

S B

391

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: January 18, 1990

FURTHER: Finance

Date of 5-Day Notice: 2-15-90
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3-2-90

Resources Committee considered SENATE BILL NO. 391

"An Act relating to a farm use exemption from municipal taxation for agricultural land and greenhouses; and providing for an effective date."

and recommended:

- replace with _____ CS SB 391 (Res) same title
- attached amendment(s) new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

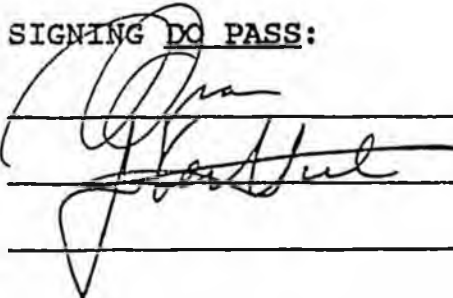
fiscal note(s) _____

zero fiscal note(s) _____

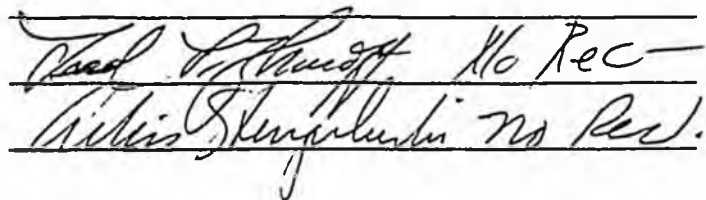
appropriation-no fiscal note

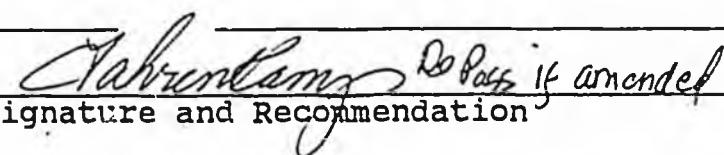
Governor's bill w/fiscal note

SIGNING DO PASS:



OTHER RECOMMENDATIONS:




Chair: Signature and Recommendation

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

February 20, 1990

POSITION PAPER

RE: Senate Bill 391

SPONSOR: Senators Coghill and Halford

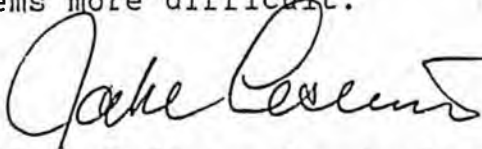
Program Effects

Senate Bill 391 would provide preferential property tax treatment for commercial greenhouses. Under the bill, the greenhouse structure and land would qualify for the agricultural property tax deferral exemption under AS 29.45.060.

Comments

The existing agricultural land use program has not been funded by the State since FY 88. If the bill were to become law, this mandatory program would be expanded, thereby further eroding municipal property tax bases in many areas of the State. This bill proposes to include commercial greenhouse structures in the program. However, under current law, farm buildings necessary to farm operations do not qualify for the program. If greenhouse structures were to receive this benefit, it could be argued the program should be expanded further to include all farm use structures, resulting in a further loss to municipal tax bases.

The Department opposes any further erosion of municipal tax bases through the expansion of program of this type for which municipal governments are not fully reimbursed by the State for their revenue losses. During the past few years, most municipalities in Alaska have been faced with increasingly difficult fiscal pressures due to reductions in state-shared revenues. Additional mandatory property tax exemptions of this type make municipal fiscal problems more difficult.

for  DC, CRA
David G. Hoffman, Commissioner

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

Senator John B. (Jack) Coghill

Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862



MEMORANDUM

DATE: March 2, 1990

TO: Senator Bettye Fahrenkamp
Senate Resource Committee Chair

FROM: Senator Jack Coghill

SUBJECT: SB 391; Greenhouse Farm Use Exemption.

Attached you will find a draft CS for SB 391 that I recommend you consider adopting for your committee. Also included is a memorandum from the drafter, Tamara Cook.

The draft basically addresses the concerns of the committee with regard to the exemption applying to the greenhouse structure. The draft only applies to the land, as in all other cases where the "farm use land" exemption applies.

Once again, the purpose of this bill is to clarify what the courts have also decided, greenhouses are farm uses on the land. We do not want to have every greenhouse operator petitioning the courts to qualify for the farm use land exemption.

We do not believe the State Assessor's Office nor the municipal tax assessors are going to like this version any better than the original. They will try to reargue the recent court case. The bottom line is however, those arguments failed to convince the court and they should fail to convince you.

Please consider adopting the CS and moving the bill. Ultimately I think it will save us some dollars in the court system and it will save a segment of the farm community the heartburn of that process.

FEB 26 1990

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3600

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 26, 1990

SUBJECT: Municipal Tax Exemption for Agricultural Land
(SB 391)

TO: Senator Jack Coghill

FROM: Tamara Brandt Cook *ABC*
Director
Division of Legal Services

You have supplied me with a copy of an opinion of the Superior Court dated February 9, 1990 and asked whether I agree with the decision of the judge that the existing tax exemption for agricultural land applies to commercial greenhouse operations. I agree with Judge Savell that the existing definition of "farm use" in AS 29.45.060(c) includes land used for commercial greenhouse operations.

You have also asked whether SB 391 would provide an exemption for greenhouse structures or just the land. SB 391 provides an exemption for greenhouse structures, whether classified as real or personal property. It does, in fact, treat greenhouse structures differently from other farm buildings in that the agriculture exemption currently applies only to land, not to improvements or personal property. I do not, however, believe that the exemption could reasonably be applied to department stores that carry a small selection of house plants in stock because this does not seem to conform to the commonly understood meaning of agricultural use. Nevertheless, I have attempted to address this concern in the enclosed draft CS for the bill.

As requested, the enclosed CS limits the exemption to land occupied by a greenhouse. In an effort to avoid the department store situation, the income test is modified in this CS so that the 10 percent of yearly income must come from the agricultural activities on the land. The existing language only requires that the owner be actively engaged in farming the land and that the required level of income be generated

Senator Jack Coghill

Page 2

February 26, 1990

from the land. Hopefully, this change will prevent an argument about granting the exemption where the income generated comes from sales of toasters, bread, aspirin, or the like, rather than agricultural activities.

TBC:pl
WKP2/091

Enclosure

6-1604E

Cook

2/26/90

BY SEN. COGHILL, Halford

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 391 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to a farm use exemption from municipi-
7 pal taxation for agricultural land; and providing for
8 an effective date."

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

10 * Section 1. AS 29.45.060(c) is amended to read:

11 (c) In this section "farm use" means the use of land for profit
12 for raising, in a greenhouse or otherwise, [AND HARVESTING] crops or
13 ornamental plants, for the feeding, breeding, and management of live-
14 stock, for dairying, or another agricultural use, or any combination
15 of these. To be farm use land, the owner or lessee must be actively
16 engaged in agriculture on [FARMING] the land, and derive at least 10
17 percent of yearly gross income from the agricultural activities on the
18 land. This section does not apply to land for which the owner has
19 granted, and has outstanding, a lease or option to buy the surface
20 rights. A property owner wishing to file for farm use classification
21 having no history of farm-related income may submit a declaration of
22 intent at the time of filing the application with the assessor setting
23 out the intended use of the land and the anticipated percentage of
24 income. An applicant using this procedure shall file with the asses-
25 sor before February 1 of the following year a notarized statement of
26 the percentage of gross income attributable to the land. Failure to
27 make the filing required in this subsection forfeits the exemption.

28 * Sec. 2. This Act takes effect January 1, 1991.

29

ALASKA GREENHOUSES, INC.,)
)
 Plaintiff,)
)
 vs)
)
 GREATER ANCHORAGE AREA)
 BOROUGH,)
)
 Defendant.)

ENDORSED
 FILED in the Superior Court
 State of Alaska, Third District
 FEB 15 1973
 A. M. VOKACEK, Clerk
 by *M. E. [unclear]*

No. 72-1628

JUDGMENT UPON CONFESSION

This action came before the Court, the Honorable Eben H. Lewis presiding, on February 13, 1973, for confession of judgment by the defendant. The Court being fully advised in the premises, finds that the plaintiff, Alaska Greenhouses, Inc., for purposes of eligibility under Alaska Statute 29.10.398, is the owner of the property described in the complaint, is engaged in agricultural or horticultural activities, and therefore qualifies under the "farm use" tax statute, and in 1971 and in 1972, derived more than one-fourth of its gross income from farm use activities. It is therefore

ORDERED, ADJUDGED AND DECREED that plaintiff recover from the defendant \$2,236.36 with interest thereon at eight per cent (8%) per annum from February 13, 1973, plus costs of \$38.40 and attorney's fees of \$1,100.00.

Done at Anchorage, Alaska this 15 day of February, 1973.

STATE OF ALASKA

I, the undersigned, certify that this is a true and full copy of the original document on file in the Superior Court, Third Judicial District, State of Alaska.

Witness my hand and the seal of the court this 23 day of February, 1973 at Anchorage, Alaska

A. M. VOKACEK

Clerk of the Superior Court

[Signature]
 Deputy

RECEIVED

MAR 13 1973

FEB 22 1990

ALASKA GREENHOUSES

1301 MULDOON ROAD • ANCHORAGE, ALASKA 99504

(907) 333-6970

January 27, 1990

Senator Jack Coghill
 Alaska State Legislature
 P.O. Box V
 Juneau, Alaska 99811

To Senator Coghill et al re: Senate Bill #391, Farm Tax and Greenhouses.

I have enclosed several pages of various court rulings showing that greenhouses are considered under farm or agricultural use. This should back up your ability to add greenhouses to the Farm Use exemption tax bill.

While on the subject I would strongly ask you to support and work to reinstate our original Farm Tax Bill titled Section 29.10.398 Farm & Agricultural Use. It was a good bill. Fair, enforceable and a much better act than the one in effect now. The original Farm Tax Bill was altered by well meaning but misguided legislators.

For example. The original Bill stated the owner had to make 25% of his gross income from the farm use land, the new Bill only 10%. In the old bill if farm use land were sold for other than farm use the owner was liable to pay back the difference in taxes for two full years plus any part of the current year. The new Bill the seller has to repay seven years taxes. eg. If I purchased some farm land to grow a crop and after one or two years found it was losing money and I had to sell it for other than farm use I would have to pay back taxes for the two previous years plus any portion of the current year. Under the new Bill I would have to pay back seven years or five extra years when I had no interest in the property. What so ever. Is that fair?

Regarding Hawkes Greenhouse at Fairbanks they are farming and adding the word greenhouse would solve his immediate dilemma but I'd sure like to see you get the original Bill reinstated. It is much more clear and understandable to the real farmer who makes a substantial portion of his income from farming.

The original tampering and changing started when a misguided lady legislator denied us the Farm Tax Exemption saying "I feel the Bill was intended to apply to growing food." Every few years someone decides to deny us this use and we have to go through the re-education process for our legislators.

Among the papers I have sent you is a Court Judgement in our favor. This cost many times more in attorney fees than we saved not to count our own time spent in preparing the paper work.

I would like to see our legislature take a good hard look at a workable idea for our Wetlands where most of Alaska land is classified "Wetlands." If 10% of the south 48 states are wetlands then a fair solution would be to require Alaska to retain wetlands in the same proportion. Even to require Alaska to double the percentage used by the south 48 would be ok. Otherwise put all our wetlands into farm use.



ALASKA GREENHOUSES

1301 MULDOON ROAD • ANCHORAGE, ALASKA 99504

Senator Jack Coghill continued

Listed below are EPA and Corps of Engineers Dept. of the Army Regulations regarding farming and related activities which do not require permits.

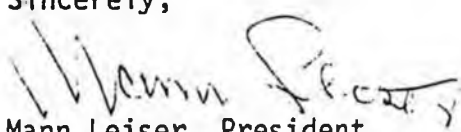
40 CFR Ch:1 (7-1-86 Edition Environmental protection agency 233.35. Activities not requiring permits and again in 33CFR Ch. 11 (7-1-86 Edition) Corps of Engineers, Dept. of the Army DoD 323.4 . Discharges not requiring permits (1) (i) Normal farming etc.

If the U.S. Senate and Congress pass the Wetlands Act to include Alaska as proposed we can turn the Wetlands into farmland and grow many cool weather crops each summer providing new employment with a new renewable resource. All the cole crops, cabbage, broccoli, cauliflower, turnips, radishes etc. grow splendidly here as do spinach, kale, strawberries, raspberries and potatoes. This would also give us a back haul to the south 48 in the equipment now going south empty. This would reduce by over 50% the shipping costs of goods we presently ship north bound.

This should not be done with state funds like the grandious Big Delta grain farm failures or the cattle operation across the inlet from Anchorage but small state loans or SBA loans to individuals upon proper application would really work. Our greenhouse and 30 acres of land was an SBA loan and is all paid back and making money and best of employing 30 people year round and up to 70 in the summer. (School kids etc.) all

Thanking you for your time, I remain

Sincerely,



Mann Leiser, President

ALASKA GREENHOUSES, INC.

ML:b1

LET'S REINSTATE THIS EXCELLENT PIECE OF LEGISLATION:

Section 29.10.398 Farm or Agricultural Use. (a) In this section "farm use" means the use of land for raising and harvesting crops or for feeding, breeding and management of livestock, or for dairying, or another agricultural or horticultural use, or any combination thereof and includes the preparation of the products raised on the farm use land and disposal by marketing or otherwise. It includes the construction and use of dwellings and other buildings customarily provided in conjunction with the farm use. To be farm use land the owner must be actively engaged in farming the land and derive at least one-fourth of his yearly gross income from the farm use land. The provisions of this section shall not apply to land which the owner has granted, and has outstanding, a lease or option to buy the surface rights. (b) Farm lands shall be assessed on the basis of full and true value for farm use and shall not be assessed as if subdivided, etc.

RECEIVED

MAR 24 1973

TREASURY DEPARTMENT

WASHINGTON

OFFICE OF
COMMISSIONER OF INTERNAL REVENUE

ADDRESS REPLY TO
COMMISSIONER OF INTERNAL REVENUE
AND REFER TO

OCT 18 1937

SST:RE:3

American Association of Nurserymen,
Siebenhaier Avenue and Catalpa Drive,
Dayton, Ohio.

Sirs:

Reference is made to the conference in this office on August 12, 1937, at which representatives of the American Association of Nurserymen were present. The question discussed was whether the services performed by employees of nurserymen are to be classified as "agricultural labor" pursuant to the provisions of Sections 811(b)(1) and 907(c)(1), Title VIII and IX, respectively, of the Social Security Act.

In the ruling identified as S.S.T. 73 and published in I.R.B. XVI-3, 24 (1937) it was held that services performed by employees of nurserymen do not constitute "agricultural labor" within the meaning of Section 907(c)(1), Title IX, of the Social Security Act. This conclusion was also made applicable under Title VIII of the Act in view of the provisions of Section 811(b)(1) thereof.

You are advised that this office has reconsidered the question as to whether certain services performed by employees of nurserymen constitute "agricultural labor" within the meaning of the taxing provisions of the Social Security Act.

Sections 811(b)(1) and 907(c)(1) of the Act provide as follows:

"The term 'employment' means any service, of whatever nature, performed within the United States by an employee for his employer, except -

"Agricultural labor:"

Webster's New International Dictionary defines the word "nursery" as "a place where trees, shrubs, vines, etc., are propagated for transplanting or for use as stocks for grafting; a plantation of young trees or other plants." The word "horticulture" is defined as "the cultivation of a garden or orchard; the science and art of growing fruits, vegetables, and flowers or ornamental

SST:RR:3

American Association of Nurserymen.

~~XXXX~~ plants. Horticulture is a branch of plant production, which is one of the main divisions of agriculture. ~~XXXX~~

In the case of Davis v. Industrial Commission of Utah, 206 Pac. 267, the court considered the meaning of the words "agricultural laborers" as used in Section 3110 of the Utah Industrial Act. The court stated:

"Doubtless the Legislature used the words 'agricultural laborers' in their plain, usual, and commonly accepted sense and as defined by lexicographers. There is no reason for believing that it was intended that the words should be given the most narrow definition of which they are susceptible."

The court in this case cited, with approval, a definition of "agriculture" found in 2 C.J., page 988, reading as follows:

~~XXXX~~ "The term 'agriculture' has been defined to be the 'art or science of cultivating the ground, especially in fields or large quantities, including the preparation of the soil, the planting of seeds, the raising and harvesting of crops, and the rearing, feeding, and management of live stock, tillage, husbandry, and farming.' In its general sense the word also includes gardening or horticulture."

This definition has also been quoted with approval in the case of Rogers v. A. T. Woods, Incorporated, 31 Pac., 2d, 255, Dorrell v. Florida Land and Timber Company, et al., 27 Pac., 2d, 960, and many other cases.

In the case of Bucher v. American Fruit Growers' Company, 165 Atl. 33, the court held that a fruit grower's employee who was injured while returning from hauling apples to a shipping point was engaged in "agriculture" within the meaning of the State Compensation Act. The court quoted, with approval, the following excerpt from the opinion of the court below:

"It is contended by the claimant that fruit growing is horticulture, an occupation distinct from agriculture and not included therein. But the dictionary definition of horticulture is 'the department of science of agriculture which relates to the cultivation of gardens or orchards, including the care of vegetables, fruit, flowers, and ornamental shrubs' XXXX

SST:RR:3

American Association of Nurserymen.

and trees'. In common parlance it is unquestioned that agriculture would be considered as including fruit growing. If it is correct that horticulture is one department of agriculture, then agriculture must include horticulture. (See, also, 2 Corpus Juris, 988). The occupations of growing fruit and of raising other crops are so allied to each other and the character and condition of labor required so identical in each case that we can see every reason why a laborer in fruit growing should be treated and classified in the same way under this act of Assembly as a laborer on a farm which grew crops other than fruit. * * *

In the case of Hill v. Georgia Casualty Company, 45 S.W. 2, 566, the court held that a nursery laborer killed by an automobile on the highway while leading a heifer was an "agricultural laborer" excluded from the operation of the State Compensation Law. The court in this connection stated as follows:

"That one engaged in the nursery business is engaged in an agricultural pursuit is not to be doubted. In Webster's Dictionary a 'nursery' is defined to be 'a place where trees, shrubs, vines, etc., are propagated for transplanting or as use for stocks for grafting; a plantation of young trees or other plants.' A 'nurseryman' is defined by the same authority to be 'one who conducts or cultivates a nursery for young trees, shrubs,' etc. The specific branch of agriculture to which the nursery industry belongs is designated 'horticulture', which term is defined by Webster as follows: 'The cultivation of a garden or orchard; the science or art of growing fruits, vegetables, and flowers or ornamental plants. Horticulture is a branch of plant production, which is one of the main divisions of agriculture.'

* * * "It is a matter of common knowledge that the general character of work done in nursery operations is not materially different from work done in other agricultural operations; and that the work pertaining to the nursery business is not more hazardous, with respect to personal injury, than the work which is ordinarily performed on a cotton plantation, say, or a wheat farm."

SST:RR:3

American Association of Nurserymen,

The Supreme Court of Tennessee in the case of Ginn v. Forest Nursery Company, 52 S.W. (2d) 141, concluded that a nursery employee should be classified as a "farm or agricultural laborer" within the meaning of Section 6 of the Workmen's Compensation Law. In this case the employer operated a nursery, growing shrubs, evergreens and shade trees. This nursery was a place of several acres in the town of McMinnville. The employee was injured while digging a shrub from the ground, using an ordinary spade or shovel. The court stated as follows:

"The employment of the plaintiff in error in the case before us required him to till the soil, to tend growing plants, shrubs, and young trees, to prepare them for market, and to deliver them to a shipping point. The harvesting and marketing of grain, the transplanting and care of tobacco plants, and the delivery of a bale of cotton from farm to shipping point, are all ordinary incidents of farm labor. The work and labor performed by plaintiff in error differed from that of the ordinary farmer only in the kind and nature of the products of the soil grown and prepared for market. No difference in hours of labor, hazard, or remuneration is pointed out which might induce a legislature to include the one and exclude the other from the operation of the statute. The labor performed by plaintiff in error and contemplated by his employment was agricultural in the literal sense and meaning of the word, and we think we would not be justified in holding that he was not a "farm or agricultural laborer."

In view of the foregoing, it appears that broadly speaking the nursery business is horticulture, which, in turn, is one of the main divisions of agriculture.

Although broadly and technically speaking, the word "agriculture" includes horticulture, there is authority for giving such word a restricted and narrow meaning. See, for example, the article on horticulture in 11 Encyclopedia Britannica, page 774, in which it is stated as follows:

"Admittedly horticulture deals with crop production, and therefore has a close relationship to agriculture, but yet there is a distinction which is officially recognized in many acts of parliament. In some acts the term agriculture is defined specially as including horticulture, but where no such definition is made horticulture often

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American Association of Nurserymen.

has been deemed to be excluded."

The question remains whether the term "agricultural labor" as used in the Social Security Act should be given a broad or narrow construction. The legislative history of the term is not particularly enlightening. However, the report of the Senate Committee on Finance, page 45, indicates that "agricultural labor" was excepted from the taxes imposed by the Social Security Act because of "the difficulties in collecting the tax" arising from the transient and migratory nature of such labor. Taking such report into consideration, it would seem that if the difficulty in collecting the Social Security taxes is present in the agricultural field in its broader sense, then the words "agricultural labor" as used in the Social Security Act should be given a corresponding interpretation.

In the conference above referred to, it was emphasized that nurserymen, in general, use exactly the same type of labor that is used by the ordinary farmer who is engaged in growing food products and that no special skill is needed by such labor which is just as transient and migratory as in the case of the usual farm. Moving pictures were shown to the effect that such labor is not only of the same type but that such labor performs exactly the same duties in cultivating nursery stock as they would perform in cultivating food products on an ordinary farm.

Accordingly, upon reconsideration in the light of the new evidence presented, it is the opinion of the Bureau that the term "agricultural labor" should be given a broader construction so as to include horticulture. It is held, therefore, that services performed by an employee on a farm of which the employer is the owner or tenant in connection with the growing of nursery stock constitute "agricultural labor" within the meaning of Sections 811(b)(1) and 907(c)(1) of the Social Security Act. In view of this conclusion, the ruling set forth in S.S.T. 73, I.R.B. XVI-3, 24 (1937) is being revoked.

It is to be noted, however, that not every person employed by a nurseryman is entitled to be classed as an agricultural laborer. See Article 6 of Regulations 91 and Article 205(1) of Regulations 90, promulgated under Titles VIII and IX of the Act, respectively. Pursuant to such Regulations, the exemption depends upon the type of work the employee performs. In general, services performed by

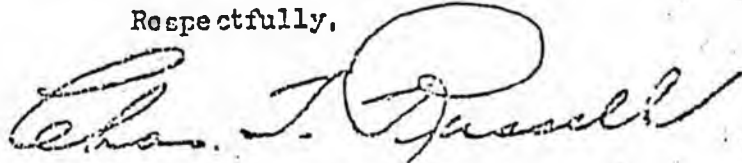
SCT:RR:5

American Association of Nurserymen.

employees on a farm which is owned or tenanted by the employer in connection with the planting, cultivating, harvesting, and preparing for market the products of the soil, and in doing incidental tasks connected therewith, constitute "agricultural labor", while services performed by employees, such as office workers or persons employed in a retail or wholesale establishment, who are concerned merely with the sale and disposal of the nursery stock and who do not perform services in connection with the growing of the nursery stock, do not constitute "agricultural labor" within the meaning of that term as used in the taxing provisions of the Social Security Act.

In the event that further correspondence relative to this matter is necessary, please refer to SCT:RR:3.

Respectfully,



Acting Commissioner.

AJB: CH

Current Bill

§ 29.53.035

MUNICIPAL GOVERNMENT

§ 29.53.035

The first 1976 amendment added paragraph (3) of subsection (c).

The 1977 amendment added subsections (f) and (g).

The second 1976 amendment, effective June 25, 1976, added paragraph (2XD) of subsection (b).

Sec. 29.53.035. Farm or agricultural lands. (a) Farm use lands included in a farm unit and not dedicated or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use, and shall not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the farm use land for both full and true value and farm use value. Should the farm use land be sold, leased, or otherwise disposed of for uses incompatible with farm use or be converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight per cent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceding seven years. The balance of the payment shall be made to the city or borough.

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor and shall include information which may reasonably be required to determine the entitlement of the applicant. If the farm use land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested.

(c) In this section "farm use" means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or another agricultural use for profit or any combination thereof. To be farm use land, the owner or the lessee must be actively engaged in farming the land, and derive at least 10 per cent of his yearly gross income from the farm use land. The provisions of this section do not apply to land respecting which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner wishing to file for farm use classification having no history of farm-related income may submit a declaration of intent at the time of filing the application with the assessor setting out the intended use of the land and the anticipated percentage of income. An applicant using this procedure shall file with the assessor before February 1 of the following year a notarized statement of the percentage of gross

income attributable to the farm use land. Failure to make the filing required in this subsection forfeits the exemption.

(d) In the event of a crop failure by an act of God the previous year, the owner or lessee may submit an affidavit affirming that 10 per cent of his gross income for the past three years was from farming.

(e) Subject to legislative appropriations for the purpose, the state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of this section. (§ 2 ch 118 SLA 1972; am § 1 ch 90 SLA 1974; am § 3 ch 229 SLA 1976; am § 1 ch 66 SLA 1978)

Effect of amendments. — The 1974 amendment made such changes in subsections (a), (b), and (c) as to make a detailed comparison impracticable and added subsections (d) and (e).

The 1976 amendment, effective June 23, 1976, and retroactive to January 1, 1975, in subsection (a), substituted "uses incompatible with farm use" for "other than farm use purposes." "a use

incompatible with farm use" for "nonfarm use" and "eight per cent" for "five per cent" in the third sentence, inserted "at the current mill levy" in that sentence, and added "for the preceding seven years" at the end of the fourth sentence.

The 1978 amendment substituted "May 15" for "February 1" in the first sentence of subsection (b).

Sec. 29.53.045. Tax on oil and gas production and pipeline property. (a) A municipality may levy and collect taxes on taxable property taxable under AS 43.56 only by using one of the methods set out in (b) or (c) of this section.

(b) A municipality may levy and collect a tax on the full and true value of taxable property taxable under AS 43.56 as valued by the Department of Revenue at a rate not to exceed that which produces an amount of revenue from the total municipal property tax equivalent to \$1,500 a year for each person residing within its boundaries.

(c) A municipality may levy and collect a tax on the full and true value of that portion of taxable property taxable under AS 43.56 as assessed by the Department of Revenue which value, when combined with the value of property otherwise taxable by the municipality, does not exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.56.

(d) By February 1 of each assessment year a taxing municipality must inform the Department of Revenue which method of taxation the municipality will use.

(e) For purposes of this section, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data, and shall advise each municipality of its population as



COOPERATIVE EXTENSION SERVICE

UNIVERSITY OF ALASKA
FAIRBANKS ALASKA 99701

Matanuska - Susitna District Box 736
Palmer, Alaska 99645

January 16, 1973

Mr. Mann Leiser
Alaska Greenhouses
1301 Muldoon Road
Anchorage, Alaska 99504

Dear Mann:

It is logical that the law writers in rewriting the act on assessing farm lands drop the word "horticultural" as it is a part of agriculture. The act does mention "raising and harvesting crops" which would include horticulture as well as agronomy. Our vegetable growers, potato growers, and greenhouse growers (all horticulturists), in the Matanuska Valley qualify if they meet the 25% income provision of the law. All of them are engaged in the "raising and harvesting of crops." The same is true for others engaged in the "raising and harvesting of crops" such as a hay producer or grain producer, who are agronomists. Agronomy is not mentioned in the law either.

In looking for a comprehensive definition I went no further than our encyclopedia, Collier's Encyclopedia, copyright 1966, book #12 on page 291 gives the following:

"HORTICULTURE, a division of agriculture. The word is derived from the Latin hortus, "a garden" and colere, "to care for." Horticulture includes fruit growing (pomology), vegetable growing (olericulture), and floriculture, which embraces both flowers grown by amateurs and those grown commercially by florists."

Simply put horticulture is as much a part of agriculture as animal husbandry or agronomy.

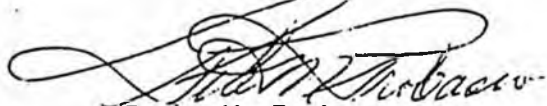
This past year our best agricultural land was assessed at \$350 per acre. Uncleared land on the same farm and of the same quality was assessed at \$150 per acre. The lowest quality cleared land would be assessed at \$200 per acre. On comparative land values for farming I would hold the same as I did in my February 25, 1972 letter. When production capabilities of land are taken into consideration it would be impossible to establish a higher value on land for farming in the Anchorage area than what we have in the valley. I am sure that it would be still impossible to establish any recent history of land sales for farming in your area. Therefore, since lands in question are only 40 miles or so apart the logical approach would be to use land values (for farming) the same as we have in the Matanuska Valley.

Page 2, Mann Leiser
January 16, 1973

I feel that this taxation issue that you face with the Anchorage Borough is extremely vital to the future well being of the whole area and I hope that it can soon be properly resolved to comply with the State law. The quality of our environment is presently a big issue. Your acres provide open space, a place of rare beauty in addition to promoting beautification to the entire Anchorage area. It is the very thing we are to preserve and promote in order to maintain a desirable environment in an urban setting. It would seem that this should be readily apparent to Borough officials.

Please feel free to call on me at any time that you feel I might be of assistance in this matter.

Sincerely yours,



Peter M. Probasco
Program Leader -- Agriculture
and Farm Management

PMP:lf

cc: Ben Westrade

2.14 #3

Standard Industrial Classification Manual - 1972

IVED
MAR 24 1973

Division A

Agriculture, Forestry, and Fishing

The Division as a Whole

This division includes establishments primarily engaged in agricultural production, forestry, commercial fishing, hunting and trapping, and related services.

The classification of agricultural production covers establishments (farms, ranches, farms, greenhouses, nurseries, orchards, hatcheries, etc.) primarily engaged in the production of crops, plants, vines, or trees (excluding forestry operations); and the keeping, grazing, or feeding of livestock for the sale of livestock or livestock products (including serums), for livestock increase, or for value increase. Livestock as used here includes cattle, sheep, goats, hogs, and poultry. Also included are animal specialties such as horses, rabbits, bees, pets, fur-bearing animals in captivity and fish in captivity. Agricultural production also includes establishments primarily engaged in the operation of sod farms, mushroom cellars, cranberry bogs, poultry hatcheries, and in the production of bulbs, flower seeds, and vegetable seeds.

XX

Farms are the establishment units generally utilized for the purpose of industrial classification of agricultural production. A farm may consist of a single tract of land, or a number of separate tracts which may be held under different tenures. For example, one tract may be owned by the farmer and another rented by him. It may be operated by the operator alone or with the assistance of members of his household or hired employees, or it may be operated by a partnership, corporation, or other type of organization. When a landowner has one or more tenants, renters, croppers, or managers, the land operated by each is considered a farm.

The classification of agricultural services includes establishments primarily engaged in supplying soil preparation services, crop services, landscape and horticultural services, veterinary and other animal services, and farm labor and management services.

XX

The classification of forestry covers establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forestry services. Logging camps and logging contractors are classified in Industry 2411.

The classification of fishing, hunting, and trapping covers establishments primarily engaged in commercial fishing (including shellfish and marine products); operating fish hatcheries, and fish and game preserves; and commercial hunting and trapping.

Major Group 01.—AGRICULTURAL PRODUCTION—CROPS

The Major Group as a Whole

This major group includes establishments (farms, orchards, greenhouses, nurseries, etc.) primarily engaged in the production of crops or plants, vines and trees (excluding forestry operations). This major group also includes establishments primarily engaged in the operation of sod farms, mushroom cellars, cranberry bogs, and in the production of bulbs, flower seeds, and vegetable seeds.

An establishment primarily engaged in crop production (Major Group 01) is classified in the industry (4-digit) and industry group (3-digit) which accounts for 50 percent or more of the total value of sales for its agricultural production. If the total value of sales for agricultural products of an establishment is less than 50 percent from a single 4-digit industry, but 50 percent or more of the value of sales for its agricultural products derives from the products of two or more 4-digit industries within the same 3-digit industry group, the establishment is classified in the miscellaneous industry of that industry group; otherwise, it is classified as a general crop farm in Industry 0101.

Group Industry
No. No.

011 CASH GRAINS

0111 Wheat

Establishments primarily engaged in the production of wheat.

Wheat farms

0112 Rice

Establishments primarily engaged in the production of rice.

Rice farms

0115 Corn

Establishments primarily engaged in the production of corn for grain. Establishments primarily engaged in the production of sweet corn are classified in Industry 0101.

Corn farms (field corn)

0116 Soybeans

Establishments primarily engaged in the production of soybeans.

Soybean farms

0119 Cash Grains, Not Elsewhere Classified

Establishments primarily engaged in the production of cash grains, not elsewhere classified. This industry also includes establishments deriving 50 percent or more of their total value of sales of agricultural products from cash grains (Industry Group 011), but less than 50 percent from products of any single industry.

Barley farms
Bean (dry field and seed) farms
Buckwheat farms
Cash grain farms: except wheat, rice,
corn, and soybeans
Cowpea farms
Emmer farms
Feed grain farms
Flaxseed farms
Grain farms: except wheat, rice, corn,
and soybeans

Lentil farms
Mustard seed farms
Oat farms
Pea (dry field and seed) farms
Popcorn farms
Rye farms
Safflower farms
Sorghum (except for syrup) farms

013 FIELD CROPS, EXCEPT CASH GRAINS

0131 Cotton

Establishments primarily engaged in the production of cotton and cottonseed.

Cotton farms

Cottonseed farms

013

016

017

Group Industry
No. No.
017 FRUITS AND TREE NUTS—Continued

0173 Tree Nuts

Establishments primarily engaged in the production of tree nuts.

Almond groves and farms
Chestnut groves and farms
Pecan groves and farms

Tree nut groves and farms
Tung nut groves and farms
Walnut groves and farms

0174 Citrus Fruits

Establishments primarily engaged in the production of citrus fruits.

Citrus groves and farms
Grapefruit groves and farms
Lemon groves and farms

Lime groves and farms
Orange groves and farms
Tangerine groves and farms

0175 Deciduous Tree Fruits

Establishments primarily engaged in the production of deciduous tree fruits. Establishments primarily growing citrus fruits are classified in Industry 0174, and tropical fruits in Industry 0170.

Apple orchards and farms
Apricot orchards and farms
Cherry orchards and farms
Nectarine orchards and farms
Peach orchards and farms
Pear orchards and farms

Persimmon orchards and farms
Plum orchards and farms
Pomegranate orchards and farms
Prune orchards and farms
Quince orchards and farms

0179 Fruits and Tree Nuts, Not Elsewhere Classified

Establishments primarily engaged in the production of fruits and nuts, not elsewhere classified. This industry also includes establishments deriving 50 percent or more of their total value of sales of agricultural products from fruit and tree nuts (Industry Group 017), but less than 50 percent from products of any single industry.

Avocado orchards and farms
Date orchards and farms
Fig orchards and farms

Olive groves and farms
Pineapple farms
Tropical fruit farms

HORTICULTURAL SPECIALTIES

0181 Ornamental Floriculture and Nursery Products

Establishments primarily engaged in the production of ornamental plants and other nursery products, such as bulbs, florists' greens, flowers, shrubbery, flower and vegetable seeds and plants, and sod. These products may be grown under cover (greenhouse, frame, cloth house, lath house) or outdoors.

Bulbs, growing of
Field nurseries: growing of flowers and shrubbery, except forest shrubbery
Florists' greens, cultivated: growing of
Flowers, growing of
Fruit stocks, growing of
Greenhouses for floral products
Mats, preseeded: soil erosion—growing of

Nursery stock growing of
Plants, ornamental: growing of
Plants, potted: growing of
Rose growers
Seed, flower and vegetable: growing of
Shrubberies, except forest shrubbery: growing of
Sod farms

0182 Food Crops Grown Under Cover

Establishments primarily engaged in the production of fruits and vegetables grown under cover.

Fruits grown under cover
Greenhouses for food crops
Mushroom cellars
Mushroom spawn, production of

Rhubarb grown under cover
Tomatoes grown under cover
Vegetables grown under cover

0189 Horticultural Specialties, Not Elsewhere Classified

Establishments primarily engaged in the production of horticultural specialties, not elsewhere classified. This industry also includes establishments deriving 50 percent or more of their total value of sales of agricultural products from horticultural specialties (Industry Group 018), but less than 50 percent from products of any single industry.

Group Industry
No.

326

RETAIL NURSERIES, LAWN AND GARDEN SUPPLY STORES

3261 Retail Nurseries, Lawn and Garden Supply Stores

Establishments primarily engaged in selling trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, and other garden supplies to the general public. These establishments primarily sell products purchased from others, but may sell some plants which they grow themselves. Establishments primarily engaged in growing are classified in Major Group 01.

- Christmas trees (natural)—retail
- Fertilizer—retail
- Garden supplies and tools—retail
- Lawn mowers—retail
- Lawn sprinklers—retail
- Nursery stock, seeds and bulbs—retail
- Power mowers—retail

527

MOBILE HOME DEALERS

5271 Mobile Home Dealers

Establishments primarily engaged in the retail sale of new and used mobile homes. Establishments primarily selling travel trailers and campers are classified in Industry 3561.

Mobile homes, new and used—retail

SB391



FEB 22 1990

ALASKA GREENHOUSES

1301 MULDOON ROAD • ANCHORAGE, ALASKA 99504
(907) 333-6970

January 27, 1990

Senator Jack Coghill
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

To Senator Coghill et al re: Senate Bill #391, Farm Tax and Greenhouses.

I have enclosed several pages of various court rulings showing that greenhouses are considered under farm or agricultural use. This should back up your ability to add greenhouses to the Farm Use exemption tax bill.

While on the subject I would strongly ask you to support and work to reinstate our original Farm Tax Bill titled Section 29.10.398 Farm & Agricultural Use. It was a good bill. Fair, enforceable and a much better act than the one in effect now. The original Farm Tax Bill was altered by well meaning but misguided legislators.

For example. The original Bill stated the owner had to make 25% of his gross income from the farm use land, the new Bill only 10%. In the old bill if farm use land were sold for other than farm use the owner was liable to pay back the difference in taxes for two full years plus any part of the current year. The new Bill the seller has to repay seven years taxes. eg. If I purchased some farm land to grow a crop and after one or two years found it was losing money and I had to sell it for other than farm use I would have to pay back taxes for the two previous years plus any portion of the current year. Under the new Bill I would have to pay back seven years or five extra years when I had no interest in the property. What so ever. Is that fair?

Regarding Hawkes Greenhouse at Fairbanks they are farming and adding the word greenhouse would solve his immediate dilemma but I'd sure like to see you get the original Bill reinstated. It is much more clear and understandable to the real farmer who makes a substantial portion of his income from farming.

The original tampering and changing started when a misguided lady legislator denied us the Farm Tax Exemption saying "I feel the Bill was intended to apply to growing food." Every few years someone decides to deny us this use and we have to go through the re-education process for our legislators.

Among the papers I have sent you is a Court Judgement in our favor. This cost many times more in attorney fees than we saved not to count our own time spent in preparing the paper work.

I would like to see our legislature take a good hard look at a workable idea for our Wetlands where most of Alaska land is classified "Wetlands." If 10% of the south 48 states are wetlands then a fair solution would be to require Alaska to retain wetlands in the same proportion. Even to require Alaska to double the percentage used by the south 48 would be ok. Otherwise put all our wetlands into farm use.



ALASKA GREENHOUSES

1301 MULDOON ROAD • ANCHORAGE, ALASKA 99504

Senator Jack Coghill

continued

Listed below are EPA and Corps of Engineers Dept. of the Army Regulations regarding farming and related activities which do not require permits.

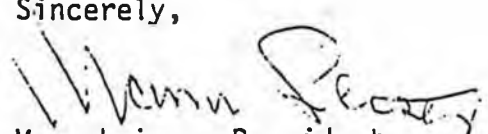
40 CFR Ch:1 (7-1-86 Edition Environmental protection agency 233.35. Activities not requiring permits and again in 33CFR Ch. 11 (7-1-86 Edition) Corps of Engineers, Dept. of the Army DoD 323.4 . Discharges not requiring permits (1) (i) Normal farming etc.

If the U.S. Senate and Congress pass the Wetlands Act to include Alaska as proposed we can turn the Wetlands into farmland and grow many cool weather crops each summer providing new employment with a new renewable resource. All the cole crops, cabbage, broccoli, cauliflower, turnips, radishes etc. grow splendidly here as do spinach, kale, strawberries, raspberries and potatoes. This would also give us a back haul to the south 48 in the equipment now going south empty. This would reduce by over 50% the shipping costs of goods we presently ship north bound.

This should not be done with state funds like the grandious Big Delta grain farm failures or the cattle operation across the inlet from Anchorage but small state loans or SBA loans to individuals upon proper application would really work. Our greenhouse and 30 acres of land was an SBA loan and is all paid back and making money and best of, employing 30 people year round and up to 70 in the summer. (School kids etc.)

Thanking you for your time, I remain

Sincerely,



Mann Leiser, President

ALASKA GREENHOUSES, INC.

ML:b1

LET'S REINSTATE THIS EXCELLENT PIECE OF LEGISLATION:

Section 29.10.398 Farm or Agricultural Use. (a) In this section "farm use" means the use of land for raising and harvesting crops or for feeding, breeding and management of livestock, or for dairying, or another agricultural or horticultural use, or any combination thereof and includes the preparation of the products raised on the farm use land and disposal by marketing or otherwise. It includes the construction and use of dwellings and other buildings customarily provided in conjunction with the farm use. To be farm use land the owner must be actively engaged in farming the land and derive at least one-fourth of his yearly gross income from the farm use land. The provisions of this section shall not apply to land which the owner has granted, and has outstanding, a lease or option to buy the surface rights. (b) Farm lands shall be assessed on the basis of full and true value for farm use and shall not be assessed as if subdivided, etc.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act . . . farm use exemption... agricultural land and greenhouses..."
 Sponsor: Senators Coghill & Halford
 Requestor: _____

Agency Affected: Community & Regional Affairs
 BRU: Community Assistance Grants
 Components: Agricultural Land Exemption

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	-0-	100.	100.	100.	100.	100.
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	100.	100.	100.	100.	100.
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attachment.

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
 Division: Municipal & Regional Assistance Date: _____
 Approved by Commissioner: [Signature] Date: 20 Feb 90
 Agency: Community & Regional Affairs

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1990 - 16TH LEGISLATURE
SECOND SESSION
FISCAL NOTE

Bill/Resolution No.: Senate Bill 391

Title: "An Act relating to a farm use exemption from municipal taxation for agricultural land and greenhouses; and providing for an effective date."

There is no fiscal effect for FY 90. The Agricultural Land Exemption Program, which is designed to reimburse municipalities for the loss of local taxes resulting from the mandatory exemption of a portion of agricultural land value, would be affected by this legislation. It is estimated that the full funding level would increase by \$100,000. Farm use assessments on greenhouse operations located in urban areas will cause the greatest impact because of the significant disparities between farm use value and the value of the "highest and best use" of the affected property. There is currently no funding in the budget for the agricultural land exemption program, the full funding level of which is \$245,000.

FEB 26 1990

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 26, 1990

SUBJECT: Municipal Tax Exemption for Agricultural Land
(SB 391)

TO: Senator Jack Coghill

FROM: Tamara Brandt Cook *ABC*
Director
Division of Legal Services

You have supplied me with a copy of an opinion of the Superior Court dated February 9, 1990 and asked whether I agree with the decision of the judge that the existing tax exemption for agricultural land applies to commercial greenhouse operations. I agree with Judge Savell that the existing definition of "farm use" in AS 29.45.060(c) includes land used for commercial greenhouse operations.

You have also asked whether SB 391 would provide an exemption for greenhouse structures or just the land. SB 391 provides an exemption for greenhouse structures, whether classified as real or personal property. It does, in fact, treat greenhouse structures differently from other farm buildings in that the agriculture exemption currently applies only to land, not to improvements or personal property. I do not, however, believe that the exemption could reasonably be applied to department stores that carry a small selection of house plants in stock because this does not seem to conform to the commonly understood meaning of agricultural use. Nevertheless, I have attempted to address this concern in the enclosed draft CS for the bill.

As requested, the enclosed CS limits the exemption to land occupied by a greenhouse. ~~In an effort to avoid the department store situation, the income test is modified in this CS so that the 10 percent of yearly income must come from the agricultural activities on the land.~~ The existing language only requires that the owner be actively engaged in farming the land and that the required level of income be generated

Senator Jack Coghill
Page 2
February 26, 1990

from the land. Hopefully, this change will prevent an argument about granting the exemption where the income generated comes from sales of toasters, bread, aspirin, or the like, rather than agricultural activities.

TBC:pl
WKP2/091

Enclosure

UNIVERSITY OF CALIFORNIA, DAVIS

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SANTA BARBARA • SANTA CRUZ

COLLEGE OF AGRICULTURAL AND
ENVIRONMENTAL SCIENCES
AGRICULTURAL EXPERIMENT STATION

DEPARTMENT OF ENVIRONMENTAL HORTICULTURE
DAVIS, CALIFORNIA 95616

March 6, 1973

Mr. O. M. Leiser
Alaska Greenhouses
1301 Muldoon Road
Anchorage, Alaska

Dear Mann:

Enclosed are some information sheets on the tax situation for nurseries and greenhouses in California Counties. Apparently California nurseries and greenhouse growers have lost the fight to exempt growing plant material from taxation, although some of them are qualifying under the open space exemptions of the Williamson Act. In addition to checking with the extension people here I have called the California Association of Nurserymen and their executive secretary suggests that you contact Mr. Ray Brush, American Association of Nurserymen, 232 Southern Building, 15th & H Streets NW, Washington, D.C. 20005. They have a mimeographed information sheet on tax exemptions or agricultural exemptions for nurserymen documented with court cases and Federal law decisions in numerous areas; such as minimum wages, industrial safety, etc. which is available not only to members of the Association but to anyone in the general business. Apparently their philosophy is that any bad tax decision can ultimately hurt anyone in the industry so they do make it available to non-members. I will get a note off to Ray Brush but you might write him also. Enclosed is a copy of my note to Ray.

Sincerely,

Andrew T. Leiser
Associate Professor

ATL:wf

Enclosures

RECEIVED

MAR 9 1973

UNIVERSITY OF CALIFORNIA, DAVIS

BERKELEY • DAVIS • IRVINE • LOS ANGELES • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

COLLEGE OF AGRICULTURAL AND
ENVIRONMENTAL SCIENCES
AGRICULTURAL EXPERIMENT STATION

DEPARTMENT OF ENVIRONMENTAL HORTICULTURE
DAVIS, CALIFORNIA 95616

March 6, 1973

Mr. Ray Brush
American Association of Nurserymen
232 Southern Building
15th & H Streets NW
Washington, D.C. 20005

Dear Ray:

Jack Wick has suggested that I write to you. My brother is the owner of Alaska Greenhouses in Anchorage, Alaska and he has asked me for any possible help on tax decisions relating to floriculture nursery businesses. Jack tells me that you have an information sheet that you will mail out even to persons who are not members of the Association, because of the potential general good to the industry as a whole. My brother's operation is primarily a floriculture production and retail sales situation, but apparently he is having trouble with the local government at Anchorage in terms of getting agricultural classification for his operation.

I would consider it a personal favor if you can send him any precedent decisions on this subject. Please address correspondence to:

Mr. O. M. Leiser
Alaska Greenhouses
1301 Muldoon Road
Anchorage, Alaska

Sincerely,

Andrew T. Leiser
Associate Professor

ATL:wfi

cc: Mann Leiser ✓

RECEIVED
MAR 9 1973

GREATER ANCHORAGE AREA BOROUGH
3500 E. Tudor Road
Anchorage, Alaska 99507

RECEIVED
APR 6 1973

PROPERTY SCHEDULE
TYPE: _____
TIME: _____
DATE: _____
TIME: _____

ACCOUNT NUMBER 006-191-11
LOCATION Muldoon & Debarr
PARCEL SIZE _____

APPRAISER'S NOTES

Since comparables are not available, we rely on a cost approach to arrive at our valuation. The greenhouses total 47,352 sq. ft. and are valued at \$3.61 per sq. ft. The greenhouses were erected by the appellant. Our cost approach considers a typical contractors profit and overhead margin. The two double wide modular living units are valued from a "Blue Book" approach.

Appeal is based on "Farm Use".

Subject valued at approximately \$9,640 per acre.

Land Comparables:

C-3 This is a 2.07 acre tract located one mile to the north of the subject. This parcel sold in June 1970 for \$60,000 or \$29,000 per acre.

C-23 This is a 1.81 acre tract located on the northeast corner of Boniface Parkway & Tudor Rd. This parcel sold in Dec. 1971 for \$151,000 or \$83,500 per acre.

C-1 This is a 152 acre tract located 1 1/2 miles to the south of the subject. This property sold in Dec. 1972 for \$1,100,000 or \$7,000 per acre.

C-20 This is a 53 acre tract located approximately 900' to the south of the subject. This property sold in Nov. 1971 for \$357,000 or \$6,735 per acre.

APPRAISER Jack Long

APPRAISER Tom Harrison

DATE 3/26/73

APPRAISER'S RECOMMENDATION

LAND _____

BUILDING _____

TOTAL NO CHANGE

ASSESSOR'S COMMENTS

The subject property is Alaska Greenhouses on Muldoon Road.

STATE OF ALASKA

WILLIAM ALLEGAN, Secretary

DEPARTMENT OF ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER — BRANCH OFFICE

Rm. 720, MacKay Bldg.
328 JORDAN AVENUE, MACKEY ANNEX
ANCHORAGE 99501

April 12, 1972

Greater Anchorage Area Borough
Board of Equalization
3500 Tudor Road
Anchorage, Alaska

Dear Sirs:

I would like to go on record as objecting to the assessment of property currently used in active operations of Alaska Greenhouses, Inc. The Department of Economic Development has been a supporter of this project since its inception and, in fact, partially financed construction of the greenhouse. When the feasibility study was done, we suggested the enterprise plan to take advantage of a state law which instructs Boroughs of the State to give agricultural and horticultural enterprises a tax advantage in the form of lower assessment on land used for these purposes. Under the Act, an agricultural or horticultural enterprise qualifies if 25% of the entrepreneurs' gross income comes from the activity.

There is no doubt in our mind that Alaska Greenhouses qualifies under the Act. Further, much of the land they occupy is flood plain land and, as such, is virtually useless for anything but agricultural or recreational endeavors. The industry contributes substantially to the economics of the area and without the lower assessment will undoubtedly be forced to move. Certainly, the Borough needs the payroll generated, the operation preserves the area as a green belt area and, of course, the industry promotes a more beautiful Borough.

We recommend a procedure of assessment be instituted for agricultural and horticultural enterprises which is patterned after that followed in the Matanuska Valley. The Mat-Su Borough assesses 100% productive agricultural land at a rate of \$350 per acre. This \$350 is based on a value of \$150 for land used for agriculture, and \$200 for improvements to put the land into production, such as clearing and leveling.

Your favorable consideration will be appreciated.

Sincerely;

Dominic L. Carney
Dominic L. Carney

Agriculture Development Specialist

DLC:nf

This is just one of the times we have to go to court to have our rights affirmed.

ALASKA GREENHOUSES, INC.,
Plaintiff,
vs
GREATER ANCHORAGE AREA
BOROUGH,
Defendant.

We can always win but we should not have to fight for our rights.

FILED in the Superior Court
State of Alaska, Third District
ENDORSED
FEB 15 1973
A. M. VOKACEK, Clerk
By *M. Coy* Deputy

No. 72-1628

JUDGMENT UPON CONFESSION

This action came before the Court, the Honorable Eben H. Lewis presiding, on February 13, 1973, for confession of judgment by the defendant. The Court being fully advised in the premises, finds that the plaintiff, Alaska Greenhouses, Inc., for purposes of eligibility under Alaska Statute 29.10.398, is the owner of the property described in the complaint, is engaged in agricultural or horticultural activities, and therefore qualifies under the "farm use" tax statute, and in 1971 and in 1972, derived more than one-fourth of its gross income from farm use activities. It is therefore

ORDERED, ADJUDGED AND DECREED that plaintiff recover from the defendant \$2,236.36 with interest thereon at eight per cent (8%) per annum from February 13, 1973, plus costs of \$38.40, and attorney's fees of \$1,100.00.

Done at Anchorage, Alaska this 15 day of February, 1973.

ALASKA RURAL REHABILITATION CORP.

GENERAL OFFICES
BOX C
PALMER, ALASKA
99648

March 7, 1972

RECEIVED
JAN 19 1973

Mr. Mann Leiser, President
Alaska Greenhouses, Inc.
1301 Muldoon Road
Anchorage, Alaska 99504

Dear Mann:

I have delayed answering your letter of February 21, as I was one of the local people who were asked to serve on a special committee to advise the Borough on the true value of farm land in the Matanuska Valley.

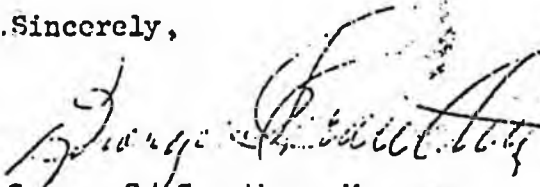
The Committee concluded that the true farm land value of the best soils in the Matanuska Valley is \$350 per acre.

Our best soils, located close to the City of Palmer, are Class II soils and are 18 inches or deeper in depth. Soils with a lower productive capacity will be taxed at a lower rate.

I am enclosing a copy of the soil classifications that we have in the Valley and the percentages assigned to those soils with lower productive capacity than our Class II soils.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,


George S. Crowther, Manager
Alaska Rural Rehabilitation Corp.

GSC:ph

Enclosure

Exhibit 4

A nonprofit Alaskan corporation dedicated to the permanent development of Alaskan agriculture

January 11, 1973

Greater Anchorage Area Borough
Board of Equalization
3500 Tudor Road
Anchorage, Alaska

RECEIVED

JAN 15 1973

Dear Sirs:

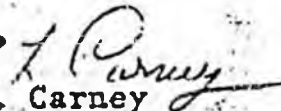
I would again like to go on record as supporting the request of Mr. Mann Leiser and Alaska Greenhouses, Inc., to qualify for a reduced land assessment for property used in agricultural production. The Department of Economic Development has been a supporter of this project since its inception and, in fact, partially financed construction of the greenhouse. When the feasibility study was done, we suggested the enterprise plan to take advantage of a state law which instructs Boroughs of the State to give agricultural enterprises this tax advantage. Under the Act, an agricultural enterprise qualifies if 25% of the entrepreneurs' gross income comes from the Activity.

There is no doubt in our mind that Alaska Greenhouses qualifies under the Act. Further, much of the land they occupy is flood plain-land and, as such, is virtually useless for anything but agricultural or recreational endeavors. The industry contributes substantially to the economics of the area and without the lower assessment will undoubtedly be forced to move. Certainly, the Borough needs the payroll generated, the operation preserves the area as a green belt area and, of course, the industry promotes a more beautiful Borough.

We recommend a procedure of assessment be instituted for agricultural enterprises which is patterned after that followed in the Matanuska Valley. The Mat-Su Borough assesses 100% productive agricultural land at a rate of \$350 per acre. This \$350 is based on a value of \$150 for land used for agriculture, and \$200 for improvements to put the land into production, such as clearing and leveling.

Your favorable consideration will be appreciated.

Sincerely,


Dominic L. Carney



COOPERATIVE EXTENSION SERVICE

UNIVERSITY OF ALASKA
FAIRBANKS ALASKA 99701

Matanuska - Susitna District Box 736
Palmer, Alaska 99645

January 16, 1973

Mr. Mann Leiser
Alaska Greenhouses
1301 Muldoon Road
Anchorage, Alaska 99504

Dear Mann:

It is logical that the law writers in rewriting the act on assessing farm lands drop the word "horticultural" as it is a part of agriculture. The act does mention "raising and harvesting crops" which would include horticulture as well as agronomy. Our vegetable growers, potato growers, and greenhouse growers (all horticulturists), in the Matanuska Valley qualify if they meet the 25% income provision of the law. All of them are engaged in the "raising and harvesting of crops." The same is true for others engaged in the "raising and harvesting of crops" such as a hay producer or grain producer, who are agronomists. Agronomy is not mentioned in the law either.

In looking for a comprehensive definition I went no further than our encyclopedia, Collier's Encyclopedia, copyright 1966, book #12 on page 291 gives the following:

"HORTICULTURE, a division of agriculture. The word is derived from the Latin hortus, "a garden" and colere, "to care for." Horticulture includes fruit growing (pomology), vegetable growing (olericulture), and floriculture, which embraces both flowers grown by amateurs and those grown commercially by florists."

Simply put horticulture is as much a part of agriculture as animal husbandry or agronomy.

This past year our best agricultural land was assessed at \$350 per acre. Uncleared land on the same farm and of the same quality was assessed at \$150 per acre. The lowest quality cleared land would be assessed at \$200 per acre. On comparative land values for farming I would hold the same as I did in my February 25, 1972 letter. When production capabilities of land are taken into consideration it would be impossible to establish a higher value on land for farming in the Anchorage area than what we have in the valley. I am sure that it would be still impossible to establish any recent history of land sales for farming in your area. Therefore, since lands in question are only 40 miles or so apart the logical approach would be to use land values (for farming) the same as we have in the Matanuska Valley.

Page 2, Mann Leiser
January 16, 1973

I feel that this taxation issue that you face with the Anchorage Borough is extremely vital to the future well being of the whole area and I hope that it can soon be properly resolved to comply with the State law. The quality of our environment is presently a big issue. Your acres provide open space, a place of rare beauty in addition to promoting beautification to the entire Anchorage area. It is the very thing we are to preserve and promote in order to maintain a desirable environment in an urban setting. It would seem that this should be readily apparent to Borough officials.

Please feel free to call on me at any time that you feel I might be of assistance in this matter.

Sincerely yours,



Peter M. Probasco
Program Leader -- Agriculture
and Farm Management

PMP:lf

cc: Ben Westrade

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER — BRANCH OFFICE

338 DENALI STREET — ROOM 720, MACKAY BLDG.
ANCHORAGE 99501

January 11, 1967

Greater Anchorage Area Borough
Board of Equalization
5500 Tudor Road
Anchorage, Alaska

Dear Sirs:

I would again like to go on record as supporting the request of Mr. Mann Leiser and Alaska Greenhouses, Inc., to qualify for a reduced land assessment for property used in agricultural production. The Department of Economic Development has been a sponsor of this project since its inception and, in fact, partially financed construction of the greenhouse. When the feasibility study was done, we suggested the enterprise plan to take advantage of a state law which instructs Boroughs of the State to give agricultural enterprises this tax advantage. Under the Act, an agricultural enterprise qualifies if 75% of the entrepreneurs' gross income comes from the activity.

There is no doubt in our mind that Alaska Greenhouses qualify under the Act. Further, much of the land they occupy is not plain land and, as such, is virtually useless for anything but agricultural or recreational endeavors. The industry contributes substantially to the economics of the area and without the lower assessment will undoubtedly be forced to move. Certainly, the Borough needs the payroll generated, the operation preserves the area as a green belt area and, of course, the industry provides a more beautiful Borough.

We recommend a procedure of assessment be instituted for agricultural enterprises which is patterned after that used in the Matanuska Valley. The Mat-Su Borough assesses agricultural land at a rate of \$50 per acre. This is based on a value of \$150 for land used for agriculture, plus the cost of improvements to put the land into production, such as clearing and leveling.

Your favorable consideration will be appreciated.

Sincerely,

Item #3

Standard Industrial Classification Manual - 1972

RECEIVED
MAR 24 1973

Division A

Agriculture, Forestry, and Fishing

The Division as a Whole

This division includes establishments primarily engaged in agricultural production, forestry, commercial fishing, hunting and trapping, and related services.

The classification of agricultural production covers establishments (farms, ranches, dairies, greenhouses, nurseries, orchards, hatcheries, etc.) primarily engaged in the production of crops, plants, vines, or trees (excluding forestry operations); and the keeping, grazing, or feeding of livestock for the sale of livestock or livestock products (including serums), for livestock increase, or for value increase. Livestock as used here includes cattle, sheep, goats, hogs, and poultry. Also included are animal specialties such as horses, rabbits, bees, pets, fur-bearing animals in captivity and fish in captivity. Agricultural production also includes establishments primarily engaged in the operation of sod farms, mushroom cellars, cranberry bogs, poultry hatcheries, and in the production of bulbs, flower seeds, and vegetable seeds.

Farms are the establishment units generally utilized for the purpose of industrial classification of agricultural production. A farm may consist of a single tract of land, or a number of separate tracts which may be held under different tenures. For example, one tract may be owned by the farmer and another rented by him. It may be operated by the operator alone or with the assistance of members of his household or hired employees, or it may be operated by a partnership, corporation, or other type of organization. When a landowner has one or more tenants, renters, croppers, or managers, the land operated by each is considered a farm.

The classification of agricultural services includes establishments primarily engaged in supplying soil preparation services, crop services, landscape and horticultural services, veterinary and other animal services, and farm labor and management services.

The classification of forestry covers establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forestry services. Logging camps and logging contractors are classified in Industry 2411.

The classification of fishing, hunting, and trapping covers establishments primarily engaged in commercial fishing (including shellfish and marine products); operating fish hatcheries, and fish and game preserves; and commercial hunting and trapping.

Group Industry
No. No.

017 FRUITS AND TREE NUTS—Continued

0173 Tree Nuts

Establishments primarily engaged in the production of tree nuts.

Almond groves and farms
Chestnut groves and farms
Peanut groves and farms

Tree nut groves and farms
Walnut groves and farms

0174 Citrus Fruits

Establishments primarily engaged in the production of citrus fruits.

Citrus groves and farms
Grapefruit groves and farms
Lemon groves and farms

Lime groves and farms
Orange groves and farms
Tangerine groves and farms

0175 Deciduous Tree Fruits

Establishments primarily engaged in the production of deciduous tree fruits. Establishments primarily growing citrus fruits are classified in Industry 0174, and tropical fruits in Industry 0179.

Apple orchards and farms
Apricot orchards and farms
Cherry orchards and farms
Nectarine orchards and farms
Peach orchards and farms
Pear orchards and farms

Persimmon orchards and farms
Plum orchards and farms
Pomegranate orchards and farms
Prune orchards and farms
Quince orchards and farms

0179 Fruits and Tree Nuts, Not Elsewhere Classified

Establishments primarily engaged in the production of fruits and nuts, not elsewhere classified. This industry also includes establishments deriving 50 percent or more of their total value of sales of agricultural products from fruit and tree nuts (Industry Group 017), but less than 50 percent from products of any single industry.

Avocado orchards and farms
Date orchards and farms
Fig orchards and farms

Olive groves and farms
Pineapple farms
Tropical fruit farms

018

HORTICULTURAL SPECIALTIES

0181 Ornamental Floriculture and Nursery Products

Establishments primarily engaged in the production of ornamental plants and other nursery products, such as bulbs, florists' greens, flowers, shrubbery, flower and vegetable seeds and plants, and sod. These products may be grown under cover (greenhouse, frame, cloth house, lath house) or outdoors.

Bulbs, growing of
Field nurseries: growing of flowers and shrubbery, except forest shrubbery
Florists' greens, cultivated: growing of
Flowers, growing of
Fruit stocks, growing of
Greenhouses for floral products
Mats, preseeded: soil erosion—growing of

Nursery stock, growing of
Plants, ornamental: growing of
Plants, potted: growing of
Roses, growing of
Seed, flower and vegetable: growing of
Shrubberies, except forest shrubbery: growing of
Sod farms

0182 Food Crops Grown Under Cover

Establishments primarily engaged in the production of fruits and vegetables grown under cover.

Fruits grown under cover
Greenhouses for food crops
Mushroom cellars
Mushroom spawn, production of

Rhubarb grown under cover
Tomatoes grown under cover
Vegetables grown under cover

0189 Horticultural Specialties, Not Elsewhere Classified

Establishments primarily engaged in the production of horticultural specialties, not elsewhere classified. This industry also includes establishments deriving 50 percent or more of their total value of sales of agricultural products from horticultural specialties (Industry Group 018), but less than 50 percent from products of any single industry.

Major Group 01.—AGRICULTURAL PRODUCTION—CROPS

The Major Group as a Whole

This major group includes establishments (farms, orchards, greenhouses, nurseries, etc.) primarily engaged in the production of crops or plants, vines and trees (excluding forestry operations). This major group also includes establishments primarily engaged in the operation of sod farms, mushroom cellars, cranberry bogs, and in the production of bulbs, flower seeds, and vegetable seeds.

An establishment primarily engaged in crop production (Major Group 01) is classified in the industry (4-digit) and industry group (3-digit) which accounts for 50 percent or more of the total value of sales for its agricultural production. If the total value of sales for agricultural products of an establishment is less than 50 percent from a single 4-digit industry, but 50 percent or more of the value of sales for its agricultural products derives from the products of two or more 4-digit industries within the same 3-digit industry group, the establishment is classified in the miscellaneous industry of that industry group; otherwise, it is classified as a general crop farm in Industry 0191.

Group No.	Industry No.	
011		CASH GRAINS
	0111	Wheat Establishments primarily engaged in the production of wheat. Wheat farms
	0112	Rice Establishments primarily engaged in the production of rice. Rice farms
	0115	Corn Establishments primarily engaged in the production of corn for grain. Establishments primarily engaged in the production of sweet corn are classified in Industry 0101. Corn farms (field corn)
	0116	Soybeans Establishments primarily engaged in the production of soybeans. Soybean farms
	0119	Cash Grains, Not Elsewhere Classified Establishments primarily engaged in the production of cash grains, not elsewhere classified. This industry also includes establishments deriving 50 percent or more of their total value of sales of agricultural products from cash grains (Industry Group 011), but less than 50 percent from products of any single industry. Barley farms Bean (dry field and seed) farms Buckwheat farms Cash grain farms; except wheat, rice, corn, and soybeans Cowpea farms Emmer farms Feed grain farms Flaxseed farms Grain farms; except wheat, rice, corn, and soybeans Lentil farms Mustard seed farms Oat farms Pea (dry field and seed) farms Popcorn farms Rye farms Safflower farms Sorghum (except for straw) farms
013		FIELD CROPS, EXCEPT CASH GRAINS
	0131	Cotton Establishments primarily engaged in the production of cotton and cottonseed. Cotton farms Cottonseed farms

Group No. Industry No.

ANIMAL SERVICES, EXCEPT VETERINARY—Continued

0751 Livestock Services, Except Services for Animal Specialties—Continued

Artificial insemination	Milk testing for butterfat, etc.
Breeding of livestock, except animal specialties	Pedigree record services for cattle, hogs, sheep, goats, and poultry
Catching poultry, with no hauling	Sheep dipping and shearing
Cattle spraying	Showing of cattle, hogs, sheep, goats, and poultry
Cleaning poultry coops	Slaughtering, custom, for individuals
Dairy herd improvement associations	Vaccinating livestock, except animal specialties, except by veterinarians
Livestock breeding services, except for animal specialties	

0752 Animal Specialty Services

Establishments primarily engaged in performing services, except veterinary, for pets, equines, and other animal specialties. Establishments primarily engaged in performing services other than veterinary for cattle, hogs, sheep, goats, and poultry are classified in Industry 0751.

Boarding kennels	Pedigree record services for pets and other animal specialties
Boarding or training horses (including race horses)	Showing of pets and other animal specialties
Breeding of animals other than cattle, hogs, sheep, goats, and poultry	Training of pets and other animal specialties
Dog grooming	Vaccinating pets and other animal specialties, except by veterinarians
Honey straining (on the farm)	

076 FARM LABOR AND MANAGEMENT SERVICES

0761 Farm Labor Contractors and Crew Leaders

Establishments primarily engaged in supplying labor for agricultural production or harvesting. Establishments primarily engaged in machine harvesting are classified in Industry 0722.

Crew leaders, farm labor: contract	Farm labor contractors
------------------------------------	------------------------

0762 Farm Management Services

Establishments primarily engaged in providing farm management services, including management or complete maintenance of citrus groves, orchards, and vineyards. Such activities may include cultivating, harvesting, or other specialized activities, but establishments primarily engaged in performing such operations without management services are classified in the appropriate specific industry within Group 072.

Citrus grove management and maintenance, with or without crop services	Orchard management and maintenance, with or without crop services
Farm management services	Vineyard management and maintenance, with or without crop services

078 LANDSCAPE AND HORTICULTURAL SERVICES

0781 Landscape Counseling and Planning

Establishments primarily engaged in performing landscape planning, architectural, and counseling services.

Garden planning	Landscape architects
Horticultural advisory or counseling services	Landscape counseling
	Landscape planning

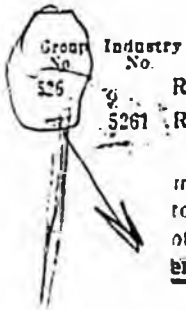
0782 Lawn and Garden Services

Establishments primarily engaged in performing a variety of lawn and garden services.

Bermuda sprigging services	Lawn mowing services
Cemetery upkeep, independent	Lawn spraying services
Garden maintenance	Lawn sprigging services
Garden planting	Mowing highways, center strips, and edges
Lawn care	
Lawn fertilizing services	



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RETAIL NURSERIES, LAWN AND GARDEN SUPPLY STORES

Retail Nurseries, Lawn and Garden Supply Stores

Establishments primarily engaged in selling trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, and other garden supplies to the general public. These establishments primarily sell products purchased from others, but may sell some plants which they grow themselves. Establishments primarily engaged in growing are classified in Major Group 01.

- Christmas trees (natural)—retail
- Fertilizer—retail
- Garden supplies and tools—retail
- Lawn mowers—retail
- Lawn sprinklers—retail
- Nursery stock, seeds and bulbs—retail
- Power mowers—retail

527

MOBILE HOME DEALERS

5271 Mobile Home Dealers

Establishments primarily engaged in the retail sale of new and used mobile homes. Establishments primarily selling travel trailers and campers are classified in Industry 5501.

Mobile homes, new and used—retail



RECEIVED
MAR 2 = 1963

NEW CALIFORNIA LAW DEFINES "GROWING AGRICULTURAL CROPS"

The California Association of Nurserymen was successful this year in obtaining legislation which definitely establishes that the production of nursery crops is no different than the production of any other agricultural crops.

The bill as signed by the Governor of California reads as follows:

"Inasmuch as the planned production of trees, vines, rose bushes, ornamental plants and other horticultural crops is distinguishable from the production of other products of the soil only in relation to the time elapsing before maturity, plants being produced by nurseries shall be considered to be "growing agricultural crops" for the purpose of any laws pertaining to the agricultural industry of the State."

This legislation is probably the most important single piece of legislation that has ever been approved for the nursery industry in California.

Congratulations to the C. A. N.!

HIGHWAY LANDSCAPE POLICY

The bulletin, A Policy on Landscape Development for the National

System of Interstate and Defense Highways, has recently approved by the

MAR 2 = 1963
9

FLORIDA LAW DEFINES "AGRICULTURE" TO INCLUDE
HORTICULTURE AND FLORICULTURE

The Florida Nurserymen and Growers Association has joined the California Association of Nurserymen in going a long way toward averting difficulties with certain state governmental bodies who would exclude horticulture and floriculture from the definition of agriculture for such purposes as tax, licensing, real estate assessments, etc.

The bill which became Florida law reads as follows:

"That whenever the terms 'agriculture, agricultural purposes, agricultural uses' or words of similar import are used in any of the statutes of the State of Florida, such terms shall include horticulture and floriculture, horticultural purposes and floricultural purposes, horticultural uses and floricultural uses, and words of similar import applicable to agriculture shall likewise be applicable to horticulture and floriculture."

Congratulations to the Florida Nurserymen who once again have shown the good sense that it makes for nurserymen to work together in their various associations.

FINISH EUROPEAN STRAWBERRY PLANT IMPORTS PROPOSED

In the Federal Register of October 7, 1961, the U.S.D.A. announced that the United States strawberry industry is to be free

the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

"(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

"(3) In connection with the production or harvesting of maple syrup or maple sugar or any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the raising or harvesting of mushrooms, or in connection with the ginning of cotton, or in connection with the hatching of poultry, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes.

"(4) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits or vegetables as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

"As used in this subsection, the term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

This definition is amplified by Regulations 106 and 107 of the Bureau of Internal Revenue, obtainable from the Superintendent of Documents, Government Printing Office, Washington D.C. 20401, for 15¢ each (stamps not acceptable).

ADMINISTRATIVE DEFINITIONS

(3) Census. In the 1940 "Farm and Ranch Schedule" of the Bureau of the Census, the definition of a farm was as follows:

"A farm, for Census purposes, is all the land on which some agricultural operations are performed by one person, either by his own labor alone or with the assistance of members of his household, or hired employees. The land operated by a partnership is likewise considered a

farm. A 'farm' may consist of a single tract of land, or a number of separate tracts, and the several tracts may be held under different tenures, as when one tract is owned by the farmer and another tract is rented by him. When a landowner has one or more tenants, renters, croppers, or managers, the land operated by each is considered a farm. Thus, on a plantation the land operated by each cropper, renter, or tenant should be reported as a separate farm, and the land operated by the owner or manager by means of wage hands should likewise be reported as a separate farm.

"Include dry-lot or barn dairies, nurseries, greenhouses, hatcheries, fur farms, mushroom cellars, apiaries, cranberry bogs, etc.

"Exclude 'fish farms,' fish hatcheries, 'oyster farms,' and 'frog farms.'

"Do not report as a farm any tract of land of less than 3 acres, unless its agricultural products in 1939 were valued at \$250 or more."

(4) O.D.T. Orders. The terms "farm," "farm products" and "agricultural commodities and products" are used throughout various Office of Defense Transportation Orders. They were defined on November 23, 1942, by the General Counsel of ODT as follows:

"The term 'farm' as used in such General Orders and General Permits, includes any plot, parcel, or tract of land, used for agricultural purposes or devoted (1) to agriculture, (2) to any industry practiced by a cultivator of the soil in connection with the cultivation of the soil, or (3) to the breeding or raising of livestock, and includes any ranch, patch, orchard, vineyard, plantation or grove.

"The term 'agricultural commodities or products thereof' as used in such General Orders, includes within its scope any article or thing which is yielded, raised or produced on a farm--either incidental to or as a result of the cultivation of the soil or in connection with the breeding or raising of livestock--by nature, labor or otherwise. Such term includes any domestic animal, bird, or insect, raised on a farm, and also any product of such animal, bird or insect produced on, or in connection with the operation of, a farm and used as a food, as a fertilizer, or for the manufacture of clothing.

"The term 'farm products' as used in such General Permits, is synonymous with the term 'agricultural commodities and products thereof' as used in such General Orders."

(5) Economic Stabilization. For the purposes of wage and salary control, agricultural labor is currently defined by the Office of Economic Stabilization in the following items:

Sec. 1100.1 (g) "The term 'agricultural labor' means persons who are employed in farming in any of its branches, including among other things the cultivation and tillage of the soil, dairying, the production, cultivation and harvesting of agricultural or horticultural commodities, and the raising of livestock, bees or poultry; provided, however, that the term 'agricultural labor' shall not include any person whose salary payments exclusive of bonuses and additional compensation, and without regard to the contemplated adjustment, are at a rate computed on an annual basis which exceeds \$5,000. per annum."

FEB 26 1990

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 26, 1990

SUBJECT: Municipal Tax Exemption for Agricultural Land
(SB 391)

TO: Senator Jack Coghill

FROM: Tamara Brandt Cook *ABC*
Director
Division of Legal Services

You have supplied me with a copy of an opinion of the Superior Court dated February 9, 1990 and asked whether I agree with the decision of the judge that the existing tax exemption for agricultural land applies to commercial greenhouse operations. I agree with Judge Savell that the existing definition of "farm use" in AS 29.45.060(c) includes land used for commercial greenhouse operations.

You have also asked whether SB 391 would provide an exemption for greenhouse structures or just the land. SB 391 provides an exemption for greenhouse structures, whether classified as real or personal property. It does, in fact, treat greenhouse structures differently from other farm buildings in that the agriculture exemption currently applies only to land, not to improvements or personal property. I do not, however, believe that the exemption could reasonably be applied to department stores that carry a small selection of house plants in stock because this does not seem to conform to the commonly understood meaning of agricultural use. Nevertheless, I have attempted to address this concern in the enclosed draft CS for the bill.

As requested, the enclosed CS limits the exemption to land occupied by a greenhouse. ~~In an effort to avoid the department store situation, the income test is modified in this CS so that the 10 percent of yearly income must come from the agricultural activities on the land.~~ The existing language only requires that the owner be actively engaged in farming the land and that the required level of income be generated

Senator Jack Coghill
Page 2
February 26, 1990

from the land. Hopefully, this change will prevent an argument about granting the exemption where the income generated comes from sales of toasters, bread, aspirin, or the like, rather than agricultural activities.

TBC:pl
WKP2/091

Enclosure

BY SEN. COGHILL, Halford

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 391 (*Resources*)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to a farm use exemption from municipi-
7 pal taxation for agricultural land; and providing for
8 an effective date."

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

10 * Section 1. AS 29.45.060(c) is amended to read:

11 (c) In this section "farm use" means the use of land for profit
12 for raising, in a greenhouse or otherwise, [AND HARVESTING] crops or
13 ornamental plants, for the feeding, breeding, and management of live-
14 stock, for dairying, or another agricultural use, or any combination
15 of these. To be farm use land, the owner or lessee must be actively
16 engaged in agriculture on [FARMING] the land, and derive at least 10
17 percent of yearly gross income from the agricultural activities on the
18 land. This section does not apply to land for which the owner has
19 granted, and has outstanding, a lease or option to buy the surface
20 rights. A property owner wishing to file for farm use classification
21 having no history of farm-related income may submit a declaration of
22 intent at the time of filing the application with the assessor setting
23 out the intended use of the land and the anticipated percentage of
24 income. An applicant using this procedure shall file with the asses-
25 sor before February 1 of the following year a notarized statement of
26 the percentage of gross income attributable to the land. Failure to
27 make the filing required in this subsection forfeits the exemption.

28 * Sec. 2. This Act takes effect January 1, 1991.

Alaska Municipal League
Scott Burgess, Executive Director
217 Second Street, Suite 200
Juneau, Alaska 99801

RE: SB 391-Agricultural Deferment for Greenhouses

Dear Scott,

The Alaska Association of Assessing Officers has reviewed the above described bill and would like to offer our position and a proposed amendment.

The bill, as introduced, appears to have the value of "the greenhouse" reduced from full market value to a farm use value. AS 29.45.060 is a farm use "land" deferment and not meant to attach to structures upon the land. We believe that this bill substantially changes the farm use program from the original intent and does not address the issues which have been voiced by commercial greenhouse operators.

It is our understanding that the bill was introduced to include commercial greenhouse operations in the program. The inclusion of these types of operations is contrary to past positions of assessor's office's and the Department of Community & Regional Affairs. These positions were based upon an Attorney General's opinion in the early 1980's and the assumed intent of the legislature in passing the original bill. It was our belief that the program was designed to protect farms from being taxed out of existence because of rising land values and the demand for more developable property.

Commercial operations, such as greenhouses or creameries which are not part of a farm unit, do not necessarily need large spaces to operate efficiently. Many of these operations are within City Limits and comprise only one or two lots. Some larger operations may have as much as 35%-40% of the gross income coming from the sale of chemicals and fertilizer much like the Fred Meyer or Pay N Save operations around the State. We do not believe that the intent is to include an operation of this type and would suggest that the following be considered as an amendment to AS 29.45.060(c):

".....This section does not apply to land which supports a commercial greenhouse operation which is not a part of a farm unit or to land which the owner has granted, and has outstanding, a lease or option to buy the surface rights."

This amendment does not preclude the inclusion of greenhouse lands in the farm use program if the structures are a part of the farm unit, such as barns, shops and residences.

With the revenue forecasts that we have seen, it is difficult for us to envision the legislature wanting to erode our tax base by expanding property tax exemptions.

Mickey Keller,
President

Steve Van Sant,
Vice-President

Submitted by the Alaska Association of Assessing Officers

IN THE SENATE

Proposed CS for SENATE BILL NO. 391

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to a farm use exemption from municipal taxation for agricultural land and greenhouses; and providing for an effective date."

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

* Section 1. AS 29.45.060 is amended to read:

(a) Farm use land included in a farm unit and not dedicated or being used for non farm purposes shall be assessed on the basis of full and true value for farm use and may not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the land for both full and true value and farm use value. If the land is sold, leased, or otherwise disposed of for uses incompatible with farm use or converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceding seven years. The balance of the payment shall be made to the municipality.

(b) An owner of farm use land must, to secure the assessment under this section, apply to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor, and shall include information that may reasonably be required to determine the entitlement of the applicant. If the land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested.

(c) In this section "farm use" means the use of land for profit for raising and harvesting crops, for the feeding, breeding, and management of livestock, for dairying, or another agricultural use, or any combination of these. To be farm use land, the owner or lessee must be actively engaged in farming the land, and derive at least 10 percent of yearly gross income from the land. This section does not apply to land supporting a commercial greenhouse operation which is not a part of a farm unit, or to land for which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner wishing to file for farm use classification having no history of farm-related income may submit a declaration of intent at the time of filing the application with the assessor setting out the intended use of the land and the anticipated percentage of income. An applicant using this procedure shall file with the assessor before February 1 of the following year a notarized statement of the percentage of gross income attributable to the land. Failure to make the filing required in this subsection forfeits the exemption.

(d) In the event of a crop failure by an act of God the previous year, the owner or lessee may submit an affidavit affirming that 10 percent of gross income for the past three years was from farming.

(e) Subject to legislative appropriations for the purpose, the state shall reimburse a borough or city, as appropriate, for the property tax revenues lost to it by the operation of this section.

(12 ch 74 SLA 1985)

* Section 2. This Act takes effect January 1, 1991.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act..farm use exemption... agricultural land and greenhouses..."
 Sponsor: Senators Coghill & Halford
 Requestor: _____

Agency Affected: Community & Regional Affairs
 BRU: Community Assistance Grants
 Components: Agricultural Land Exemption

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	-0-	100.	100.	100.	100.	100.
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	100.	100.	100.	100.	100.
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attachment.

Prepared by: *Jim Plasman* Jim Plasman, Deputy Director Phone: 465-4750
 Division: Municipal & Regional Assistance Date: _____
 Approved by Commissioner: *Chick Evers* Date: 20 Feb 1990
 Agency: Community & Regional Affairs

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

STATE OF ALASKA 1990 - 16TH LEGISLATURE
SECOND SESSION
FISCAL NOTE

Bill/Resolution No.: Senate Bill 391

Title: "An Act relating to a farm use exemption from municipal taxation for agricultural land and greenhouses; and providing for an effective date."

There is no fiscal effect for FY 90. The Agricultural Land Exemption Program, which is designed to reimburse municipalities for the loss of local taxes resulting from the mandatory exemption of a portion of agricultural land value, would be affected by this legislation. It is estimated that the full funding level would increase by \$100,000. Farm use assessments on greenhouse operations located in urban areas will cause the greatest impact because of the significant disparities between farm use value and the value of the "highest and best use" of the affected property. There is currently no funding in the budget for the agricultural land exemption program, the full funding level of which is \$245,000.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FOURTH JUDICIAL DISTRICT

REX B. LANTZ, JR.,
Appellant,

v.

FAIRBANKS NORTH STAR BOROUGH,
Appellee.

FILED in the Trial Courts
State of Alaska, Fourth District

FEB 09 1990

By _____ Deputy

Case No. 4FA-89-0986 Civil

MEMORANDUM DECISION

This is an appeal from a decision by the Fairbanks North Star Borough Assessor. The Assessor denied appellant Lantz's [Lantz] application for tax exempt farm use status for his commercial greenhouse operation. Jurisdiction is vested in the superior court pursuant to AS 29.45.200(c).^{1/}

FACTS

Lantz has operated a commercial greenhouse since 1977. The property upon which the greenhouse is located has been continuously utilized as a commercial greenhouse facility since 1947. In his earlier years in business, Lantz was unaware of the farm

^{1/}AS 29.45.200(c) provides:

(a) The governing body [of a municipality] sits as a board of equalization for the purpose of hearing an appeal from a determination of the assessor,....

....

(c) Notwithstanding other provisions in this section, a determination of the assessor as to whether property is taxable under law may be appealed directly to the superior court.

I certify that on 2-7-90
copies of this form were sent to
CLERK
P.2

use exemption from real property taxation.^{2/} Lantz became aware of the farm use exemption in 1981. He thereafter applied for and received the exemption every year until 1989 when the exemption was denied. This appeal followed.

The farm use exemption was originally enacted in 1967. The statutory definition expressly included horticulture.^{3/} The statute was amended in 1972 and the term "horticultural" was deleted. The term "horticultural" was not deleted from the FNSB ordinance until 1986. Prior to the 1986 change, the Borough's definition of farm use mirrored the pre-1972 Alaska statute.

In April 1989, the Fairbanks North Star Borough Assessor notified Lantz that the farm use exemption was no longer applicable to commercial greenhouse operations and thus denied his application. In making this determination, the Assessor relied upon an Attorney General's opinion which had concluded that greenhouses were not entitled to farm use deferments. This interpretation was contrary to the practices of the borough since 1969.

^{2/}The pertinent parts of both AS 29.45.060(c) and FNSB Ordinance 3.12.020(c) read as follows:

In this section, the term "farm use" means the use of land for profit for raising and harvesting crops, for the feeding, breeding and management of livestock, for dairying, or another agriculture use, or any combination thereof....

^{3/}[F]arm use means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or another agricultural or horticultural use or any combination thereof.... 1967 S.L.A. 82

The question before the Court is whether horticulture is included within the meaning of "agriculture use" in the statute, such that the legislature's deletion of "horticulture" from the prior enactment should be viewed as non-substantive and would not, therefore, defeat Lantz's claim for exemption, or whether the deletion of horticulture, combined with the strict construction required of tax exemption statutes under City of Nome v. Catholic Bishop of Northern Alaska, 707 P.2d 870 (Alaska 1983), justifies the Assessor's denial of Lantz's application.

DISCUSSION

It is well recognized that it is within the court's special competency to independently interpret a statute. Weaver Bros., Inc. v. Alaska Transportation Commission, 588 P.2d 819, 821 (Alaska 1978). An administrative agency's interpretation of a statute is not binding on a court, but is merely entitled to some weight in deciding the correct interpretation of an ambiguous statute. State, Dept. of Highways v. Green, 586 P.2d 595, 602 n.21 (Alaska 1978).

Cases relying on contemporaneous administrative construction usually also note agency reliance on a long standing and continuous construction of the statute. Wien Air Alaska, Inc. v. Dept. of Revenue, 647 P.2d 1087, 1090 (Alaska 1982). While contemporaneous administrative construction is a valuable aid in determining the meaning of a statute, it is not conclusive. Public Defender Agency v. Superior Court, 534 P.2d 947, 952 (Alaska 1975); see Annot., 39 L.Ed.2d 942, §§ 2,8,9 (1975) (col-

lection of United States Supreme Court cases on weight to be given administrative constructions of statutes).

A fundamental principle of statutory interpretation is that a statute means what its language reasonably conveys to others. North Slope Borough v. Sohio Petroleum Corporation, 585 P.2d 534 (Alaska 1978). Unless words have acquired a peculiar meaning, by virtue of statutory definition or judicial construction, they are to be construed in accordance with their common usage. State v. Debenham Electric Supply Company, 612 P.2d 1001, 1002 (Alaska 1980).^{4/} These concepts are embodied in what is referred to as the "plain meaning" rule. The question necessarily arises, therefore, whether the term agriculture encompasses the term horticulture.

One perusing lay encyclopedias learns that horticulture is commonly described as a branch of agriculture, concerned with fruits, vegetables, flowers and other plants. Similarly, two legal encyclopedias, Corpus Juris Secundum and American Jurispru-

^{4/}See also AS 01.10.040

dence 2d, define agriculture as including horticulture.^{5/} Black's Law Dictionary defines agriculture as:

The art or science of cultivating the ground, including the harvesting of crops, and in a broad sense, the science or art of production of plants and animals useful to man, including in a variable degree, the preparation of these products for man's use. In the broad sense, it includes farming, horticulture, forestry, together with such subjects as butter, cheese, making sugar, etc.

The opinion of the Alaska Division of Agriculture is contrary to that of the Assessor. According to the Director of the Division of Agriculture, "[t]he Division of Agriculture has always interpreted the term 'horticulture' to be included within the term agriculture."^{6/}

The director of the Division's Plant Material Center has emphatically set forth the Division's view:

^{5/} In a broader sense, "agriculture" is the science or art of the production of plants and animals useful to man; and in its general sense, "agriculture" includes gardening or horticulture, fruit growing, and storage and marketing. In the broad sense agriculture includes farming, horticulture ... subjects as butter....

....

In modern usage, agriculture is a wide and comprehensive term, and statutes using it without qualification must be given an equally comprehensive meaning.

C.J.S. Agriculture § 2.

^{6/}Letter from Frank Mielke to Charles and Elaine Hawks (May 12, 1989).

Horticulture staff at the Plant Material Center has thoroughly research [sic] the common, accepted and scientific definitions of the word horticulture. There is no question that "horticulture" falls clearly within the definition of "agriculture," and as a general rule greenhouse operations are within the scope of activities categorized as agricultural.

The Division of Agriculture has consistently interpreted the term agriculture in this manner since Territorial days. Greenhouse corporations are eligible for agricultural loans, and other assistance from the Division.

The utilization of the "plain meaning" rule as a strict exclusionary rule with respect to legislative history has been rejected in Alaska. North Slope Borough v. Sohio Petroleum Corporation, 585 P.2d 534 (Alaska 1978). While the legislative history pertaining to the deletion of horticulture from the then existing statute is scant, the Seventh Legislature did state the following:

The proposed revised municipal code is primarily a series of technical changes which reconcile inconsistent provisions in existing law, modernize the archaic language found throughout Title 29 and provide a more workable and immensely more understandable basic framework for local government.

Both the House and the Senate originally passed identical bills which included the word horticulture. The Free Conference Committee returned a bill in 1972 with the term horticultural deleted. It is telling that the Free Conference Committee first considered the deletion following receipt of a letter from the

chairman of the Greater Anchorage Area Borough. The letter set forth the following recommendation:^{2/}

Sec. 29.53.035(c) includes in the definition of "farm use" lands put to a "horticultural use."

Problem: Garden supply and plant stores have been claiming the farm and agricultural reductions.

Recommendation: Exclude the term "horticultural use" from the definition of "farm use."

A review of the Committee's deliberations reveals that the discussion referred to the borough's letter. Thus, it appears that the Committee too was sufficiently concerned by potential abuse by garden supply and plant stores so as to delete the term horticultural. Greenhouses were not targeted for such exclusion, nor must they necessarily fall victim to it. Correctly viewed, the focus of the exclusion is where plants are sold, as distinguished from where they are grown. Accordingly, the deletion by the Free Conference Committee can reasonably be viewed as non-substantive, a reduction of redundancy. Moreover, it is improbable that the Free Conference Committee would decide to substantively alter a legislative directive previously agreed upon by both the House and the Senate.

The majority of jurisdictions that have considered such a question have found that the term agriculture includes horticultural.

^{2/}Letter from Sheila Gallagher to Senator Merdes (December 7, 1971).

ture.^{8/} Especially instructive is the reasoning set out by the Reiniger Brothers court:

Reiniger is engaged in the business of raising flowers and plants in greenhouses.

...

When interpreting a statute, we are guided by the plain meaning rule of Construction 1 Pa.C.S. § 1903. In Fidler v. Zoning Board of Adjustment, 408 Pa. 260, 182 A.2d 692 (1962), we had occasion to discuss the definition of agriculture. Therein we stated:

The word "agriculture" is a derivative of two Latin words, "agri" meaning field, and "cultra", meaning cultivation. In its narrowest sense, it concerns the tilling and cultivating of the soil. See, Commonwealth v. Carmalt, 2 Binney 235 (1810). However, it has from an early date reasonably and logically assumed a much broader meaning.

Webster's New International Dictionary (2d ed. 1961) defines "agriculture" as: "The art or science of cultivating the ground, and raising and harvesting crops, often including also feeding, breeding, and management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use and their disposal by marketing or otherwise. In this broad use it includes farming, horticulture, forestry, dairying, sugar making, etc."

The Oxford Universal Dictionary (3d ed. 1955) defines "agriculture" as: "The science and art of cultivating the soil; (sic) including the gathering in of the

^{8/}See County of Lake v. Cushman, 353 N.E.2d 399 (Ill. App. 3d 1976); Nielsen v. Erickson, 272 N.W.2d 82, (S.D. 1978); Reiniger Brothers, Inc. v. Commonwealth of Pennsylvania, 522 A.2d 187 (Pa. Commw., 1987).

crops and the rearing of livestock; farming (in the widest sense)."

Id. at 264-265, 182 A.2d at 694, 695. Peters Orchard, 511 Pa. at 471, 515 A.2d at 552-53 (emphasis added).

The term "horticulture" is, in turn, defined in Webster's Third New International Dictionary 1093 (1966) as "the cultivating of an orchard, garden, or nursery on a small or large scale: the science and art of growing fruits, vegetables, flowers, or ornamental plants."

....

We conclude that Reiniger is indeed involved in the business of "agriculture."

While certainly not binding upon this Court, the rationale of the Pennsylvania decision is both logical and persuasive.

The Assessor acknowledged that his decision was based largely upon an Attorney General's opinion.^{9/} Upon examination of the opinion, this Court finds the Attorney General's opinion to be flawed for two reasons.

First, the opinion was based in most part upon one Oregon case, Salem Nursery, Inc. v. Department of Revenue, 497 P.2d 371 (Or. 1972). At issue in that case was the question whether greenhouse grown azalea plants were exempt from tangible personal property tax, under the status of "shrubs growing upon agricultural land." (emphasis added). The court concluded they were not. The Salem case is distinguishable from the instant case and in fact may be read as consistent with the Cushman analysis of the definition of agriculture discussed herein. Regardless of

^{9/}1981 Op. Atty. Gen. No. J-66-801 (Alaska, June 23, 1981)

such a finding, Salem does not stand for the general proposition that a greenhouse is not an agricultural use of land. Salem held that such items were taxable as any other merchant's stock in trade.

Secondly, the Attorney General's opinion states that greenhouses do not preserve agricultural lands or green space, perhaps the most predominant statutory purpose. This Court finds the Alaska State Division of Agriculture's contrary belief more persuasive:

One purpose of the exception is "... to preserve green space." Greenhouses and nurseries do preserve green space. They expand the productivity of our resources by being able to produce on marginal land, with good water where traditional field crops may not be grown. This does not make them any less agricultural. They generally landscape around the facilities. They promote Alaska citizens and businesses to replant or landscape our homes and offices after the construction has left a naked lot. People receive help selecting the plants best suited to their locale, which will grow and recreate that green space destroyed by the construction of our expanding cities. They are themselves a green space, often the only one available when snow blankets the rest of Alaska.^{10/}

That horticulture has advanced technologically and has otherwise improved upon the lot in life that Alaskan's have been given by Mother Nature does not disqualify the use such of advancements from agricultural classification. It is not so simple a question whether the growth medium is soil in the earth or elevated for warmth, for protection, and for a prolonged growing sea-

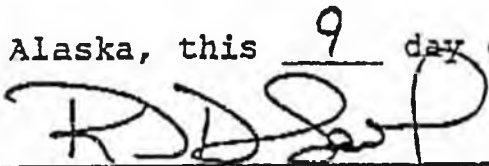
^{10/}Letter from Frank Mielke to Mike Worley (July 7, 1989)

son. Improvements in the methods of growing fruits, vegetables, flowers and other plants, such as enclosures that capture the heat from the sun and provide substitute sources of heat in order to prolong the growth cycle and protect crops from an early and unexpected frost in Alaska's sometimes unpredictable summer, do not render the resulting crops any less the product of agriculture than field crops. Hot-house and hydroponic tomatoes, cucumbers and other vegetables are no less the product of agriculture than their smaller and less profitable cousins grown "naturally" in the field. Under the plain meaning rule and until such time as the legislature more clearly demonstrates a contrary intent, this Court concludes that agriculture includes horticulture and that the legislature's intent is met by the granting of such exemptions to greenhouse operations.

CONCLUSION

In view of this Court's interpretation of FNSB ordinance 3.12.020 and AS 29.45.060, the Assessor's decision is reversed. Appellants 1989 farm use application for a commercial greenhouse must be granted.

DATED at Fairbanks, Alaska, this 9 day of February, 1990.



RICHARD D. SAVELL
Superior Court Judge

Senator John B. (Jack) Coghill

Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862



MEMORANDUM

DATE: February 20, 1990

TO: Senator Bettye Fahrenkamp
Senate Resource Committee Chair

FROM: Senator Jack Coghill

SUBJECT: Sponsor Statement: SB 391: Farm Use Exemption For Greenhouses.

Thank you for scheduling this bill for public hearing in such a timely manner.

Intent: The intent of the bill is to make it clear in statute that "greenhouses" qualify for the farm use exemption allowable under AS 29.45.060 (a). Presently a greenhouse operator must go to court to qualify for this exemption. A note to this is that we received word last week that a greenhouse operation in Fairbanks won their case before the court. I do not believe we should force citizens to tie up our courts in order to receive an exemption that is clearly included in the statute. This bill makes it expressly so.

Background: Included with this packet is a memorandum from the Fairbanks North Star Borough, dated April 19, 1989, which states in the second paragraph, the reasoning for the recent change in interpretation.

This situation was brought to my attention by Hawks Farm and Garden Center Inc., of North Pole, and members of the Fairbanks North Star Borough Agricultural Commission.

In my drafting request we specified horticultural and tree farming purposes. Legal Services believe that the greenhouse language covers both of these farm use purposes. I agree with this assessment

Recommendations: It is my recommendation that the bill be move from committee with individual recommendations.

APR 19 REC'D

★ Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

907 452-4761

MEMORANDUM

To: V. Lenny Reagin, Borough Assessor
Karl McManus, Deputy Assessor

From: Debra A. Braga, Assistant Borough Attorney *[Handwritten Signature]*

Re: Farm Use Deferments

Date: April 19, 1989

This memo discusses two points. First, whether it is appropriate to grant a "farm use" deferment to greenhouses, and second, whether it is appropriate for any appeal to be made to the BOE, or whether an appeal can be made directly to the Superior Court.

Farm use deferments are dealt with at A.S. 29.45.060 and FNSB 3.12.020. That section defines "farm use" as "the use of land for profit for raising and harvesting crops, for the feeding, breeding, and management of livestock, for dairying, or another agricultural use, or any combination of these." A greenhouse operation does not use the land directly for the raising and harvesting of crops, or another agricultural purpose. The greenhouse is used to foster the growth of various plants in containers, usually for commercial sale. Therefore, the use of greenhouses does not fall within the farm use deferment.

Case law requires a strict construction of all tax exemption statutes. (City of Nome v. Catholic Bishop of Northern Alaska 707 P. 2d 870 (1985)) The burden is also on the taxpayer to provide sufficient information that their use falls within the statutory constraints.

The appeal procedure is somewhat unclear. A.S. 29.45.200(c) allows a direct appeal to the superior court for a determination by the assessor as to whether property is taxable. Generally, appeals to the Board of Equalization deal with valuation questions only, per A.S. 29.45.190(a). However, the Alaska Administrative Code at 19 AAC 38.030 reads, "an applicant...who believes that the valuation or classification assigned to the land that is the subject of the application is erroneous may appeal to the board of equalization." (emphasis added) This section deals specifically with farm use deferments, but has been on the books since 1975. The relevant sections of Alaska statutes were amended in 1985. Therefore, given the uncertainty caused by the administrative code, we should allow any

agriculture

MEMO/Farm Use Deferments

April 19, 1989

Page 2

individuals in this situation to appeal to the BOE if that is their desire, or directly to the Superior Court. The "may" language of A.S. 29.45.200(c) would also seem to indicate that an appeal to either body may be pursued.

I hope this answers your questions. Let me know if you need any additional information.



Official Business

Alaska State Legislature

Senate

P.O. BOX V
State Capitol
Juneau, Alaska 9981

Reading file
Ag file
New Legislation file

MEMORANDUM

DATE: August 29, 1989

TO: Tamara Brandt Cook
Director, Legal Services, LAA

FROM: Senator Jack Coghill

SUBJECT: Drafting Request

A handwritten signature in black ink, appearing to read "Jack Coghill", written over the "FROM" line of the memorandum.

Please prepare draft legislation that amends AS 29.45.060, to allow tax exemptions for "horticultural" and "tree farming" purposes.

We believe that these two agricultural uses of land are being misinterpreted in the law.

The purpose of clarifying this law is to make it abundantly evident that greenhouse operations, and/or tree farms, where "crops" are grown, is an agricultural use of the land and/or structure. This would be where the "crop" could be potted or bedding plants of any kind, including tree seedlings, flowers, fruits, vegetables, and shrubs, grown for commercial purposes. Commercial purposes should include cultivation of the "crop" for sale in pots or for replanting purposes, and the raising of the "crop" for their seed or root producing capacity and the subsequent sale of the seed or root.

Here is the problem. Several greenhouse operations in my district have recently been disallowed the agricultural use tax exemption in title 29. We have enclosed the North Star Borough Assistant Attorney's opinion in this matter for your information.

Please forward a work draft to my North Pole Office, P.O. Box 55028, North Pole, AK, 99705. Any questions can be directed to Bruce Geraghty at 488-0862.

Thank you.



Alaska State Legislature

SENATE

Reading file
Borough file
Ag file
New Legislation

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

August 29, 1989

Charles Hawks
P.O. Box 55759
North Pole, AK 99705

Dear Charles:

Thank you for dropping by my office with your agricultural tax exemption problem with the Borough. We are enclosing your original correspondence you left for my review. Also enclosed is my memorandum to Tamara Cook in our Legal Services Division.

If you are aware of any others with a similar problem, please have them contact us also. This is one of the most ridiculous legal interpretations I've heard of yet.

It usually takes a couple of weeks to produce a working draft. We'll send you a copy when we receive it. If you have any further questions, contact Bruce Geraghty in my North Pole office.

I hope you've had a prosperous summer.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Jack Coghill".

Senator John B. (Jack) Coghill



COOPERATIVE EXTENSION SERVICE

UNIVERSITY OF ALASKA FAIRBANKS

2221 E. Northern Lights Blvd., Suite 118
Anchorage, Alaska 99508-4143
(907) 262-5824

January 30, 1990

Jack Coghill, Senator
Capitol, Room 30
PO Box V
Juneau, AK 99811

Dear Senator Coghill:

Thank you for introducing Senate Bill 391 which clearly includes greenhouses and the production of ornamental plants as agricultural endeavors eligible for farm tax deferment. Horticulture businesses are important to the state and represents an \$18 million dollar industry as last reported by the USDA Alaska Agricultural Statistics Service.

The intent of AS 29.53.035 to protect agricultural lands in urban areas should include the production of horticultural crops. Senate Bill 391 clarifies such and will hopefully alleviate problems greenhouses and nurseries had when applying for farm tax deferment this past year.

Another bill which would benefit horticultural businesses is Senate Bill 390 which would establish an Alaska Garden Week. June is a more appropriate time to promote gardening in our state then during National Garden Week in April. Alaskans take pride in producing beautiful flowers and vegetables. The establishment at Alaska Garden Week would allow garden clubs, agencies and horticultural businesses to promote gardening and encourage the beautification of our communities. Thank you.

Sincerely,

Julie Riley
Extension Horticulture Agent

JR/dmm



ALASKA AGRICULTURAL STATISTICS 1988

COMPILED BY

ALASKA AGRICULTURAL STATISTICS SERVICE

DeLon A. Brown
State Statistician

P. O. Box 799
Palmer, Alaska 99645
Phone: (907) 745-4272

Janey Wineinger
Statistical Assistant

Marge Burgess
Administrative Clerk

ISSUED COOPERATIVELY BY

U.S. DEPARTMENT OF AGRICULTURE
NATIONAL AGRICULTURAL STATISTICS SERVICE
Charles E. Caudill
Administrator
Phone: (202) 447-2707

UNIVERSITY OF ALASKA
AGRICULTURAL & FORESTRY
EXPERIMENT STATION
James V. Drew
Director
Phone: (907) 474-7305

AND

ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE
Mark Weaver
Director
Phone: (907) 745-7200

UNIVERSITY OF ALASKA
COOPERATIVE EXTENSION SERVICE
Irv Skelton
Acting Director
Phone: (907) 474-7246



ALASKA RAILBELT HORTICULTURE INDUSTRIES SURVEY — 1986

The Horticulture Industry in Alaska represents a major segment of the State's agriculture industries. The vitality of the industry has a significant economic impact on much of the Railbelt while also providing many jobs. A large array of information was collected from greenhouses, landscape contractors, florists, interior-landscape businesses, nurseries, and local and national garden centers.

HIGHLIGHTS

Retail sales during 1986 made up 83 percent of the total Railbelt horticulture industry sales, while the remaining 17 percent was sold at the wholesale level. Railbelt horticulture industries marketed an estimated \$11.3 million worth of green plants (value based on retail sales less wholesale purchases from Alaska producers). This was 37 percent of the total gross Railbelt industry sales in 1986. Alaska grown commodities made up 72 percent of this total.

Green plants accounted for over 40 percent of the \$28.1 million, 1986 Alaska Farm Commodity Cash Receipts. Value of cut and dried flowers sold totaled \$3.5 million or 12 percent of the total sales.

Cut and potted flowers made up the largest individual sales category in the Railbelt followed by bedding plants for the spring and summer garden trade.

The Railbelt's commercial greenhouse operations used a total covered space of 822 thousand square feet while nurseries had an additional 256 acres devoted to growing outdoor nursery stock.

The number of paid year-round and seasonal workers in the Railbelt Horticulture Industries, totaled 1,285 in 1986. An additional 290 unpaid workers were employed during the year. Wages paid totaled \$9.3 million.



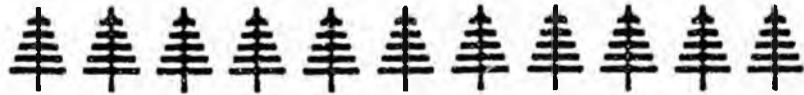
VALUE OF SALES AND GROWING SPACE - 1986



AREA	VALUE OF SALES 1/				GROWING SPACE	
	GREEN PLANTS 2/	CUT & DRIED FLOWERS	NON-GREEN 3/	% ALASKA GROWN	Greenhouse (Sq. Ft) 4/	Nursery (acres)
-----Thousand Dollars -----						
FAIRBANKS	1,225	170	830	89	144,700	27
MAT-SU	1,040	310	235	92	99,800	88
ANCHORAGE	8,200	2,890	6,725	67	512,000	114
KENAI PENIN.	785	135	295	79	65,500	27
RAILBELT	11,250	3,505	8,135	72	822,000	256

1/ Value based on retail gross sales, excludes wholesale purchases from Alaska Producers. 2/ Includes sod. 3/ Tools, chemicals, fertilizer, pots, topsoil, etc. 4/ Total covered area devoted to greenhouses in 1986 (includes area under glass, permanent plastic film and fiberglass.

ALASKA RAILBELT HORTICULTURE INDUSTRIES SURVEY — 1986 (CONT'D)



VALUE OF RETAIL SALES BY COMMODITY AND AREA - 1986 1/

ITEM	: FAIR- : ANCHOR- : KENAI : RAIL- : % OF TOTAL					: GREEN/CUT
	: BANKS	: MAT-SU	: AGE	: PENIN.	: BELT	
-----Thousand Dollars -----						Percent-
BEDDING:						
ORNAMENTAL	380	270	2,250	3/	2,900	20
VEGETABLE	220	140	275	30	665	4
FLOWERS:						
CUT	150	300	2,670	130	3,250	22
POTTED	140	190	930	70	1,330	9
POINSETTIA	25	20	310	30	335	3
HANGING BASKET	80	85	270	60	495	3
TROPICAL FOILAGE	30	15	1,455	3/	1,500	10
TREES	135	145	790	105	1,175	8
SHRUBS	105	140	850	45	1,140	8
GREENHOUSE VEGETABLES	90	10	360	5	465	3

1/ Excludes wholesale purchases from Alaska Producers. 2/ Will not add to 100; not all commodities accounted for. 3/ Combined with Anchorage to avoid disclosure of individual operation.



EMPLOYMENT AND WAGES PAID - 1986

Area	: Total		: Paid Workers		: Average	: Total
	: Workers	: Unpaid Workers	: Year Round	: Seasonal		
Fairbanks	245	40	25	180	38	706,000
Mat-Su	155	50	25	80	40	595,000
Anchorage	1,005	120	260	625	62	7,470,000
Kenai Penin:	170	80	20	70	75	503,000
Railbelt	1,575	290	330	955	55	9,274,000

1986 ALASKA RAILBELT HORTICULTURE INDUSTRIES SURVEY

SEPTEMBER 1987

Compiled by



ALASKA AGRICULTURAL STATISTICS SERVICE
U.S. DEPT. OF AGRICULTURE, P. O. BOX 799
PALMER, AK 99645
745-4272

in Cooperation with

ALASKA DIVISION OF AGRICULTURE
DEPARTMENT OF NATURAL RESOURCES, P. O. BOX 949
PALMER, AK 99645



The Horticulture Industry in Alaska represents a major segment of the State's agriculture industries. The vitality of the industry has a significant economic impact on much of the Railbelt while also providing many jobs. Turnaround in Alaska's economy took its toll on the horticulture industry during 1986. Several operations, large and small, went out of business during the year. To help maintain this important and dynamic Alaska industry, reliable statistics are needed for sound management decisions and the decisions by Government agencies supporting the research, education, promotion and marketing programs in cooperation with the industry. Some of the immediate needs were; value of sales by type, amount of growing area and employment by area along with Railbelt totals.

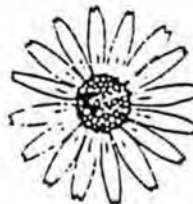
This report provides a large array of information collected from greenhouses, landscape contractors, florists, interiorscape businesses, nurseries, and local and national garden centers during March, April, and May of 1987 covering information for 1986. A special "Thanks" to all firms who took the time and effort to provide information on this survey, the Alaska Horticulture Association and Cooperative Extension Service, who provided input and support and the Alaska Division of Agriculture for providing the out-of-pocket funds for this survey.

A list of horticulture industries will always be incomplete because of operations going in-and-out of business. The Railbelt universe for this survey consisted of 253 known operations doing business during 1986. All operations were grouped into the following seven size-categories and mailed questionnaires in early March, 1987:

0 - 24,999	Non-receipts sub-	100,000 - 199,000	Non-receipts had
25,000 - 49,999	sampled for telephone	200,000 - 349,000	a complete follow-
50,000 - 99,999	follow-up enumeration.	350,000 - 499,999	up enumeration
		500,000+	

The Railbelt areas for this survey consist of:

Fairbanks	- North Star Borough to Nenana.
Mat-Su	- Nenana South and all of Mat-Su Borough.
Anchorage	- Municipality of Anchorage.
Kenai	- Kenai Peninsula Borough



Rooted cuttings or propagules are Alaska Grown if 50 percent of the production time is in Alaska. Foilage plants require a minimum of six months and woody plants a minimum of two years.

.....

Note to Data Users: The approach, geographic area and methodology procedures used for the 1986 survey were different from procedures used in previous surveys. It is our judgement that the 1986 data more accurately represents the actual Alaska Horticulture industry in categories shown on the following tables. Duplication of sales of the same product were removed at the wholesale level. This procedure was not done in previous surveys.

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HIGHLIGHTS

Retail sales during 1986 made up 83 percent of the total Railbelt horticulture industry sales, while the remaining 17 percent was sold at the wholesale level.

Railbelt horticulture industries marketed an estimated \$11.3 million worth of green plants (value based on retail sales less wholesale purchases from Alaska producers). This was 37 percent of the total gross industry sales in 1986. Alaska grown commodities made up 72 percent of this total. Green plants accounted for over 40 percent of the \$28.8 million, 1986 Alaska Farm Commodity Cash Receipts. Value of cut and dried flowers sold totaled \$3.5 million or 12 percent of the total sales.

Cut and potted flowers made up the largest individual sales category in the Railbelt during 1986 followed by bedding plants for the spring and summer garden trade.

The survey also showed the Railbelt's commercial greenhouse operations used a total covered space of 822 thousand square feet while nurseries had an additional 256 acres devoted to growing outdoor nursery stock.

The number of paid year-round and seasonal workers in the Railbelt Horticulture Industries, totaled 1,285 in 1986. An additional 290 unpaid workers were employed during the year. Wages paid by these Railbelt horticulture industries totaled \$9.3 million in 1986.



PERCENT OF TOTAL SALES BY TYPE OF OPERATION, RAILBELT AREA - 1986

						NATIONAL	
CUT FLOWER	NURSERIES	GREENHOUSE	RETAIL FLORIST	LANDSCAPE/INTERIOR-SCAPE	LOCAL GARDEN CTR.	REGIONAL DEPT STORE	OTHER 1/
4	2	20	11	27	10	14	12

1/ INCLUDES SALES OF SOD, TOPSOIL, PEAT, HYDRO SEEDING AND WHOLESALE CUT FLOWERS, ETC.

The combination landscape/interiorscape operations accounted for 27 percent of the total Railbelt Horticulture Industry sales which included many State funded projects in 1986. Local, regional and national garden centers had 24 percent of the total industry sales in 1986.



VALUE OF SALES BY TYPE, AREA - 1986 1/

ITEM	FAIR-	MAT-SU	ANCHORAGE	KENAI	RAIL-	% OF TOTAL
	BANKS			PENIN.	BELT	GROSS SALES 2/
	-----THOUSAND DOLLARS-----					-----PERCENT-----
GREEN PLANTS 3/ CUT & DRIED FLOWERS	1,225	1,040	8,200	785	11,250	37
NON-GREEN 4/	170	310	2,890	135	3,505	12
	830	285	6,725	295	8,135	27
	-----PERCENT-----					
PERCENT ALASKA GROWN	89	92	67	79	72	

1/ VALUE BASED ON RETAIL GROSS SALES, EXCLUDES WHOLESALE PURCHASES FROM ALASKA PRODUCERS. 2/ WON'T ADD TO 100 PERCENT, SERVICES AND ETC. AREN'T ACCOUNTED FOR. 3/ INCLUDES SOD. 4/ TOOLS, CHEMICALS, FERTILIZER, POTS, TOPSOIL, ETC.

Green plants marketed by the Railbelt Horticulture industries generated \$11.3 million, 37 percent of the total sales in 1986. Alaska grown commodities accounted for 92 percent of the Mat-Su sales and 67 percent of the Anchorage sales. Railbelt-wide Alaska grown commodities averaged 72 percent. Cut and dried flowers generated \$3.5 million or 12 percent of the total sales in 1986. Non-green sales of \$8.1 million were 27 percent of the total sales.



VALUE OF RETAIL SALES BY COMMODITY AND AREA - 1986 1/

ITEM	FAIRBANKS	MAT-SU	ANCHORAGE	KENAI	RAIL-	% OF TOTAL
				PENIN.	BELT	GREEN/ CUT SALES 2/
	-----THOUSAND DOLLARS-----					-----PERCENT-----
BEDDING:						
ORNAMENTAL	380	270	2,250	3/	2,900	20
VEGETABLE	220	140	275	30	665	4
FLOWERS:						
CUT	150	300	2,670	130	3,250	22
POTTED:	140	190	930	70	1,330	9
POINSETTIA	25	20	310	30	385	3
HANGING BASKET	80	85	270)	495	3
TROPICAL FOILAGE	30	15	1,455		1,500	10
TREES	135	145	790	5	1,175	8
SHRUBS	105	140	850	45	1,140	8
GREENHOUSE VEGETABLES	90	10	360	5	465	3

1/ EXCLUDES WHOLESALE PURCHASES FROM ALASKA PRODUCERS. 2/ WON'T ADD TO 100, NOT ALL COMMODITIES ACCOUNTED FOR. 3/ COMBINED WITH ANCHORAGE TO AVOID DISCLOSURE OF INDIVIDUAL OPERATIONS.

Bedding plants in the Railbelt were marketed for a total value of \$3.6 million and make up 24 percent of the total green plants/cut flower sales. Cut flowers were valued at \$3.3 million and 22 percent of the green plants/cut flower sales; sale of tropical foliage totaled \$1.5 million and 10 percent of the green/cut sales.



GROWING SPACE BY TYPE AND AREA - 1986

ITEM	FAIRBANKS	MAT-SU	ANCHORAGE	KENAI PENIN.	RAILBELT
GREENHOUSE (SQ. FEET) 1/ NURSERY (ACRES)	144,700 27	99,800 88	512,000 114	65,500 27	822,000 256

1/ TOTAL COVERED AREA DEVOTED TO GREENHOUSES IN 1986 (INCLUDES AREA UNDER GLASS, PERMANENT PLASTIC FILM AND FIBERGLASS.

Commercial greenhouses in the Railbelt totaled 822 thousand square feet or nearly 19 acres. The largest covered space was in the Anchorage area followed by the Fairbanks area. Acres devoted to outdoor nursery stock in the Railbelt totaled 256 acres of which the Anchorage and Mat-Su areas accounted for the largest acreages.



EMPLOYMENT AND WAGES PAID BY AREA - 1986

ITEM	FAIRBANKS	MAT-SU	ANCHORAGE	KENAI PENIN.	RAILBELT
TOTAL WORKERS	245	155	1,005	170	1,575
UNPAID	40	50	120	80	290
PAID:					
YEAR ROUND	25	25	260	20	330
SEASONAL	180	80	625	70	955
AV. NO. DAYS (SEASONAL)	38	40	62	75	55
TOTAL WAGES PAID (000) DOLLARS	706	595	7,470	503	9,274

Total workers in the Railbelt Horticulture industries for 1986 was 1,575 of which 290 were unpaid and 1,285 paid. Paid workers were made up of 330 year-round and 955 seasonal. Seasonal employees worked an average 55 days during 1986 but ranged from 75 days in the Kenai Peninsula to only 38 days in Fairbanks. Wages paid in 1986 by the Railbelt Horticulture industries totaled \$9.3 million.





ALASKA GREENHOUSE

1301 MULDOON ROAD • ANCHORAGE, ALASKA 99501

(907) 333-6970

January 27, 1990

Senator Jack Coghill
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

FEB 01 1990

To Senator Coghill et al re: Senate Bill #391, Farm Tax and Greenhouses.

I have enclosed several pages of various court rulings showing that greenhouses are considered under farm or agricultural use. This should back up your ability to add greenhouses to the Farm Use exemption tax bill.

While on the subject I would strongly ask you to support and work to reinstate our original Farm Tax Bill titled Section 29.10.398 Farm & Agricultural Use. It was a good bill. Fair, enforceable and a much better act than the one in effect now. The original Farm Tax Bill was altered by well meaning but misguided legislators.

For example. The original Bill stated the owner had to make 25% of his gross income from the farm use land, the new Bill only 10%. In the old bill if farm use land were sold for other than farm use the owner was liable to pay back the difference in taxes for two full years plus any part of the current year. The new Bill the seller has to repay seven years taxes. eg. If I purchased some farm land to grow a crop and after one or two years found it was losing money and I had to sell it for other than farm use I would have to pay back taxes for the two previous years plus any portion of the current year. Under the new Bill I would have to pay back seven years or five extra years when I had no interest in the property. What so ever. Is that fair?

Regarding Hawkes Greenhouse at Fairbanks they are farming and adding the word greenhouse would solve his immediate dilemma but I'd sure like to see you get the original Bill reinstated. It is much more clear and understandable to the real farmer who makes a substantial portion of his income from farming.

The original tampering and changing started when a misguided lady legislator denied us the Farm Tax Exemption saying "I feel the Bill was intended to apply to growing food." Every few years someone decides to deny us this use and we have to go through the re-education process for our legislators.

Among the papers I have sent you is a Court Judgement in our favor. This cost many times more in attorney fees than we saved not to count our own time spent in preparing the paper work.

I would like to see our legislature take a good hard look at a workable idea for our Wetlands where most of Alaska land is classified "Wetlands." If 10% of the south 48 states are wetlands then a fair solution would be to require Alaska to retain wetlands in the same proportion. Even to require Alaska to double the percentage used by the south 48 would be ok. Otherwise put all our wetlands into farm use.



ALASKA GREENHOUSES

1301 MULDOON ROAD • ANCHORAGE, ALASKA 99504

Senator Jack Coghill continued

Listed below are EPA and Corps of Engineers Dept. of the Army Regulations regarding farming and related activities which do not require permits.

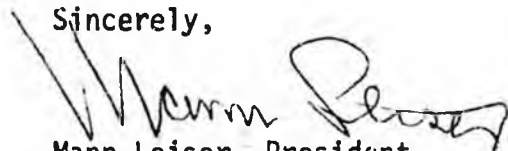
40 CFR Ch.1 (7-1-86 Edition Environmental protection agency 233.35. Activities not requiring permits and again in 33CFR Ch. 11 (7-1-86 Edition) Corps of Engineers, Dept. of the Army DoD 323.4 . Discharges not requiring permits (1) (i) Normal farming etc.

If the U.S. Senate and Congress pass the Wetlands Act to include Alaska as proposed we can turn the Wetlands into farmland and grow many cool weather crops each summer providing new employment with a new renewable resource. All the cool crops, cabbage, broccoli, cauliflower, turnips, radishes etc. grow splendidly here as do spinach, kale, strawberries, raspberries and potatoes. This would also give us a back haul to the south 48 in the equipment now going south empty. This would reduce by over 50% the shipping costs of goods we presently ship north bound.

This should not be done with state funds like the grandiose Big Delta grain farm failures or the cattle operation across the inlet from Anchorage but small state loans or SBA loans to individuals upon proper application would really work. Our greenhouse and 30 acres of land was an SBA loan and is all paid back and making money and best of all employing 30 people year round and up to 70 in the summer. (School kids etc.) all.

Thanking you for your time, I remain

Sincerely,



Mann Leiser, President

ALASKA GREENHOUSES, INC.


ML:b1

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325
FAX 463-5480

217 SECOND STREET, SUITE 200
JUNEAU, ALASKA 99801

TO: Senator Bettye M. Fahrenkamp, Chair
Members, Senate Resources Committee

FROM: Scott A. Burgess, Executive Director 

DATE: March 2, 1990

SUBJECT: SB 391 - Farm use exemption from municipal taxation for
agricultural land and greenhouses

The Alaska Municipal League continues to oppose SB 391 and the proposed CS for SB 391 (Resources) [Cook 2/26/90] to the degree it provides an inappropriate and expensive expansion of the farm use land assessment program for commercial greenhouses.

The AML opposes the proposed CS for SB 391 because:

1. the current mandated program is not funded, costing municipalities \$250,000 in lost revenue
2. the CS would expand the definition of farm land and thereby the cost of the program for municipalities
3. the land under large agricultural operations, e.g. tree farms, including the land under greenhouses as part of a farm unit or agricultural use can qualify for tax benefits under the existing program

We have met with the sponsor's staff and representatives of the Department of Community and Regional Affairs and the Alaska Association of Assessing Officers and reviewed the proposed CS. While the proposed CS addresses our previously expressed concern about exempting greenhouse structures from taxation, it still is not acceptable to the League and its members.

Our major concern ^{is} that this CS will add additional and inappropriate exemptions under a state-mandated program which is currently not funded at all, and has not been fully funded since FY 85, thereby increasing the burden on municipalities and their taxpayers. Municipal taxpayers are now forced to pick up the \$250,000 cost of this state-mandated program, and adding another exemption will cause additional increase in local taxes.

As I told the Committee last week, the League's 1990 Policy Statement (I.C.2) specifically opposes any additional mandated exemptions from municipal taxes and, in fact, calls for repeal of state-mandated tax exemptions for which funding is not appropriated by the Legislature.

Senator Fahrenkamp re SB 391

March 2, 1990

Page 2

The League would, in fact, support legislation or a new CS for SB 391 that

1. would allow exemptions granted under provisions of the farm use land exemption program only to the extent that the program is funded by the Legislature, and

2. if necessary, clarifies that the land under a greenhouse which is part of a farm unit qualifies for the farm use land assessment program.

Thank you.

cc: Senator Jack Coghill
Senator Rick Halford

C/LEG:cssb391.sen