - a) Complete financial records, ledgers, reports, bank statements, etc.
 - b) Budgets, budget materials and backup.
 - c) Assessment records, documents, correspondence.
3. Maintain legal and personnel records.
 - a) Contracts, agreements and other legal obligations.
 - b) Personnel and employment records.

NOTE: Refer to CAI's GAP Report #3 - "Transition from Developer Control" for a detailed treatment of this subject and for suggested strategies, checklists, etc.

SUGGESTED READINGS:

GAP Case Study #1: Focus on Transition, published by CAI. 4 pp.

GAP Report #3: Transition from Developer Control, published by CAI. 16 pp.

Figure 2.

Exhibit: Association Transition Checklist

The following information, documents and materials should to the fullest extent possible be provided to the owner-controlled association Board by the developer. (Originally prepared for California associations but has been modified here for nationwide applicability).

- Copies of the Articles of Incorporation:
 - a. Copies of filing for incorporation and acceptance by the Secretary of State.
 - b. Copies of annual state franchise tax filings (if applicable) since the date of incorporation.
 - c. Copies of annual Federal Tax returns.
 - d. Copies of any tax exempt election made by the developer's Board and filed with the State and Federal Government.
- Bylaws. Copies of the bylaws including all properly adopted amendments.
- Copies of the Declaration or Master Deed as recorded and filed as part of the deed restrictions on all lots or units and evidence that they have been provided to each owner.
- Copies of the budget for the association, including all backup worksheets.
- Copies of "public report," "offering statement," or other disclosure document, if any, required by law to be provided to purchasers. (Not all states or localities require such documents although in some cases appropriate HUD-required documents would be desirable.)
- A complete audit of the association's books prior to transfer to the owner-controlled Board:
 - a. Provide a complete set of financial books, records and ledgers dating back to the first month of operations.
 - b. Obtain an audit from a certified public accountant prior to acceptance.
 - c. Provide an audit report to all owners with a copy of the current budget.
 - d. Provide a complete set of all bills paid by the association.
- A complete set of all Association Board Minutes and Resolutions. Special care should be taken to see that all mandated events as specified in the legal documents have been complied with. Adoption of rules concerning use restrictions should be reviewed to determine if the rules were adopted as the result of appropriate public notices and discussions with the affected owners. Failure to adopt rules by appropriate procedures may make the rules unenforceable.
- A complete list of all owners, name and address of mortgage companies along with the individual loan number of each owner. Require that all future sales be registered with the association.
- A complete set of "As-Built" drawings of all buildings, facilities, irrigation, water and sewer systems, etc., that the association will be responsible for maintaining, if available.
- As many sets of tract maps as possible. These are a great help in planning and maintenance of the grounds.
- A statement that the street, traffic, safety and regulatory signs are installed in conformance with applicable state or local ordinances and with the association's legal documents.
- A complete set of landscape drawings and specifications showing all plants, lawns, etc.
- Confirmation from appropriate local authorities that the fire hydrants have been placed under the local government maintenance plan.
- Confirmation that the city or county emergency communications centers have mapped the association so that emergency vehicles can be dispatched. Special attention should be taken that the addresses on the private streets are visible to the emergency personnel.
- A statement of determination of public agency or utility responsibility for the maintenance of the street lights and sewer systems.
- A schedule of useful expected life of materials and copies of bonds or warranties where applicable, including:
 - a. Roofs
 - b. Streets
 - c. Paint
 - d. Mechanical equipment, e.g., [redacted] elevators, etc.
- A schedule of quantities, such as:
 - a. Square feet of roof
 - b. Square feet of private roadway
 - c. Square feet of lawn surface, ground cover, number of trees
 - d. Square feet of painted surface area
- Inventories of all Association property.
- Copies of warranties on all equipment owned or maintained by the association.
- A list of manufacturers of paints, roofing materials, etc., used in the common areas, with the specifications.
- A statement that appropriate public agencies have or have not released the completion bonds on the improvements.
- Original copies of all contracts signed by the developer's Board with contractors for service, including a complete list of sub-contractors employed by the association.
- A complete list of the construction sub-contractors and the principal men within each company, with the name of the foreman responsible for the installation and the names of all officers of the general contractor and the developer if they are different.

This checklist has been modified for this report from a "Checklist for New Associations" prepared by Douglas Christison, Jr. for the Executive Council of Homeowners, San Jose, California. Our thanks to Mr. Christison for permission to use this material.

- h. Books, records and ledgers
 - (i) Account for each Unit
 - (ii) Capital expenditure resolutions
 - (iii) Reserve fund account certificates
 - (iv) Current operating budget
 - (v) Opinion on judgments & claims
- i. Association check book, banking cards
- j. Personal property and inventory
- k. Complete set of drawings and plans
- l. Insurance policies
- m. Certificates of occupancy
- n. Governmental permits
 - wetlands
 - sewer & water
 - zoning
- o. Bonds and warranties for streets, roofs, paint, mechanical equipment, lawn mowers, etc.
- p. Statement of account for each owner
- q. Copies of notices from mortgager - names of "eligible mortgagee's"
- r. Account of balance in Reserves, name of trustee, transfer of control of beneficial interest
- s. Copies of all Public Offering Statements as amended from time to time
- t. Resale certificates issued by Association
- u. Employment contracts with Association contractors
- v. Unit owner's file
- w. Plans and floor plans referred to in the Public Offering Statement including plats
- x. All tax returns for fiscal years since Declaration
 - Federal §528 election form 1120H
 - State (if no election)
- y. Insurance trust - original
- z. Building and Grounds Punch List
- aa. Keys
- bb. Minutes of Old Steering Committee

10. Set up P.O. Box as Official Address of the Association

11. Discuss and accept drafts of proposed permanent resolutions:

- a. Ratification of Initial Rules
- b. Fines
- c. Failure to Pay Common Charges
- d. Architectural Review
- e. Access to Units
- f. Certificate of Payment of Assessments
- g. Complaints and Disputes
- h. Rulemaking
- i. Roll Book
- j. Accountant
- k. Agent for Service and Counsel
- l. Insurance Agent

- m. Fiscal Year
- n. Capital Reserve Trust
- p. Interim Management Agreement
- q. Service & Maintenance Policy

12. Set date for next meeting

13. Adjourn

17 February 1988

Senator Tim Kelly
Senator Rick Halford
Representative Walter Furnace
Representative Ramona Barnes
Representative Sam Cotton
Representative Randy Phillips

Re: Constituent meeting
13 Feb 88 Muldoon El-
ementary School- re
my remarks on SB 338

Ma'm and Gentlemen:

I wish to forward to each of you a copy of my letter to Senator Jan Faiks, prime sponsor of SB 338.

As I commented to Senator Faiks, the magnitude of the issue dealing with common interest communities would be best served by bringing all such properties under AS 34.08. However, in the absence of such an action I do, indeed, welcome efforts that support and are directed toward achieving that ultimate result.

One of the problems with multiple housing in general and in Alaska in particular lies with the State of Alaska effectively subsidizing market rates to such an extent that persons who were financially able only to rent were induced into entering the housing market as buyers. Now that market forces have caught up with the housing market another effort to subsidize those using the AHFC financing options has appeared in the form of HB 432. It is my strong belief that those interested in "swapping mortgages" with AHFC do not wish to alleviate their financial positions by "trading down" so much as to up grade their mortgage values by "trading up" at AHFC expense.

My primary interest is in salvaging that which we already have by virtue of placing into existing law the tools and motivation by which common interest community homeowners can strengthen their associations and engage the task as salvors of each of our particular association entities.

I do not believe that the State of Alaska can or even should be asked to rescue its citizenry from every action of poor judgement that such a citizenry makes. Market forces have done, can do and will again perform this kind of rendering to restore balance into our economy. It did it before our oil wealth. It will do it again if we just allow it to happen.

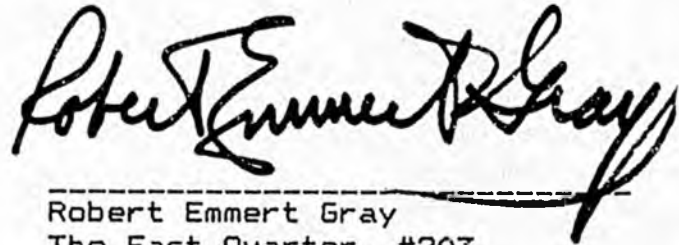
I welcome each opportunity to discuss these pressing matters of interest with each of you. I again reference my letter to Senator Faiks, in that I hesitate to burden each of you with additional unsolicited supporting documentation or testimony, either or both of

Enclosure (2)

which I would be pleased to expand upon, given your need and/or interest.

With kindest best wishes for each of your successful engagement of all those many difficult and distressing issues facing your respective legislative bodies, I shall remain.

Very truly yours,

A handwritten signature in cursive script that reads "Robert Emmert Gray". The signature is written in dark ink and is positioned above a horizontal dashed line.

Robert Emmert Gray
The East Quarter, #203
4109 Lynn Drive
Anchorage, Alaska 99508
Tel: (907) 338-5881

Alaska State Legislature

PRESIDENT

907-465-3755



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

March 6, 1988

Robert Emmert Gray
The East Quarter - #203
4109 Lynn Drive
Anchorage, Alaska 99508

Dear Mr. Gray:

Thank you for your letter regarding Senate Bill 338, along with the backup information. I read it with great interest.

SB 338 is currently undergoing review in the Senate Judiciary Committee, for purposes of soliciting public comment and making appropriate changes. Your comments at this time are therefore most welcome.

My office is working closely with attorney William McNall on the issues raised by this bill. As you know, Mr. McNall is the state's leading legal expert on common interest property, and he has done considerable work with CAI. Accordingly, I am forwarding your suggestions to him, for his thoughts on incorporating them into the bill.

Thanks again for your input. Please feel free to contact me anytime on this or any other matter of concern to you.

Sincerely,

A handwritten signature in black ink, appearing to be "Jan Faiks".

Jan Faiks
Senator

JF:cc

OUT OF SESSION

3111 C STREET, SUITE 525 ANCHORAGE, ALASKA 99503 907-561-7610

Enclosure (3)

Senator Rick Halford



Senate District 1
Chugiak, Eagle River, East Anchorage, Fort Richardson

Senate Finance Committee
Co-Chairman

March 19, 1988

Robert Emmert Gray
The East Quarter, #203
4109 Lynn Drive
Anchorage, Alaska 99508

Dear Mr. Gray:

Thank you for your letter and informational packet regarding Senate Bill 338 as a follow-up to your comments at our February district meeting.

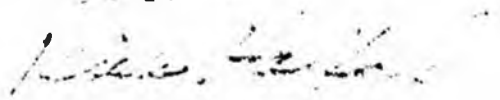
I believe that your interest in salvaging condominium associations by placing into existing law tools which would allow common interest community homeowners to strengthen their associations for the betterment of the individuals who live within them is certainly commendable. I am glad that you sent your comments to Senator Jan Faiks.

Senate Bill 338 is currently in the Senate Judiciary Committee. It has not been scheduled for a hearing to date, but I understand that it is being worked on in a subcommittee and will come before the full committee once that work is complete. There are two members of the subcommittee, Senator Jan Faiks and Senator Pat Rodey. I'm pleased to see you contacted Senator Faiks, and I encourage you to write Senator Rodey. I also encourage you to write Senator Kerttula, the Chairman of Judiciary, regarding your interest in the bill.

Senator Faiks informed me that your packet of material was forwarded to Bill McNall, an attorney who helped write the bill. He has done extensive work with the Community Association Institute.

I appreciate you contacting me on this issue. Please continue to keep in touch.

Sincerely,


Senator Rick Halford
Co-Chairman
Senate Finance Committee

ALASKA MORTGAGE BANKERS ASSOCIATION

P.O. BOX 9-2691 / ANCHORAGE, ALASKA 99509-2691

*copied
Falks 6/5/88
(by hrs)
also
Baldwin*

Bett info

February 17, 1988

FEB 20 1988

Senate Judiciary Committee
Jalmar M. Kerttula, Chairman
Arliss Sturzelewski, Vice Chairman
Joe P. Josephson
Rick Halford
Patrick Rodey

Re: Senate Bill 338
Uniform Common Interest Ownership Act

The Legislative Committee of Alaska Mortgage Bankers Association has reviewed Senate Bill 338 and requests the following comments be considered by the Legislature:

The bill contains two sections which would adversely affect ability to obtain financing on homes in a common interest community:

1. The right of Associations to evict tenants if the tenant, after due notice, does not pay dues to the Association in lieu of rent to the unit owner, and
2. Extension of the six month priority of delinquent Association dues to "each action to collect".

Attached is a letter from Mr. Paul Vergets, Regional Counsel for the Federal National Mortgage Association (FNMA) regarding the above items. It is the opinion of the Alaska Mortgage Bankers Association that other Investors and/or insurers will take a similar view.

The eviction of tenants clause also raises another issue. Assignments of rent have been activated in many instances, whereby the use of rental proceeds is no longer a matter of choice for the unit owner or the tenant, but that of a third party.

We strongly urge these sections be deleted from S.B. 338.

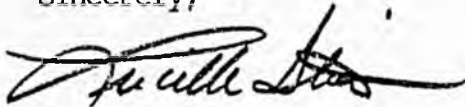
The bill also contains a section which legislates certain bookkeeping and audit procedures. We question the effectiveness of legislating such functions; we also question any action which increases the cost to Associations at a time when many are already having difficulty in meeting even basic expenses such as utilities.

Section 34.08.045 (b) and (c) should be changed to provide for approval of completed work by parties in addition to the Association, such as governing agencies, insurance companies and/or lenders, as applicable. We would also recommend a longer time period for payment to the contractor for wages as it may be physically impossible to obtain the necessary approvals and/or signatures within one business day.

Many of the changes which are included in the bill demonstrate a need for education of unit owners and Associations. A vehicle for education and guidance exists in CAI (Community Associations Institute). We urge continued education rather than legislation as a solution to the problems of Associations.

We appreciate the opportunity to comment. Members of the association are available to further discuss these issues at your convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lucille Stietz".

Lucille Stietz
Chairman, Legislative Committee

January 7, 1988



Fannie Mae

VIA FEDERAL EXPRESS

Ms. Lucille Stietz
Chairman, Legislative Committee
Alaska Mortgage Bankers Association
P.O. Box 9-2691
Anchorage, AK 99509-2691

Re: Uniform Common Interest Ownership Act

Dear Ms. Stietz:

Thank you for your letter of December 9, 1987 asking for Fannie Mae's viewpoint on proposed amendments to the Alaska Common Interest Ownership Act.

As I read the proposed bill it would have two primary effects on mortgage lien priority. The first is that a tenant could be required by the HOA to pay its rental payments to the HOA to apply on delinquent HOA dues. If the tenant failed to do so, he or she could be evicted. Secondly, the six month priority rule has been amended to apparently create a series of successive six month periods, each of which would be commenced by a mere notice to the lender.

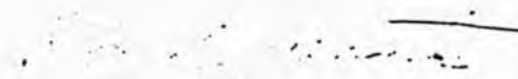
It is of course clear that each of these provisions would have the effect of substantially impairing the lien priority of lenders, beyond the one time six month priority which we have agreed to.

I have discussed this bill with our highest management and it has been decided by Fannie Mae that the adoption of either of these provisions, by any project, would render that project ineligible for Fannie Mae financing. If any project currently approved by Fannie Mae would adopt either of such provisions, Fannie Mae project approval would be terminated. The same policy would apply if the effect of this bill would be to impose such provisions upon a project as a matter of law, without further action by the project itself.

Ms. Lucille Stietz
January 7, 1988
Page 2

We appreciate your calling this matter to our attention. If I can be of further assistance to you, or to any member of the legislature, in explaining the reasons for our position, please do not hesitate to call me.

incerely,


Paul R. Vergets

PRV/cl

January 7, 1988

VIA FEDERAL EXPRESS



Ms. Lucille Stietz
Chairman, Legislative Committee
Alaska Mortgage Bankers Association
P.O. Box 9-2691
Anchorage, AK 99509-2691

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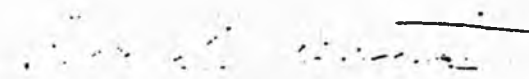
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Ms. Lucille Stietz
January 7, 1988
Page 2

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Sincerely,


Paul R. Vergets

PRV/cl

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 10, 1988

SUBJECT: Rights and responsibilities under Uniform
Common Interest Ownership Act
(SB 338)

TO: Senator Jay Kerttula

FROM: Richard A. Bradley
Legislative Counsel

Beth Kerttula has requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

I. Amendments to AS 34.03, the Uniform Residential Landlord and Tenant Act.

Section 1 amends AS 34.03.070, SECURITY DEPOSITS AND PREPAID RENT. It requires a unit owner landlord within a common interest community to provide the tenant with specified documents relating to the community: "declaration, bylaws, and rules and regulations"; the goal is to permit the community to enforce those requirements that it could enforce against a unit owner against a tenant of a unit owner.

Section 2 amends AS 34.03.150, RULES AND REGULATIONS (OF A LANDLORD). This provision provides that the specified documents of the community are enforceable against a tenant. It requires the executive board of the community to provide a tenant with copies of any document that it wishes to have the tenant comply with. After receiving the documents, a tenant who fails to comply with the requirements may be evicted by the community.

Section 3 of the bill amends AS 34.03.220, NONCOMPLIANCE WITH RENTAL AGREEMENT:FAILURE TO PAY RENT. This section provides that the executive board of a community may evict a tenant (of a unit owner) for violation of the duties imposed on the tenant of a unit owner under AS 34.08.320 [POWERS OF UNIT OWNERS' ASSOCIATION).

Section 4 of the bill amends AS 34.03.310(a), RETALIATORY CONDUCT PROHIBITED. Retaliatory conduct by a landlord against a tenant for the tenant's having paid amounts due by the landlord (unit owner) to a community are prohibited.

II. Amendments to AS 34.08, the Uniform Common Interest Ownership Act.

Sections 5 and 6 of the bill amend AS 34.08.040. The section addresses the "applicability" of UCIOA and states a truism. It seems that each amendment to UCIOA will require an amendment to this section yet if AS 34.08.040 and all of its amendments were repealed, there would be no loss.

Section 7 of the bill amends AS 34.08.255(c), AMENDMENT OF A DECLARATION WHERE FEWER THAN 50 PERCENT OF UNIT OWNERS APPROVE. The amendment adds the phrase "in attendance at a properly noticed meeting" twice within the subsection. I understand that the purpose of the amendment is to clarify quorum requirements.

Section 8 of the bill amends AS 34.08.320(a), POWERS OF UNIT OWNERS' ASSOCIATION. This section, like several earlier sections, relates to the power of a community to evict a tenant of a unit owner for the failure of the tenant to comply with the basic documents of the community, usually because the unit owner has also failed to comply with the same documents. See paragraph (a)(15).

Section 9 of the bill adds a new Sec. 34.08.375, DUTIES OF THE EXECUTIVE BOARD. The provision added relates to the financial affairs of the community.

Section 10 of the bill amends AS 34.08.380, UPKEEP OF COMMON INTEREST COMMUNITY, by adding several subsections. Sec. 34.08.380(d) provides that a health and safety provision of the state or a municipality may not require an association to employ staff if the amenity addressed by the requirement is available only to unit owners or their guests. Sec. 34.08.380(e) provides that an association may

request the removal without notice of an improperly parked vehicle under AS 28.11, ABANDONED VEHICLES. Sec. 34.08.-380(f) - (h) authorize the association to remove a vehicle parked on common elements of the association, provides for the notice requirements involved, and addresses liability arising out of the removal of the vehicle.

Section 11 of the bill adds a new Sec. 34.08.405, VACANCIES IN THE EXECUTIVE BOARD. The section addresses the situation where there are vacancies in the executive board resulting the inability of the board to reach a quorum necessary to call an election and thus fill the vacancy. It requires notice to the board and on its failure to act, permits the appointment of a receiver to manage the affairs of the association until the vacancies are filled.

Section 12 amends AS 34.08.470(b), LIEN FOR ASSESSMENTS. The amendments are technical.

Section 13 amends the chapter by adding a new Sec. 34.08.485, CONTRACTOR AND MATERIALMAN LIENS. The section establishes procedures under which contractors' liens may arise, be established, and discharged. It also limits the situations under which AS 34.35 liens may be established.

III. Amendments to AS 34.35, Liens.

Section 13 of the bill amends AS 34.35.050, LIEN FOR LABOR OR MATERIALS FURNISHED. Section 15 of the bill amends AS 34.35.435, LIEN FOR WAGES. Each amendment qualifies the general principles established in the section by the provisions of Sec. 34.08.485, a provision described above in bill section 13.

IV. Effective date.

Section 16 of the bill establishes a January 1, 1989 effective date.

RAB:gc
wkb2/065