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Municipality
of
Anchorage



ANCHORAGE ALASKA 99502-0851

April 21, 1983

E. Lee Browning, Municipal Engineer
Public Works Department
Engineering Division
3500 East Tudor Road
Anchorage, Alaska 99507

Subject: Rabbit Creek Heights Subdivision, and;
Rabbit Creek View Subdivision

It was recently brought to our attention that many of the lot lines, lot corners, streets, right-of-ways, etc., as shown on the subdivision plats for the Rabbit Creek Heights Subdivision and Rabbit Creek View Subdivision may be incorrect.

In an attempt to confirm this information, this office contacted the Municipal Surveyor, Mr. Jack Stanley, and Mr. Jerry Weaver of the Planning and Zoning Department. Mr. Stanley confirmed that several survey closure checks made by his office, on these subdivisions, did not close satisfactory. Mr. Stanley further indicated that several other subdivisions surveyed by the same registered surveyor (Mr. William Johnson, whose stamp #14825 appears on the subdivision plats) are also in error. Numerous other professional surveyors have refused to conduct as-built surveys in these areas, due to the discrepancies in the original surveys and the related subdivision plats. According to Mr. Weaver, Mr. Johnson received a registered letter but did not respond, and the matter has since been turned over to the Municipal attorney.

In view of the confirmed fact that there are many known discrepancies on the lot lines, lot corners, streets, right-of-ways, etc., in the Rabbit Creek Heights Subdivision and Rabbit Creek View Subdivision; this department will discontinue the issuance of on-site water and sewer permits or health authority approvals for bank financing in both subdivisions. We will

E. Lee Browning, Municipal Engineer
April 31, 1983
Page Two

lift this discontinuance at such time that we have some form of acceptable assurance that lot lines and configurations are correctly shown on an approved subdivision plat.

If there are any further questions, please call this office at 264-4720.

Sincerely,



Robert W. Robinson
Environmental Engineering Manager

RWR/ljw

cc: Public Works Department
Bob Daniel, Permit Office
John Bishop, Building Official
Jack Stanley, Municipal Surveyor
Frank Huber, Construction Engineer
Michael Kerr, Zoning Enforcement Officer

Planning Department
Don Alspach, Manager of Zoning and Platting
Jerry Weaver, Platting Officer

Health and Environmental Protection
Lynn Lindquist
John Kennedy
Robert Pratt
John W. Lynn



Tom K. ... my sig.

520 East 34th Avenue
Anchorage, AK 99503
(907) 561-1900
P.O. Box 101020
Anchorage, AK 99510

May 22, 1991

RECEIVED
MAY 23 1991

Mr. Ross Dunfee
Municipal Engineer
Municipality of Anchorage
P.O. Box 196650
Anchorage, AK 99519-6650

OFFICE OF THE MUNICIPAL ENGINEER
MUNICIPALITY OF ANCHORAGE

RE: Rabbit Creek Heights and Rabbit Creek View Subdivisions

Dear Mr. Dunfee:

Mr. Knox's letter of April 10, 1991 (enclosed) to AHFC regarding the survey problems in the above referenced subdivisions reflects that the Municipality has no legal right or obligation to solve the problems. Further, it is stated that all homeowners in the subdivision would have to agree to a replat.

Alaska Housing Finance Corporation as well as other lenders, investors and relocation companies in the community are extremely concerned about the effect these survey problems will have on the availability of future mortgage financing in the area as well as the financial impact to current lot and home owners in these subdivision.

In view of the serious nature of the survey deficiencies, AHFC is requesting your help in any way possible to assist in resolving this problem.

Is it possible for the Municipality to obtain a court order to replat?

Can you estimate when public water and sewer will be available to these subdivisions? And would the installation of these public utilities necessitate an accurate replat?

Will the Municipality issue building permits in these subdivisions?

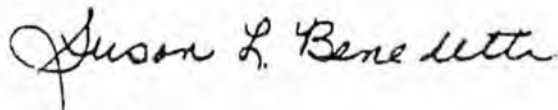
Can you ascertain at this time what percentage of lots would be affected by a replat and would only certain portions of the subdivisions be affected - i.e. say lots near the greenbelt, lots at the perimeter, etc.

Issue\sb9140

Mr. Thomas Knox
RE: Rabbit Creek Heights and
Rabbit Creek View Subdivisions
May 21, 1991
Page 2

We sincerely appreciate any information or suggestions you are able to provide. Please contact us if we can be of assistance in this matter.

Sincerely,



Susan L. Benedetti
Mortgage Operations Officer

cc: Municipal Attorney's Office
Don Alspach

Municipality of Anchorage



P O BOX 196650
ANCHORAGE, ALASKA 99519 6650
(907) 786-8160

TOM FINK
MAYOR

DEPARTMENT OF PUBLIC WORKS
(3500 East Tudor Road)

June 10, 1991

Susan L. Benedetti
Mortgage Operations Officer
AHFC
P.O. Box 101020
Anchorage, Alaska 99510

RE: RABBIT CREEK VIEW AND RABBIT CREEK HEIGHTS SUBDIVISIONS

Dear Ms. Benedetti:

The Municipality understands the dilemma faced by the lending institutions, investors and lot owners of property situated in the above named subdivisions. It is however, a problem affecting the rights of private parties who have a direct financial interest in the lots. The Municipality's interest lies only in those areas dedicated to public uses. These are identifiable even though they do not agree with the plats on file at the District Recorder's office.

My staff conducted research on surveying and boundary law issues pertaining to erroneous plats. The courts have recognized that the actual survey is substance and the plat is merely a picture. Where the plat and the actual survey are in conflict, the actual survey, as laid out on the ground, will control and the plat will be considered as surplusage. In a conveyance that refers to a plat, it is the lines actually surveyed on the ground that control the lots. Your problem is to properly identify the lot locations according to the original boundary. This can be accomplished by having a location survey performed for each lot that you have an interest in or by vacating the existing plats and resubdividing.

If a majority of property owners wish Municipal assistance to vacate and resubdivide the properties, then property owners are required to come into Public Works at 3500 Tudor Road and initiate a special assessment district. Contact Mark Sollenberger (786-8208) in special assessments to obtain the details of such a program.

According to the Municipal Attorney's office, Title 21 Municipal Land Use Regulations does not contain any language which would permit the Municipality to require erroneous plats to be resubdivided or to bring this type of matter before the courts. The state statutes do not address this situation either.

Susan L. Benedetti
June 10, 1991
Page 2

According to AWWU, the utility is forbidden to service this area with water and sewer facilities by Municipal Ordinance. The Hillside Wastewater Management Plan would have to be amended along with the ordinance before AWWU would consider utility extensions in this area.

The two plat areas are outside of the Building Safety Service Area and therefore are not required to obtain a building permit. If such a permit were required then we would require a builder to supply us with a plot plan showing the location of the proposed building on the lot. Since the lot corners have been staked in these two subdivisions builders would be able to meet our requirements.

We know the approximate magnitude of error through reports given to us by land surveyors. Since these plats are in a limited road service area, which is maintained by the residents of the subdivisions, the Municipality does not have any experience with problems associated with plat to lot errors. It would be difficult to guess at how many lots would need to be involved with a resubdivision. It would be prudent to resubdivide all the lots in each subdivision in order to insure that all errors would be corrected.

You have requested the Municipality's assistance in any way possible. For years the Municipality has responded to whomever has requested this help in the only way we are legally able to help. That is through the special assessment district process. To date none of the interested parties have come forward and initiated the process. If you have any further questions you may contact me at 786-8109.

Sincerely,

Ross Dunfee, P.E.
Municipal Engineer

RBD/TK/gfc
/28

cc: Tom Knox, Municipal Surveyor

COORD. STAMP / INITIAL / MAIL WHEN SIGNED			
OFFICE	Muni. Eng.	Muni. Eng.	
SIGN	TJK.	R	
DATE	6/10/91	6/10	
ATTACHMENTS:	YES	<input checked="" type="checkbox"/> NO	#:



Anchorage Office, Region A
 222 W. 8th Avenue, #64
 Anchorage, AK 99513-7537

RECEIVED

JUN 26 1991

JUN 27 1991

Thomas W. Knox, RLS
 Municipal Surveyor
 Municipality of Anchorage
 P.O. Box 196650
 Anchorage, AK 99519-6650

ENGINEERING DIVISION
 PUBLIC WORKS

Dear Mr. Knox:

Subject: Rabbit Creek and Rabbit Creek Heights Subdivisions

The Department of Housing and Urban Development (HUD) has become aware of the survey problems in the subject subdivisions. We have received information that lot corners as staked are not in the same position as shown on plats and that some surveyors are finding positional errors in the range of 20 to 30 feet.

In the past, HUD/FHA has insured properties in the Rabbit Creek and Rabbit Creek Heights Subdivisions, being unaware of the discrepancies in the lot plats and surveys. In the past year our Property Disposition Branch has received a number of homes in these subdivisions back in foreclosure and HUD sustains significant losses if the properties cannot be resold with mortgage insurance.

Please advise our office as to what steps are being taken by the Municipality to solve these problems. Until these problems can be resolved HUD will be unable to insure any homes in the Rabbit Creek and Rabbit Creek Heights areas.

If you have any questions regarding this matter, please contact Alice Bethka, Valuation Branch, at 271-4657.

Sincerely,

Arlene L. Patton
 Manager

Post-It™ brand fax transmittal memo 7671 # of pages 9

To CWA RICHAY	From Kass
Co.	Co. DPW
Dept.	Phone # 786-8109
Fax # 465-3871	Fax # 562-5762



STEWART TITLE
COMPANY OF ALASKA

November 16, 1992

Mr. Paul Richardson
Performance Real Estate

Re: Rabbit Creek Heights/Rabbit Creek View

Dear Paul:

As discussed with you Thursday, I am writing to clarify our Company's position as to the survey/boundary discrepancies of the above referenced subdivisions.

It is commonly known that when these two subdivisions were originally surveyed and platted the common boundary between the two contained errors in the bearings and distances and therefore creating encroachments, location, boundary and area discrepancies that spread throughout and affect all lots in these subdivisions. Many surveyors will not even perform as-built surveys because of this problem. Many lenders will not lend either.

An Alaska Owner's Policy of Title Insurance (insuring the buyer) contains a general exception as follows:

"Encroachments or questions of location, boundary and area, which an accurate survey may disclose...."

This exception means that the policy does not afford coverage relating to these problems in these subdivisions.

As far as possible solutions of this problem, it would require a comprehensive replat of both subdivisions. This would have to be accomplished by agreement between all property owners or by a court action that would bind all property owners to cause a replat.

Page 2
Mr. Paul Richardson

Under today's municipal regulations for platting, the costs involved could be astronomical, however, this is the only appropriate solution to this dilemma.

Best of luck in your endeavors and please call if I may be of further assistance.

Yours truly,

STEWART TITLE COMPANY OF ALASKA, INC.


Howard Hancock
Advisory Title Officer

HH:bt



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Loren Leman
Senator Al Adams
Senator Fred Zharoff

SESSION:
State Capitol
Juneau, Ak 99801-1182
(907) 465-4989

INTERIM:
P. O. Box 142
Eagle River, Ak 99577
(907) 694-4949

SB 355 - "An Act relating to errors in surveys of land."

SB 355 would allow a party to enjoin all property owners of record, after proper petition to the court and resolution by the local government, to request a resurvey and replat of manifestly defective subdivision lines and subsequent changes in individual lots through Superior Court action.

When outside survey lines of a subdivision are grossly incorrect, it causes the inside lines of some or all of the individual lots to be incorrect as well. If this occurs, no one in the entire subdivision is afforded clear title, creating difficulties in title transfer.

Several officials of the Municipality of Anchorage have requested this legislation to help correct two "manifestly defective" subdivision surveys in the Anchorage area. The Municipality has exhausted all other aspects of law to correct this problem and finds that this legislation is the only practical solution to offer relief to assist property owners in correcting this defect. While the immediate reason for this legislation occurs in Anchorage, the changes would be available statewide for manifestly defective surveys.

The Board of Architects, Engineers and Land Surveyors, the Municipal League, the ASPLS, and the Municipality of Anchorage have been notified of this legislation. Further, the Division of Occupational Licensing and various land title companies can attest to the problems caused by manifestly defective subdivision surveys.

Submitted by: Assemblymembers Abney and Bell
Prepared by: Department of Law
For reading: September 14, 1993

CLERK'S OFFICE

APPROVED

Date: 11-9-93 ANCHORAGE, ALASKA
AC NO. 93-156

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AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE AMENDING CHAPTER 19.10 OF THE ANCHORAGE MUNICIPAL CODE REGARDING SPECIAL ASSESSMENT DISTRICTS, ADDING SURVEYING AS A PURPOSE FOR WHICH SPECIAL ASSESSMENT DISTRICTS ARE AUTHORIZED.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1: That AMC 19.10.020 is amended to read as follows

19.10.020 Special assessment districts--Authorized improvements.

A special assessment district for a public improvement including, without limitation, for any one or more of the following improvements may be initiated:

- A. Streets, roads, parkways, street lighting, curbs and gutters, driveways, curb cuts and sidewalks;
- B. Storm sewers or drains;
- C. Sanitary sewers;
- D. Parks, recreation areas and open space;
- E. Off-street parking facilities;
- F. Changes in channel of streams or watercourses;
- G. Bridges, culverts, embankments and dikes for streams or water courses;
- H. Water supply system including water mains, water connections and fire hydrants;
- I. Fallout or disaster shelters;
- J. Street, road, parkway and sidewalk drainage, ciling, sprinkling and snow removal;
- K. Placing overhead utility distribution lines as defined in section 19.60.010, underground;
- L. Natural gas lines[.];
- M. The re-survey and re-platting of manifestly inaccurate surveys of record.

Post-it brand fax transmittal memo 7671

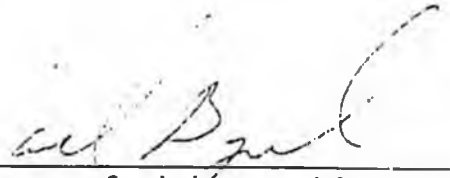
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Dept: [Handwritten]	Phone: [Handwritten]	
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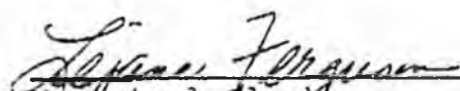
Section 2: That this ordinance shall become effective immediately upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this 9th day of November, 1993.



Chairman of the Assembly

ATTEST:



Municipal Clerk
(Logging: \assy\ao\survey.she\dp)

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

BEFORE THE BOARD OF ARCHITECTS, ENGINEERS, AND LAND SURVEYORS

In the Matter of:)
)
 William E. Johnson,)
 Respondent)

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND PROPOSED DECISION

Case No. AE 89L-12

A hearing was held on December 6, 1988 in the Frontier Building, Suite 722, Anchorage, Alaska. In attendance was Assistant Attorney General, Lawrence Delay, Esq. representing the State of Alaska, along with Ray Spiess, Investigator. Mr. William E. Johnson, the Respondent, did not attend the hearing, nor did he respond in any way.

The hearing was conducted in the most part, by telephone. The first witness was an Alan Rathbun, who was and is the registrar for the Board of Professional Engineers and Land Surveyors for the State of Washington. Mr. Rathbun had served as the board's secretary, and also the supervisor of the staff of investigators. He was responsible for the record keeping for the Washington State Board. He was sworn and testified that William Johnson was charged in Washington with misconduct in June of 1984 by a Mr. Imakura. The State of Washington investigated the complaint and found that Johnson had committed a number of technical errors as a land surveyor, that Johnson performed work which was useless work, that the work performed by Johnson was to develop a plan of engineering needed to develop a mobile home project. Johnson, who was not a licensed engineer in the State of Washington, developed road plans and overall site plans for the project. The facts were that a substantial part of the site was undevelopable because of floodplain limitation. When Johnson found out about the floodplain problem, he did not tell the client, but continued to work as if the floodplain problem did not exist.

Two years later the mobile home project was changed to residential lots. The short plats development had a technical error in it caused by Johnson, and Johnson also ignored a water easement, which lost one lot to development. There were only four lots, and therefore, the loss of one was a substantial engineering fault. Johnson did the staking on the final project before the preliminary plat had been approved, and thus, a lot of changes had to be made after the preliminary plat was approved.

The Washington State Board had a hearing on October 26, 1985 and Johnson did not appear. The Board found that Johnson practiced engineering in four separate ways for which he was not licensed. Secondly, that he was guilty of misconduct or malpractice in at least five instances as a surveyor and revoked his license, put him on suspension of license for five years, and charged him a \$5,000 fine, and required him to pass the surveyor's license exam when and if he reapplied in Washington. Since then Johnson has not abided by any of the sanctions of the Washington State Board of Engineers and Surveyors.

The next witness was Ray Spiess, the investigator for the State of Alaska. Mr. Spiess started the investigation of Johnson in April 1987 in Alaska. Mr. Spiess filed for the record in this hearing a certified copy of the statement of charges in the State of Washington and a certified copy of the Board Finding of Fact and Conclusions of Law and the Board Order in the Washington case.

Findings of Fact

1. William E. Johnson is currently registered as a land surveyor in the State of Alaska, holding license # LS 1482. His license will expire, unless revoked, on December 31, 1989.
2. On November 15, 1985, the Washington State Board of Professional Engineers and Land Surveyors, after a hearing, ordered the revocation of Johnson's license to practice land surveying in the State of Washington for a period of five years and ordered Johnson to pay a \$5,000 fine caused by five acts of misconduct in the practice of land surveying.
3. The misconduct proved at the hearing, consisted of continuing to do engineering and surveying for a client after Johnson had been notified that the project on which he was working consisted of undevelopable land. The land in question was below the flood plain for the area. After being alerted to the flood plain problem, Johnson did not tell his client and continued to work on the project. Johnson, two years later, working on the same project, ignored a waterline easement and lost a lot from the plat. The Washington State Board found that Johnson was guilty of misconduct, suspended his license for a period of five years from November 1985, and fined him \$5,000.
4. Johnson, to this date, has never paid the fine, nor fulfilled any other conditions for the State of Washington potential renewal of license.

Conclusions of Law

1. AS 08.48.111(2) states that "the Board may suspend, refuse to renew, or revoke the certificate of or reprimand a registrant or corporation who is found guilty of... (2) gross negligence, incompetence, or misconduct in the practice of architecture, engineering, or land surveying;"
2. AS 08.01.075(a) a board may take the following disciplinary actions singly or in combination: (2) suspend a license for a specified period; (4) impose limitations or conditions on the professional practice of a licensee; (6) impose requirements for remedial professional education to correct deficiencies in the education, training, and skill of the licensee;
3. 12 AAC 36.310 a person who, after a hearing under the Administrative Procedures Act (AS 44.62) is found to have violated a provision of AS 08.48 or this chapter is subject to the disciplinary penalties listed in AS 08.01.075, including public notice of the violation and penalty in appropriate publications.

Proposed Decision

Johnson, having been found guilty of misconduct in the practice of land surveying by the Washington State Board of Professional Engineers and Land Surveyors is subject to appropriate discipline within the State of Alaska by the Alaska Board of Registration for Architects, Engineers and Land Surveyors. The Alaska Board has ample authority to discipline William Johnson in any appropriate manner based on the Order of the Board of Professional Engineers and Land Surveyors in the State of Washington.

It is recommended as requested by the Division of Occupational Licensing, that Johnson's license within the State of Alaska be subject to two year's suspension from the date of the Board's recommended order. Then Johnson may petition for reinstatement and must pass an appropriate examination for land surveyors within the State of Alaska.

Dated in Anchorage, Alaska this 3rd day of March, 1989.

David M. Roderick

David M. Roderick
Administrative Hearing Officer

BOARD ACTION ON PROPOSED DECISION

The Alaska Board of Architects, Engineers and Land Surveyors has reviewed the recommendation of the Hearing Officer, and hereby ~~Adopts/Rejects/Modifies/Remands~~ the Proposed Decision to suspend the license of William E. Johnson for two years.

Dated at Juneau, Alaska, this 3rd day of March, 1989.

William E. O'Neil
Chairman
Board of Architects, Engineers, and
Land Surveyors

0694h

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: "An Act relating to errors in surveys of land." BRU: _____
 Component: _____
 Sponsor: Senate Comm. and Regional Affairs Committee
 Requestor: _____ COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current (FY94) Impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Remond Henderson *Remond Henderson* Director Phone: 465-4708
 Division: Administrative Services Date: 3/14/94
 Approved for the Commissioner by: Bruce Geraghty *BG* Deputy Commissioner Date: 3-14-94
 Agency: Community & Regional Affairs

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