

HB

97

ALASKA STATE LEGISLATURE

Interim:

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Session:

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REPRESENTATIVE VIC KOHRING
DISTRICT 14

SPONSOR STATEMENT

HOUSE BILL 97

LONG-TERM LEASES OF ALASKA RR LAND

In 2002, the Legislature passed House Bill 298 to increase the maximum lease term without termination rights the Alaska Railroad can grant without Legislative approval to 55 years from the 35-year maximum set in 1984. The increase was to encourage economic development in communities along the Railbelt by making it easier for large commercial and residential developers to obtain financing through grants and other sources which require a longer lease. For example, the HUD 202 Senior Housing Grants required a minimum 40-year lease. The 55-year lease maximum set forth in HB 298 went into effect May 30, 2002.

Shortly after, the minimum lease requirement for Federal Housing and Urban Development (HUD) 202 grants increased from 40 years to 75 years, in effect putting developers back at square one. The Alaska Railroad can approve a lease in excess of 55 years; however, they must reserve the right to terminate the lease in the event the land is needed for railroad purposes.

A multi-family senior housing project has been planned for Government Hill in Anchorage and the developer was granted a 55-year lease by the Alaska Railroad Board for the project site. When HUD changed the terms of the 202 program, it disqualified the project for consideration for HUD 202 grants.

House Bill 97 will allow the Alaska Railroad to extend the developer's current 55-year lease without the termination clause allowing him to apply for HUD 202 funding.

updated 2-24-03
bill contact aide: Sharron O'Dell

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 97
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Long Term Leases of Alaska Railroad Land BRU Alaska Railroad Corporation
Component _____
Sponsor Representative Kohring
Requester House Transportation Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

House Bill 97 would authorize the Alaska Railroad Board of Directors to extend the term of a current lease under Alaska Railroad Contract No. 8371 beyond 55 years. If HB 97 bill passes, and the Alaska Railroad Board of Directors approves the lease proposal, revenue derived from the lease would be extended at the current fair market value rate, subject to the terms and conditions of the lease agreement.

Prepared by: Wendy Lindskoog, Director External Affairs Phone 907-265-2498
Division Alaska Railroad Corporation Date/Time 3/5/03 4:48 PM
Approved by: Edgar Blatchford, Commissioner Date 3/5/2003
Agency Department of Community & Economic Development

**DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT**

**SECTION 202 SUPPORTIVE HOUSING
FOR THE ELDERLY**

Billing Code 4210-32-C

categories of elderly persons the housing is intended to serve and evidence demonstrating sustained effective demand for supportive housing for that population in the market area to be served, taking into consideration the occupancy and vacancy conditions in existing Federally assisted housing for the elderly (HUD and RHS; e.g., public housing); State or local data on the limitations in activities of daily living among the elderly in the area; aging in place in existing assisted rentals; trends in demographic changes in elderly population and households; the numbers of income eligible elderly households by size, tenure, and housing condition; the types of supportive services arrangements currently available in the area; and the use of such services as evidenced by data from local social service agencies or agencies on aging. Also, a description of how information in the community's Analysis of Impediments to Fair Housing Choice was used in documenting the need for the project.

(4)(b) A description of how the proposed project will benefit the target population and the community in which it will be located.

(4)(c) A description of the project, including the following:

(4)(c)(i) A narrative description of the building design, including a description of the number of units with bedroom distributions, any special design features, amenities, and/or community space, and how this design will facilitate the delivery of services in an economical fashion and accommodate the changing needs of the residents over the next 10–20 years.

Note: If these community spaces, amenities, or features would not comply with the project design and cost standards of 24 CFR 891.120 and the special project standards of 24 CFR 891.210, you must state your ability and willingness to contribute both the incremental development cost and continuing operating cost associated with the community spaces, amenities, or features;

(4)(c)(ii) A description of whether and how the project will promote energy efficiency, and, if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction.

(4)(c)(iii) If applicable, a description of any plans and the actions you have taken to create a mixed-finance/mixed-use project by developing additional units (i.e., in addition to the Section 202 units) with the use of Section 202 capital advance funds in combination with other funding sources. Specify the number of Section 202 units and the number of additional units from non-Section 202 funding sources. Provide

copies of any letters you have sent seeking outside funding for the non-Section 202 units and any responses thereto. You also must demonstrate your ability to proceed with the development of a Section 202 project that will not involve mixed-financing or a mixed-use purpose, as proposed in your application, in the event you are later unable to obtain the necessary outside funding or HUD disapproves your proposal for mixed-financing or a mixed-use.

Note: Approval of the Section 202 capital advance will not necessarily be approval of the mixed-finance/mixed-use proposal. If approved for a reservation of capital advance funds, you will be required to submit, after reservation of capital advance funds, a detailed proposal outlining how you will fund both development and operation of the additional units in accordance with HUD instructions that will be issued later. Based on the strength of your organization and HUD's prior experience with your projects, as well as your outline of your intentions, at the time of making the fund reservation, HUD will determine whether you will be permitted to submit a mixed-finance/mixed-use proposal at a later time. Only those Sponsors that indicate in their application for a fund reservation an intention to propose additional units will be eligible to submit, at a later time, a mixed-finance/mixed-use proposal for additional units. (A mixed-finance/mixed-use project, as used here, does not include the development of Section 202 units using secondary/supplemental financing or the development of a mixed-use project in which the Section 202 units are mortgaged separately from the other uses of the structure).

(4)(c)(iv) Describe your plan for completing the proposed project within the initial 18-month term of the fund reservation (optional).

(4)(d) Evidence that the Sponsor has site control and permissive zoning, including the following:

(4)(d)(i) Acceptable evidence of site control is limited to any one of the following:

(A) Deed or long-term leasehold which evidences that you have title to or a leasehold interest in the site. If a leasehold, the term of the lease must be at least 75 years;

(B) Contract of sale for the site which is free of any limitations affecting ability to deliver ownership to you after you receive and accept a notice of Section 202 capital advance. The only condition for closing on the sale can be your receipt and acceptance of the capital advance. The contract of sale cannot require closing on a date earlier than the Section 202 closing.

(C) Option to purchase or for a long-term leasehold which must remain in effect for six months from the date on which the applications are due, and

must state a firm price binding on the seller. The only condition on which the option may be terminated is if you are not awarded a fund reservation. The option must be renewable at the end of the six months option period.

(D) Where the proposed site is subject to a mortgage under a HUD program (e.g., an earlier 202 or an FHA insured mortgage), you must submit evidence that consent to release of the site from that mortgage has been obtained or has been requested from HUD and from the mortgagee, if other than HUD.

(E) For sites to be acquired from a public body, evidence is needed that the public body possesses clear title to the site and has entered into a legally binding agreement to lease or convey the site to you after you receive and accept a notice of Section 202 capital advance. Where HUD determines that time constraints of the funding round will not permit all of the required official actions (e.g., approval of Community Planning Boards) that are necessary to convey publicly-owned sites, a letter in the application from the mayor or director of the appropriate local agency indicating that conveyance or leasing of the site is acceptable without imposition of additional covenants or restrictions and only contingent on the necessary approval action. Such a letter commitment will be considered sufficient evidence of site control.

Note: For this funding cycle, New York City-owned sites that are designated as community gardens and are involved in litigation will not meet site control requirements due to litigation involving those sites.

(4)(d)(ii) Whether you have title to the site, a contract of sale, an option to purchase, or are acquiring the site from a public body, you must provide evidence (a title policy or other acceptable evidence) that the site is free of any limitations, restrictions, or reverts which could adversely affect the use of the site for the proposed project for the 40-year capital advance period under HUD's regulations and requirements (e.g., reversion to seller if title is transferred). If the title evidence contains restrictions or covenants, copies of such covenants or restrictions must be submitted with the application. If the site is subject to any such limitations, restrictions, or reverts, the application will be rejected. Purchase money mortgages that will be satisfied from capital advance funds are not considered to be limitations or restrictions that would adversely affect the use of the site. If the contract of sale or the option agreement contains

Sec. 42.40.280. State oversight reports.

(a) The board shall provide a state oversight report to the governor and the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided; or

(2) an application for an appropriation to be used for providing any service that is not self-sustaining.

(b) The report under (a) of this section shall be in writing, describe the proposed undertaking in detail, and specify

(1) its financial impact on the corporation;

(2) its impact on the level and nature of services provided by the corporation;

(3) the reasons the action is necessary or desirable to achieve the purposes of this chapter;

(4) whether and when the undertaking or service is expected to be self-sustaining financially; and

(5) if the undertaking requires an appropriation to be used for providing a service that is not self-sustaining, that the amount of the appropriation has been strictly calculated in accordance with United States Interstate Commerce Commission standards for determining rail service subsidies.

Sec. 42.40.285. Legislative approval required.

Unless the legislature approves the action by law, the corporation may not

(1) exchange, donate, sell, or otherwise convey its entire interest in land;

(2) issue bonds;

(3) extend railroad lines; this paragraph does not apply to a spur, industrial, team, switching, or side track;

(4) lease land for a period in excess of 55 years unless the corporation reserves the right to terminate the lease if the land is needed for railroad purposes;

(5) apply for or accept a grant of federal land within a municipality; before approving an action under this paragraph, the legislature must determine that the federal land is required for

essential railroad purposes; this paragraph does not apply to the application for or acceptance of a grant of federal land associated with

(A) the Anchorage-Wasilla line change project on Elmendorf Air Force Base and Fort Richardson;

(B) the Fairbanks intermodal rail yard expansion project;

(C) a conveyance of rail properties of the Alaska Railroad under the original Alaska Railroad Transfer Act of 1982 as set out in Title VI, P.L. 97-468; in this subparagraph, "rail properties of the Alaska Railroad" has the meaning given in 45 U.S.C. 1202(10).

Sec. 42.40.290. Long-range capital improvement and program plan.

(a) The corporation shall prepare and the board shall adopt a long-range capital improvement and program plan. The plan must explain the manner in which the corporation intends to accomplish the purposes of this chapter and the corporation's anticipated capital improvements during each of the five years after the plan is adopted.

(b) The board shall annually review and approve revisions to the long-range capital improvement and program plan. The board shall provide copies of the updated plan to the governor and the legislature by December 1 of each year.

Alaska Enfranchise Facilities, Inc.

Providing safe,
Clean and affordable
Housing for Alaskan
Seniors.

Alaska Enfranchised Facilities, Inc. respectfully requests your assistance in providing legislation allowing for the development of senior housing, on land leased from the Alaska Railroad Corporation, using HUD's 202 program.

HUD's 202 program was initiated in the 1960's as a low interest loan program, designed to provide rental housing for low income persons sixty-two years of age and older. The program has evolved over the years and in the mid 1990's the program became a grant program whereby 501 C-3 not-for-profit applicants would receive the grant funds and use the money to build and operate housing for low income people sixty-two years of age and older.

Each year HUD uses a formula to determine how many housing units to assign to each of the fifty states in two categories. The categories are rural and urban. Once the allocation is made the opportunity to apply for the grant funds is advertised to all potential not-for-profit applicants with a NOFA (notification of funding availability). The NOFA is typically posted on the HUD website each April.

The last several years Alaska's annual allocation has been twenty urban units and five rural units. The grant program allows for grant funded buildings to be built on leased land. Before the 2002 grant cycle the rules called for the duration of the lease to be a minimum of forty years. In the April 2002 NOFA the duration of the lease, necessary to build on leased land, was increased to seventy-five years.

Alaska Enfranchised Facilities, Inc. has received seven grants in the past eight years. Four buildings are built and occupied in Anchorage. One building is under construction in Sutton, and later this summer another building will be built in Sutton and one in downtown Anchorage. These buildings total 115 housing units. Marc Marlow has acted as the contractor for most of the buildings built with the grants AEF has received to date. Mr. Marlow also acts as a facilitator for AEF, Inc., coordinating requirements for application in a timely manner as well as assisting in coordinating efforts after AEF, Inc. has received a grant.

Please find attached a brochure of the buildings AEF, Inc. has finished for Alaska's elderly to date.

Alaska Enfranchised Facilities, Inc. desires to apply for the 2003 HUD 202 grant and hopes to build the building on Government Hill in Anchorage, on a piece of land that the Alaska Railroad Corporation owns. The Alaska Railroad Corporation is only allowed to lease land for a period not to exceed fifty-five years, unless a longer period is approved by the legislature. In so far as the 202 program requires a lease period of at least seventy-five years, the legislature's approval is hereby requested to allow the Alaska Railroad Corporation to lease the portion of Section 8, Township 13 North, Range 3 West, Seward Meridian that is owned by the Alaska Railroad Corporation for a period in excess of fifty-five years.

HISTORY

Alaska Enfranchise Facilities, Inc., previously Alaska Evangelistic Fellowship, Inc., received its non-profit corporation status in 1991.

The purpose of the corporation as amended in March, 1999 states: "the purpose of this corporation is to (1) research community needs and target feasible projects; (2) build facilities to support programs by seeking incentives for developers; (3) organize and train program-specific management and volunteers; (4) coordinate the utilization of community-based services in the programs; (5) obtain support for quality-of-life improvements in completed facilities; (6) seek continuous evaluation of facility and program effects; and (7) involve local and regional leadership in the entire process."

Current activities include sponsoring and facilitating the development of owner corporations for seven (7) Section 202 Capital Advance, Supportive Housing for the Elderly, projects in Alaska.

CURRENT PROJECTS

Muldoon Manor

Project #176-EE007
20 units
2040 Muldoon Road
Anchorage, Alaska 99504
Funded 1995
Grant amount \$2,438,199
100% Occupied

Commodore Park Plaza

Project #176-EE010
25 units
10415 Jamestown Drive
Anchorage, Alaska 99507
Funded 1996
Grant amount \$3,034,440
100% Occupied

Russian Jack Manor

Project #176-EE015
20 units
1260 Delasala Place
Anchorage, Alaska 99508
Funded 1999
Grant amount \$2,821,200
100% Occupied

Sutton Manor

Project #176-EE025
5 units
15816 North Glenn Highway
Sutton, Alaska 99674
Funded 2001
Grant amount \$891,100
Under construction

Jewel Lake Plaza

Project #176-EE014
20 units
8300 Jewel Lake Road
Anchorage, Alaska 99502
Funded 1998
Grant amount \$2,351,000
100% Occupied

Sutton Annex

Project #176-EE028
5 units
15838 North Glenn Highway
Sutton, Alaska 99674
Funded 2002
Grant amount \$891,100
Design phase

Sullivan Manor

Project #176-EE027
20 units
Anchorage, Alaska
Funded 2002
Grant amount \$3,620,500
Design phase

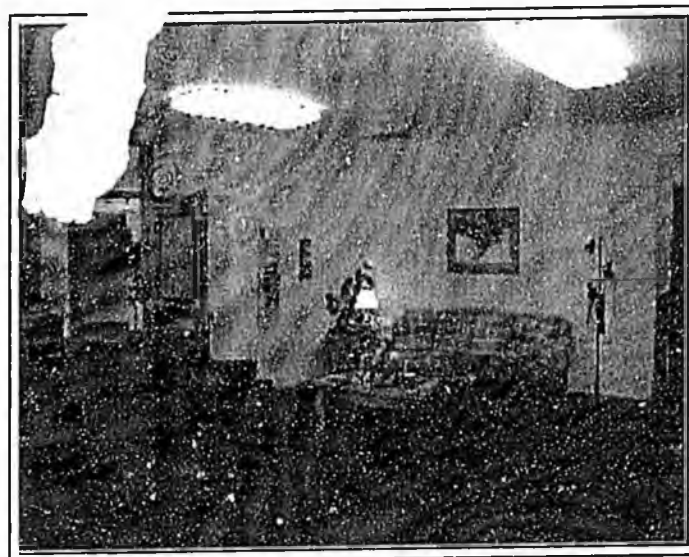
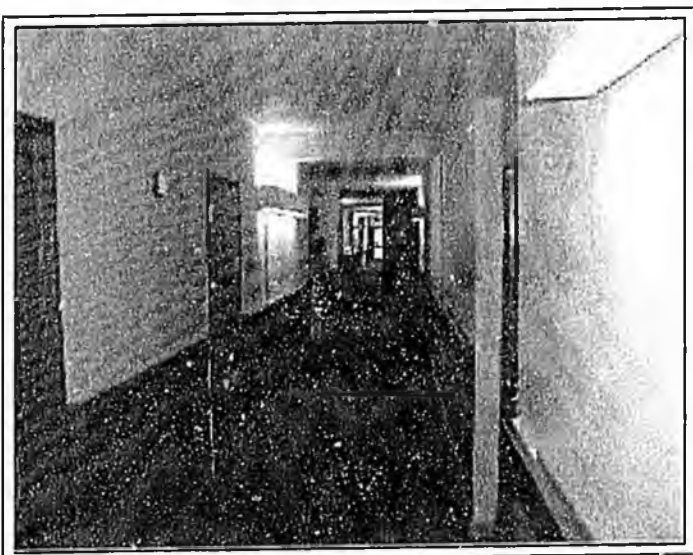
The Board of Directors works with Manor Management of Alaska, Inc. (MMA) on the development and operation of its current facilities as well as future projects. MMA was formed as a sister corporation to Manor Management Services, Inc. (MMS) specifically to provide housing and related services to seniors in Alaska. MMA was incorporated on July 29th, 1992.

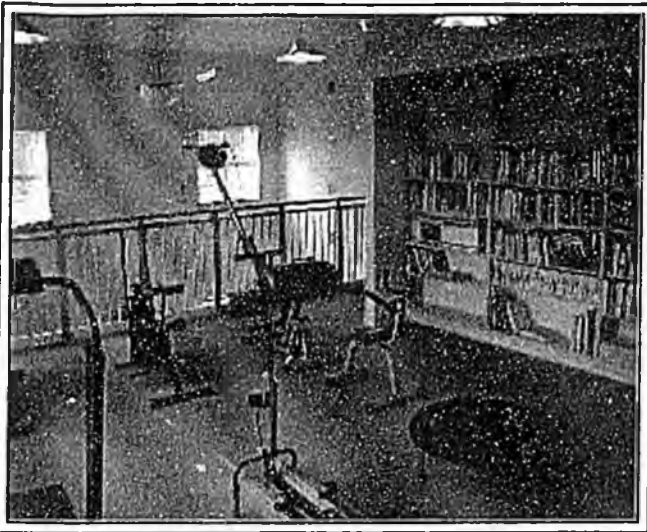
Board meetings are held on a quarterly basis with the management team. Board members are asked to review financial statements from each facility, comment on facility operations, and provide support for project funding, design phase to project completion.

Attached for your review are photographs from our current facilities. Should you have any questions please contact Patrick C. O'Toole, President, MMA, at 1-800-201-4922.



Muldoon Manor
#176-EE007

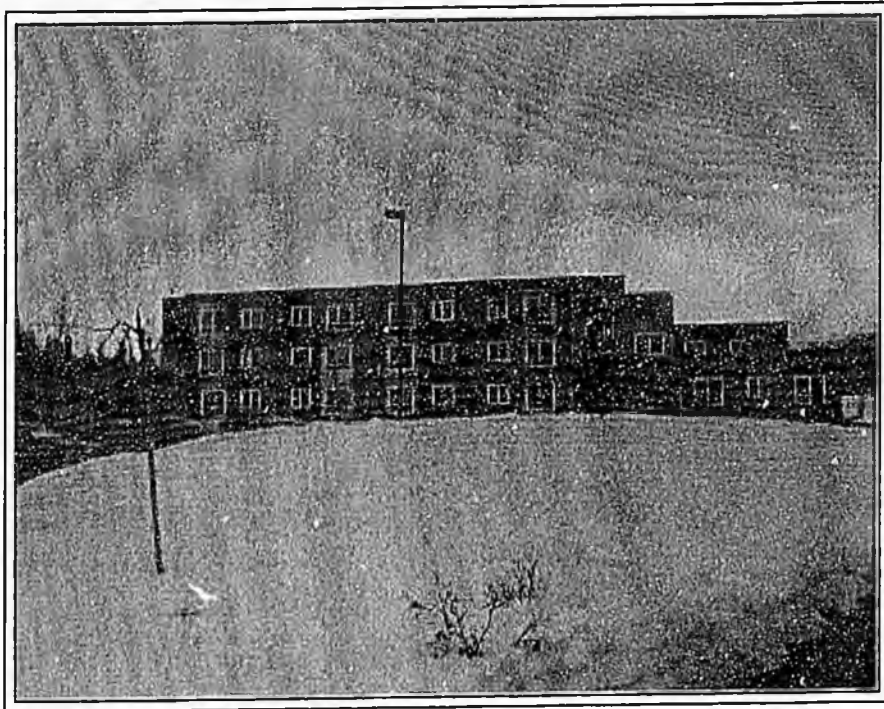




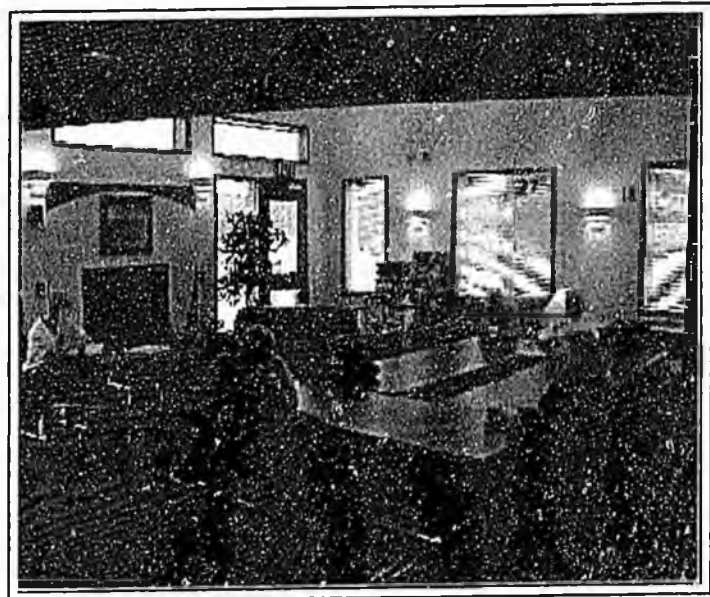
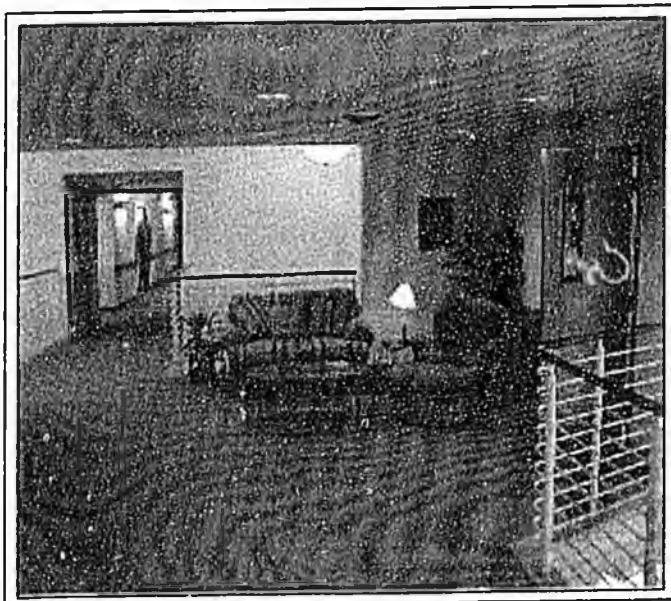
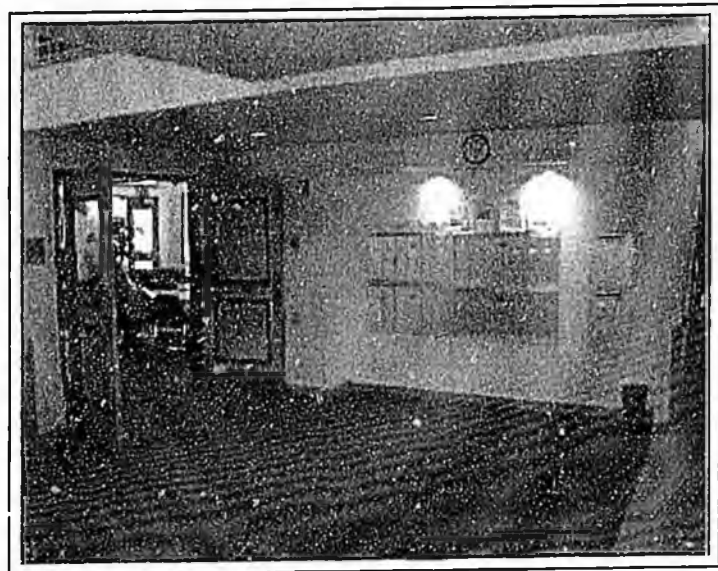
Russian
Jack
Manor

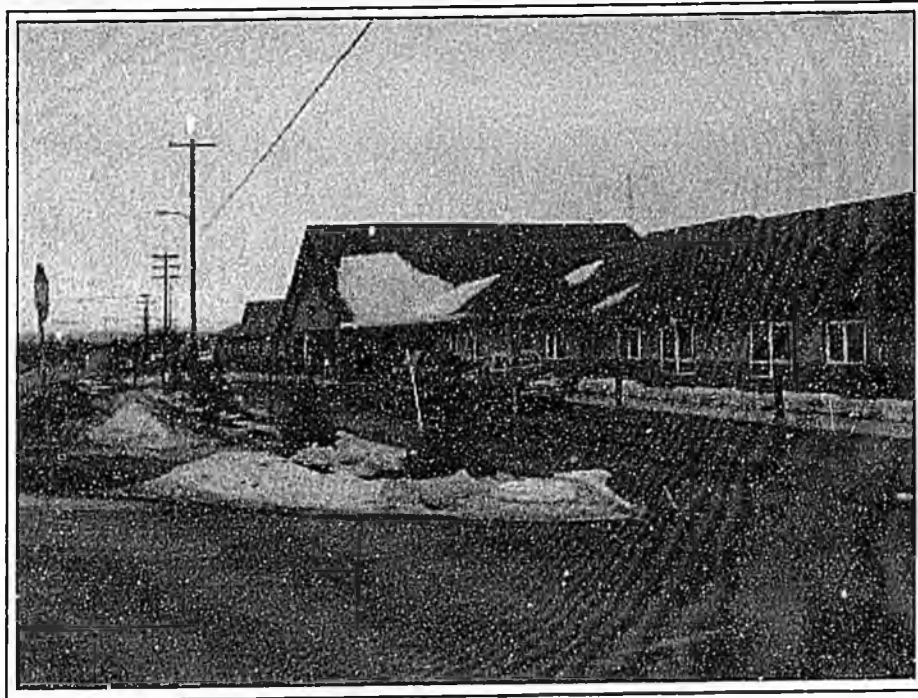
#176-EE015





Commodore Park
Plaza
#176-EE010





Jewel Lake Plaza
#176-EE014

