

HB

175



HOUSE JUDICIARY COMMITTEE

STATE CAPITOL, ROOM 120
(907) 465-4990

COMMITTEE MEMBERS

Rep. Jay Ramras
Chairman
Room, 118
(907) 465-3004

Rep. Nancy Dahlstrom
Vice-Chairman
Room 409
(907) 465-3783

Rep. John Coghill
Room 214
(907) 465-3719

Rep. Bob Lynn
Room 104
(907) 465-4931

Rep. Ralph Samuels
Room 204
(907) 465-2095

Rep. Max Gruenberg
Room 110
(907) 465-4940

Rep. Lindsey Holmes
Room 405
(907) 465-4919

MEMORANDUM

Date: March 27, 2007

To: Representative Kevin Meyer
Co-Chairman House Finance Committee

From: Representative Jay Ramras
Chairman House Judiciary Committee

Re: CSHB175(JUD) 25-LS0619\E

Accompanying this memo, please find the referral-file for CSHB175(JUD).

Attached are the following documents:

- CSHB175(JUD) 25-LS0619\E
- Sponsor Statement
- DOT 0 Fiscal Note
- HJUD Committee report
- Fax to leg. legal re: changes
- HB175 25-LS0619\A
- Support
- Relevant Statutes

25-LS0619E
Bullock
3/16/07

CS FOR HOUSE BILL NO. 175(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE JOHNSON

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the prohibition of the exercise of the power of eminent domain
2 against a recreational structure for the purposes of developing a recreational facility or
3 project."

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

5 * **Section 1.** AS 09.55.240(e) is amended to read:

6 (e) The power of eminent domain may not be exercised for the purpose of
7 developing a recreational facility or project if the property to be acquired includes an
8 individual landowner's personal residence or recreational structure or that portion of
9 an individual's property attached to and within 250 linear feet of an individual
10 landowner's personal residence or recreational structure unless the landowner
11 consents either before or after a condemnation proceeding has been filed.

12 * **Sec. 2.** AS 09.55.240(h)(3) is amended to read:

13 (3) "personal residence" means a structure that is the dwelling place of
14 an individual that

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(A) must be used by the owner or beneficiary of a trust holding legal title to the structure as a dwelling unit, as opposed to a rental, storage, or other commercial space;

(B) must be inhabited by the owner, prior owner, or beneficiary of a trust holding legal title to the structure for at least 90 days during the 12-month period immediately before the date an action for the exercise of the power of eminent domain is filed;

(C) must constitute an ordinary home for general living purposes [, AS OPPOSED TO A DWELLING USED ONLY FOR SEASONAL RECREATIONAL OR TEMPORARY PURPOSES]; and

(D) may not have been constructed, placed, or occupied for the purpose of avoiding eminent domain proceedings;

* Sec. 3. AS 09.55.240(h) is amended by adding a new paragraph to read:

(6) "recreational structure" means a permanent structure that is used by the owner of or beneficiary of a trust holding legal title to the structure as a dwelling for seasonal recreational purposes.

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(A) must be used by the owner or beneficiary of a trust holding legal title to the structure as a dwelling unit, as opposed to a rental, storage, or other commercial space;

(B) must be inhabited by the owner, prior owner, or beneficiary of a trust holding legal title to the structure for at least 90 days during the 12-month period immediately before the date an action for the exercise of the power of eminent domain is filed;

(C) must constitute an ordinary home for general living purposes [, AS OPPOSED TO A DWELLING USED ONLY FOR SEASONAL RECREATIONAL OR TEMPORARY PURPOSES]; and

(D) may not have been constructed, placed, or occupied for the purpose of avoiding eminent domain proceedings;

* Sec. 3. AS 09.55.240(h) is amended by adding a new paragraph to read:

(6) "recreational structure" means a permanent structure that is used by the owner of or beneficiary of a trust holding legal title to the structure as a dwelling for seasonal recreational purposes.

L

ALASKA STATE LEGISLATURE

Interim

716 West 4th Avenue, Suite 640
Anchorage, Alaska 99501
Phone (907) 269-0200
Fax (907) 269-0204
Hep_Craig_Johnson@legis.state.ak.us

Session

State Capitol Building, Room 126
Juneau, Alaska 99801-1182
Phone (907) 465-4993
Fax (907) 465-3872
Toll-free (866) 465-4993

REPRESENTATIVE CRAIG JOHNSON
HOUSE DISTRICT 28

Sponsor Statement

House Bill 175

"An Act further limiting the exercise of eminent domain."

HB 175 strengthens the individual's property rights by protecting privately owned recreational structures from the exercise of eminent domain for recreational purposes.

Eminent domain is an important right of the government. However, it should only be used for the most judicious of purposes, and every effort should be made to minimize its impact to the right of the individual to own private property.

AS 09.55.240 limits the government's authority to exercise eminent domain and seize personal residences by clearly outlining its legitimate use (namely the construction and/or expansion of roads, schools, and public buildings) and by prohibiting its exercise for the purpose of economic development or to generate increased government revenues.

HB 175 affords privately owned recreational structures the same protection from government seizure already granted to personal residences in AS 09.55.240.

The right to own private property is one of the most important rights of Alaskans. By prohibiting government seizure of privately owned recreational structures for recreational purposes, HB 175 strengthens that right and ensures the continued use of land in the greatest of ways – that of private ownership.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB175-DOT-ADM-03-09-07
 Bill Version: HB 175
 () Publish Date: _____

Revision Date/Time (Note if correction): _____
 Title Eminent Domain; Recreational Structures
 Sponsor Rep. Johnson
 Requester House JUD

Dept. Affected: DOT&PF
RDU Administration and Support
 Component Commissioner's Office
 Component No. 530

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact on the Department of Transportation and Public Facilities.

Prepared by: Mary Siroky
 Division: Commissioner's Office
 Approved by: Nancy Slagle, Director Division of Administrative Support
 Agency: Department of Transportation and Public Facilities

Phone 465-4772
 Date/Time 3/09/07 3:00pm
 Date 3/9/2007

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY COMMITTEE



Representative Jay Ramras
Chairman
(907) 465-3004
Fax: (907) 465-2070
Representative_Jay_Ramras@legis.state.ak.us

1292 Sadler Way, Suite 324
Fairbanks, AK 99701

Committee Members:
Representative Nancy Dahlstrom,
Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801-1182

Fax

To: Don Buulock

Fax #: 2029

Number of pages including cover: 1

From: Jane Pierson

Date: March 15, 2007

Re: JUD CSHB175

Don,

Please raft a JUD CS for HB175 for tomorrow's meeting. I will need the following changes:

P. 2, L. 14. After "Means a" insert "permanent"

P.2. 1.15 after purposes [.] insert "must be used by the owner or beneficiary of a trust holding legal title to the structure."

**ANCHORAGE BOARD
OF REALTORS® INC.***The Voice for Real Estate™ in Anchorage*

1600 W. 33rd Avenue
Suite #220
Anchorage, Alaska 99503
(907) 581-2338
(907) 583-8476 Fax

March 13, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

The Anchorage Board of REALTORS® with over 900 members supports House Bill 175, which relates eminent domain and recreational structures.

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

We favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are very common throughout Alaska.

The Anchorage Board encourages the passage of House Bill 175.

Sincerely,

Art Clark
ABR President



March 13, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

The Alaska Association of REALTORS with over 1,600 members statewide supports House Bill 175, which relates eminent domain and recreational structures.

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

We favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes, which are very common throughout Alaska.

The Association encourages the passage of House Bill 175.

Sincerely,


Janice Strong

Alaska Association of Realtors
Secretary for the Board of Directors

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

As a member of Alaska Association of REALTORS® with over 1,600 members statewide, I support House Bill 175, which relates eminent domain and recreational structures.

The government should not be able to confiscate private property!

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes, which are very common throughout Alaska.

Please support the passage of House Bill 175.

Sincerely,



Remax of Juneau

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

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I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes, which are very common throughout Alaska.

Please support the passage of House Bill 175.

Sincerely,


Associate Broker
Re/Max of Juneau

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

As a member of Alaska Association of REALTORS® with over 1,600 members statewide, I support House Bill 175, which relates eminent domain and recreational structures.

The government should not be able to confiscate private property!

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I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes, which are very common throughout Alaska.

Please support the passage of House Bill 175.

Sincerely,



Debbie White
REMAX of Juneau
8800 Glacier Hwy #219
Juneau, AK 99801



ALASKA ASSOCIATION OF REALTORS, INC.
4205 Minnesota Drive Anchorage, Alaska 99503
Telephone (907) 563-7133 Fax (907) 561-1779
www.alaskarealtors.com

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

The Alaska Association of REALTORS® with over 1,600 members statewide supports House Bill 175, which relates eminent domain and recreational structures.

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

We favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are very common throughout Alaska.

The Association encourages the passage of House Bill 175.

Sincerely,

Judy Cloud
AAR President



Stacy Risner
PO Box 75188
Fairbanks, AK 99701

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

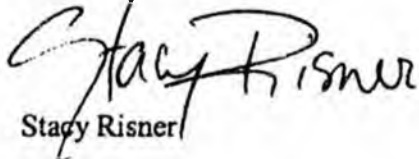
Dear Representative Johnson,

I am writing to you in support of House Bill 175, which relates eminent domain and recreational structures.

I wholeheartedly supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development. HB 175 will protect our citizens by including recreational structures and second homes in this protection. One of the great aspects of this state is the ability to get out and enjoy the beauty of our land and the wildlife that live there. Many people own recreational property to do just that, and it is simply unfair for anyone to be able to take this away for the gain of another.

Thank you for your time and consideration on this subject. I sincerely appreciate your support of House Bill 175.

Sincerely,


Stacy Risner

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

As a member of Alaska Association of REALTORS® with over 1,600 members statewide, I support House Bill 175, which relates eminent domain and recreational structures.

The government should not be able to confiscate private property!

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes, which are very common throughout Alaska.

Please support the passage of House Bill 175.

Sincerely,

Holly Aron
RE/MAX of Juneau

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

As a member of Alaska Association of REALTORS® with over 1,600 members statewide, I support House Bill 175, which relates eminent domain and recreational structures.

The government should not be able to confiscate private property!

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes, which are very common throughout Alaska.

Please support the passage of House Bill 175.

Sincerely,

Kickie Martley
Remax of Juneau



**First American
Title Insurance Company**

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

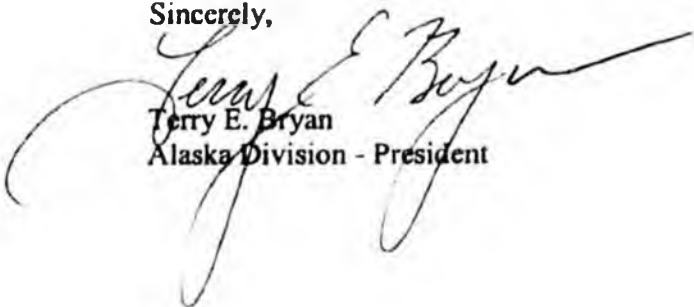
First American Title currently has offices in 10 communities' through-out the State of Alaska. Our offices assist in the facilitation of, in excess of 10,000, real estate transactions, involving Alaskan property owners, each year. Many of those transactions include, what could be considered, recreational properties.

Last session, I supported HB 318, which addressed the issue of 'taking' a property owner's private property for economic development and whether it is appropriate to take all or part of one's primary residence to enhance the recreational opportunities of another.

I favor this consumer protection, legislation because it correctly identifies primary residences to include recreational structures and second homes.

I support the passage of House Bill 175.

Sincerely,


Terry E. Bryan
Alaska Division - President

3035 C Street, Anchorage, AK 99503
OFFICE 907.561.1844 • FAX 907.561.1948
www.firstam.com

March 13, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

The Alaska Association of REALTORS® with over 1,600 members statewide supports House Bill 175, which relates eminent domain and recreational structures.

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are very common throughout Alaska.

The Association encourages the passage of House Bill 175.

Sincerely,

Dawn Burton ☺
Realtor

ASSOCIATED ISLAND BROKERS

March 13, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, AK 99801

RE: House Bill 175, Relating to the exercise of Eminent Domain and recreational structures

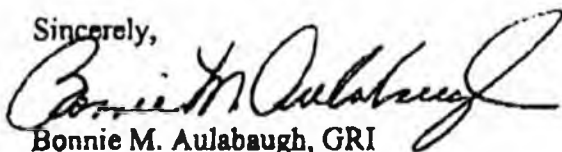
Dear Rep. Johnson:

I would like to express my support for House Bill 175. Since HB 318 passed during the last legislative session and defined whether or not it is appropriate to take a person's private property for economic development and also whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another, it seems that HB 175 is simply a "house-keeping" step to include recreational structures and second homes in the definition of primary residence.

I favor HB 175 since I believe it is something that is needed for consumer protection and would simply change the definition of primary residences in Alaska to include recreational structures and second homes, which as you know, are very common throughout our State.

I encourage the passage of House Bill 175. Thank you for your kind consideration.

Sincerely,



Bonnie M. Aulabaugh, GRI
Associate Broker



202 Center Avenue, Suite 101

Office: (907) 486-2000

E-Mail: aibi@ptialaska.net

Kodiak, Alaska 99615

Fax: (907) 486-4016



March 13, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

The Alaska Association of REALTORS® with over 1,600 members statewide supports House Bill 175, which relates eminent domain and recreational structures.

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

I favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are very common throughout Alaska.

So I encourage the passage of House Bill 175.

Sincerely,



Carl E. Brent
#16675

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

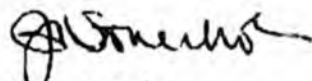
The Alaska Association of REALTORS® with over 1,600 members statewide supports House Bill 175, which relates eminent domain and recreational structures.

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

We favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are very common throughout Alaska.

The Association encourages the passage of House Bill 175.

Sincerely,



Jo Sonerholm
Associate Broker
Prudential Jack White Vista

March 12, 2007

The Honorable Craig Johnson
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

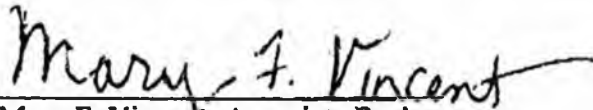
I have been selling real estate in the Mat-Su Borough for 27 years, and myself, along with the Alaska Association of REALTORS® with over 1,600 members statewide supports House Bill 175, which relates to eminent domain and recreational structures.

Last session the Association supported HB 318, the eminent domain legislation which defined whether or not it is appropriate to take a person's private property for economic development and whether it is appropriate to take all or part of one's primary residence for recreational opportunities of another.

Our primary focus as Realtors, is to PROTECT THE RIGHTS OF THE PUBLIC. Therefore, we favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are extremely common throughout Alaska. Private property rights must be protected in this country – we are NOT a socialistic nation.

The Association encourages the passage of House Bill 175.

Sincerely,



Mary F. Vincent, Associate Broker
Prudential JW/Vista RE
907-352-1863 VM

Judy Cloud

March:

The Honorable Craig Johnson, *Real Estate Leaders*
 Alaska House of Representatives
 State Capitol Building
 Juneau, Alaska 99801

RE: House Bill 175, relating to the exercise of eminent domain, recreational structures

Dear Representative Johnson,

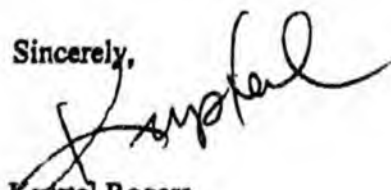
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We favor this consumer protection legislation because it would change the definition of primary residences to include recreational structures and second homes which are very common throughout Alaska.

The Association encourages the passage of House Bill 175.

Sincerely,



Krystal Rogers
 Associate Broker
 ReMAX of Wasilla

Krystal Rogers
 Associate Broker

RE/MAX of Wasilla

3161 E. Palmer Wasilla Hwy. • Wasilla, AK 99654
 Call: (907) 355-8455 • Direct: (907) 352-9345 • Fax: (907) 373-6892
 E-mail: krystal@mtsonline.net

Each Office Independently Owned and Operated

TEAM ROGERS
AT RE/MAX OF WASILLA

Krystal Rogers
Associate Broker



The Real Estate Leaders

Sales Representatives:
Barbara Hocker
Misty Walsh
Sarah Littlefair

Carl-Ann Ketterling
Office Manager

FAX COVER SHEET

To: Wendy Chamberlain From: K. Rogers
 Company: _____ Date: 3-13-07
 Fax #: 586-8977 # of Pages: 2
 Phone #: _____
 RE: _____

MESSAGE

Letter attached

Krystal

Team Rogers
The Real Estate Center Branch
1981 E. Palmer-Wasilla Hwy #250 • Wasilla, Alaska 99654
Phone 907.373.4300 • Fax 907.373.4301

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