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SB 159

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# Real Estate Services Corporation

Appraisers, Counselors, Investment Analysts

KENNETH JAY GAIN, M.A.I., S.R.P.A., C.R.E.C.  
PRESIDENT

STATEWIDE SERVICE

FRANKLIN M. KING, JR., M.A.I.  
EXECUTIVE VICE-PRESIDENT

507 W. NORTHERN LIGHTS BLVD.  
ANCHORAGE, ALASKA 99503  
(907) 274-7636

GARRETT W. WALDNER, R.M., S.R.A.  
SECRETARY-TREASURER

March 25, 1977

Senator Joe Orsini  
Pouch V  
Juneau, Alaska 99801

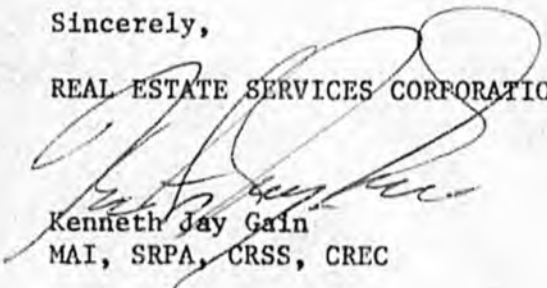
Dear Senator Orsini:

Enclosed herewith is a copy of our survey of Anchorage Realtors, which  
I discussed with you on the telephone yesterday.

If you have any questions concerning this survey, please feel free  
to call me.

Sincerely,

REAL ESTATE SERVICES CORPORATION



Kenneth Jay Gain  
MAI, SRPA, CRSS, CREC

KJG/jfg

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GARRETT W. WALDNER, R.M., S.R.A.  
SECRETARY-TREASURER

April 8, 1977

Senator Joseph Orsini  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

RE: Committee Substitute for Senate Bill #159

Dear Senator Orsini:

I have reviewed a copy of the above-referenced bill which you sent to me. Basically, I consider it an improvement over the present leasing policy. It would appear that it will be easier to finance improvements on leases due to the fact that rents will be fixed with 10-year periods and that there will be less likelihood for small businessmen and homeowners leasing State land to be forced to abandon or sell their leases because of the ravages of inflation. Likewise, during periods in which cumulative inflation is less than 70% during any 10-year period, the State will be able to adjust the rents to Fair Market Values at the end of each lease period.

However, because of the longer periods between rental adjustments and the fact that maximum rental adjustments are provided for, in periods in which there is rapid inflation or rapid increases in land value, a Lessee could accumulate a sizeable leasehold interest which could be sold at a substantial profit. Since I am certain that it is your desire to make State land readily available to the citizens of the State of Alaska, but not allow them to speculate at the expense of other taxpayers, I would suggest that the following change be made to the bill: "In the event that a leaseholder sells or assigns his lease to another party, a re-determination of the annual rental shall be made pursuant to Paragraph 4E and the purchaser or assignee shall be obligated to pay that rental until the next rental adjustment period." I feel this amendment will allow the Lessee to have the advantages and protection provided for in this bill without allowing him to receive a windfall profit at the expense of the State and its other taxpayers.

In sub-paragraph J, where the term MAI Appraiser is used, a more proper definition would be "an appraiser who is a member of the American Institute of Real Estate Appraisers holding the MAI designation". Since there are now a number of Alaskan appraisers who have the MAI designation, it might be advisable to require that, in addition to holding the MAI designation, the appraiser also be a resident of and doing business in the State of Alaska.

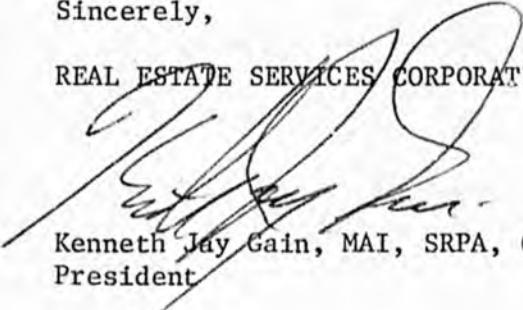
April 8, 1977  
Senator Joseph Orsini  
Page 2

It is my opinion that resident appraisers will be able to do a better appraisal at less cost. If this provision is not included in the bill, in some cases, Lessees may bring in non-resident appraisers (I am assuming that the State will uphold it's philosophy of local hire) who, because of their lack of familiarity with Alaskan conditions, will require a greater time to complete an accurate appraisal. Since the State will be paying half of the cost of such appraisals, I see no justification for the taxpayers of Alaska to pay the cost of travel and lodging non-residents, plus the additional fee that will be required for a non-resident to familiarize himself with Alaskan conditions.

While I am sure that no bill can be written that will be 100% satisfactory to everyone, I feel that with the above-referenced changes, this bill will be a marked improvement over the present law. If I can provide you with any additional information, please feel free to call on me.

Sincerely,

REAL ESTATE SERVICES CORPORATION



Kenneth Jay Gain, MAI, SRPA, CRSS, CREC  
President

KJG/kaj

## SB 159 Leasing of State Land

### A. Areas of agreement

1. Present leasing policy must be changed - but how much?
2. Some lessees will be financially injured, even with moderate changes - but it may be a result of bad <sup>business</sup> decisions
3. Certain ~~are~~ fundamental aspects of state leases (e.g. no "lease-purchase") make state leases less attractive than private leases - but how much?
4. Some sort of ceiling on ~~some~~ rental increases must be imposed - but how much?

### B. Two fundamental differences in philosophies of state leases

1. Leases should be made at the "market rate" ~~the~~ thus maximizing long term income to the state. (or to the trust beneficiary) (trustor)
2. Leases should be made at a nominal less-than-market rate, the main objective being to derive some income while still retaining ownership of the land and encouraging development

### C. Two different types of land being leased

1. Land in trust for mental health, schools & U of A
2. Unrestricted state-owned land

3. Approximately 80% of the state leases are for trust land

D 159 (Finance) expresses both philosophies

1. Low ceiling and appraisal restrictions
2. "Market rate" definition for <sup>annual</sup> rental rate

E. Problems with the bill

1. no acknowledgement of two different types of land to be leased
2. ~~Drafting~~ Administrative problems will result from certain aspects e.g. only 11 MAI appraisers in the state
3. See 38.05.105 (b)(2) page 4 - to what are attributable the "general" increase in land valuation - public actions or private actions?

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## 1976 SURVEY OF THE ANCHORAGE REAL ESTATE MARKET AND ANCHORAGE REAL ESTATE BUSINESS

The following survey is the fourth annual survey of the Anchorage real estate market and Anchorage real estate businesses by Real Estate Services Corporation. The survey is conducted by distributing questionnaires to Anchorage Realtors. The first survey was conducted in September of 1973, and this survey was conducted during September of 1976. This year's survey is based upon the compilation of replies from 91 participating Realtors. While this number only constitutes approximately 10% of all the active Realtors in the Anchorage market, it is felt to be a large enough sample for statistical purposes.

The theory and reasoning behind the survey is that it is difficult, time consuming, and very expensive to obtain all information contained in this survey if it were to be determined by factual analysis. However, it is our opinion that the cumulative opinions of a large number of informed Realtors, when analyzed on a statistical basis, can be a reliable indicator. Nevertheless, caution must be exercised in utilizing the results of this survey because they are based merely on averaged opinion and not necessarily provable facts.

Classification of Present Real Estate Market: In response to the question, "How would you generally classify the real estate market at present?"

65.5% indicated that it was a Buyer's Market.

28.9% indicated that it was a Balanced Market.

5.6% indicated that it was a Seller's Market.

It is obvious that as of September it was the feeling of the majority of Realtors that buyers had the upper hand in the market place with only a small minority feeling that sellers had the advantage. This is a complete reversal of last years survey in which only 13.6% indicated it was a buyer's market and 55.5% indicated it was a sellers market.

Anticipation of Next Year's Interest Rates: In response to the question, "How do you expect interest rates to be in the next year?"

38.0% expect interest rates to be higher.

17.2% expect interest rates to be lower.

44.8% expect no change in interest rates.

It is interesting to note that this year only 38.0% expect interest rates to be higher, whereas last year 62.5% expected interest rates to be higher. Last year 31.9% expected no change in interest rates, whereas this year 44.8% expect no change.

The Real Estate Business During the Past Year: In response to the question, "How has your business done in the period September 1975 through August 1976 as compared with the period September 1974 through August 1975?"

62.8% indicated that their business had been better.

24.3% indicated that their business had been about the same.

12.9% indicated that their business had been poorer.

This is the first year in which our survey has indicated any decrease in the real estate business. In past years, the response indicating that business had been better had always been in the high 70% range, but this year only 62.8% indicated that their business had been better. There was an increase this year from 16.7% to 24.3% for those who said their business had been about the same, and an increase from 5.5% to 12.9% who indicated that their business had been poorer.

Expectations for Real Estate Business next Year: In response to the question, "How do you expect your business to do next year as compared to the past year?"

67.8% expect their business to be better.

27.8% expect their business to be about the same.

4.4% expect their business to be poorer.

It is interesting to note that the response to this question parallels the question on how real estate business has been during the past year. Last year almost 80% of the respondents felt business would be better. This year, only 67.8% feel that their business will be better. There has also been an increase from 20.3% last year, to 27.8% this year of those who feel their business will be about the same next year and an increase from 0% last year to 4.4% this year, of those who expect business to be poorer.

### CAPITAL MOVE QUESTIONS

Because the capital move issue was a major election issue this year, we asked several questions pertaining to the capital move.

Will the capital move justify the cost: In response to the question, "Do you feel that moving the capital will provide sufficient benefits to justify its costs?"

85.2% indicated yes

14.8% indicated no

It, therefore, appears there is extremely strong support for the capital relocation amongst Anchorage Realtors.

Capital Location Preference: In response to the question, "This November voters will have the opportunity to select one of the first three capital locations listed below. If the choices were expanded to the five listed below, which would you prefer?"

55.1% indicated a preference for the Willow Site.

5.6% indicated a preference for the Mt. Yenlo Site.

2.2% indicated a preference for the Larson Lake Site.

31.5% indicated a preference for Anchorage.

5.6% indicated a preference for Juneau.

Impact of Capital Relocation on Real Estate Investments: In response to the question, "If the capital is moved to a location in the Matanuska-Susitna Borough, which area do you feel will offer the best return on investments in real estate?"

50.6% indicated they felt the Matanuska-Susitna Borough would offer the best return.

49.4% indicated they felt the Municipality of Anchorage would offer the best return.

Confidence Rating of Agencies, Organizations, and Professions: In an effort to determine the confidence that local Realtors have in various agencies, organizations, and professions, we asked them to indicate their opinion of a number of these agencies, organizations, and professions by indicating a rating of 5 for very good, a rating of 4 for good, a rating of 3 for fair, a rating of 2 for poor, and a rating of 1 for very poor. This is a listing of the agencies in order of their confidence ratings for this year. The numerical rating figure and last years rank and numerical rating follow.

Order of Rank	Agency, Organization, or Profession	Numerical Rating	Last Year's Rating	
			Order Of Rank	Numerical Rating
1	Alaska Housing Finance Corp.	4.06	2	3.61
2	Title Companies	3.61	1	3.89
3	Local Fee Appraisers	3.35	3	3.54
4	State Division of Veterans	3.15	7	2.93
5	Local Banks	3.08	5	3.10
6	Federal Veterans Admin.	2.92	8	2.89
7	Local Attorneys	2.90	6	3.03
8	Municipality of Anchorage	2.61	*	*
9	State of Alaska	2.60	9	2.77
10	Federal Housing Administration	2.45	11	2.29

\* Last year the Municipality did not exist. In last year's study the City of Anchorage rated #4 with a rating of 3.35 and the Greater Anchorage Area Borough rated #10 with a rating of 2.29. Thus, the Municipality is rated poorer than the old City of Anchorage, but better than the old Borough.

Analysis of Local Rental Market: In an effort to determine what the supply and demand situation is in the local rental market for various types of space, we asked the question, "What is your opinion of the rental market for the following types of space?" The following are the replies for this year and replies to the identical question last year, indicated as a percentage of the total response.

Type of Space	Oversupply of Vacant Space		Supply and Demand in Balance		Shortage of Available Space	
	1975	1976	1975	1976	1975	1977
Office	65.2%	71.6%	30.3%	27.2%	4.5%	1.2%
Retail	14.5%	14.1%	62.9%	64.1%	22.6%	21.8%
Apartments	-0-	19.3%	12.9%	61.4%	87.1%	19.3%
Warehouses	21.9%	27.4%	50.0%	41.1%	28.1%	31.5%

As can be seen this year's replies closely parallel those of last year except for the apartment rental market in which there has been a marked change. Last year no one felt there was an oversupply, but this year 19.3% felt that there was an oversupply of vacant space. Last year 87.1% felt there was a shortage of available space and only 19.3% felt that way this year. Overall, the majority of 61.4% felt that the apartment market is now in balance rather than a shortage as was evident last year. This year, as in the past year, an overwhelming majority of 71.6% felt that there is an oversupply of vacant office space. An analysis indicates that there is essentially a balanced market for retail and warehouse space which closely parallels the results of last year's survey.

Investment Preferences: In an effort to determine the preferences of local Realtors for investments, we asked them to list, in order of their preference, their choices for the best investment potential over the next five years. They were to indicate their choice by number, i.e., (1) is first choice, etc. In order of preference with the numerical rating following are the various types of property. Also, included are last year's results to the identical question.

Order	Type of Property	Numerical Rating	Order	1975 Rating
1	Vacant Land - Zoned Commercial	3.11	2	3.48
2	Vacant Land - Zoned Apartment	3.74	1	3.15
3	Commercial Buildings	3.95	7*	4.71
4	Vacant Land - Zoned Residential	4.17	3	3.71
5	Vacant Land - Zoned Industrial	4.38	5	4.61
6	Apartment Buildings	4.44	4	3.79
7	Industrial Buildings	4.70	8	5.71
8	Single Family Houses	4.99	6*	4.71

In analyzing the responses, it is interesting to note the relationship between the investment preferences and the opinions concerning the supply and demand balance in the rental market. For example, last year most Realtors felt there was a shortage of available apartments for rent and this year felt that the market was balanced. Accordingly, apartment buildings dropped

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\* Indicates a tie in preference

in preference from #3 last year to #6 this year. Also, vacant land zoned for apartments dropped from #1 in preference last year to #2 this year. The interesting change in this year's survey is the almost meteoric rise in preference for commercial buildings. Last year commercial buildings rated #7, but this year have moved up to #3 and commercial zoned land moved from second place to first place. However, most Realtors still feel that there is an oversupply of vacant office space and a balance in the market for retail space, which are the two types of spaces comprising commercial buildings. Assuming that there is a relationship between vacant rental space and the value of such rental property, it would appear that most Realtors must feel that the vacancy in office space has peaked and will begin declining in the near future.

Where Do Realtors Earn Their Income: This year we included a new question to find out from which activities Realtors earn the majority of their income. In response to the question, "From which of the following activities do you derive 50% or more of your earned income (Do not count rents, interest, and other investment income)?"

- 51.8% indicated the majority of their income came from commissions from the sale of houses.
- 12.6% indicated the majority of the income came from commissions from sale of vacant land.
- 16.1% indicated the majority of their income came from commissions from sale of improved commercial and investment property.
- 3.4% indicated the majority of their income came from fees from real estate services such as appraising, property management and counseling.
- 9.2% indicated the majority of their income came from salaries, fees or business profit from administration of a real estate business in a position such as broker or sales manager.
- 6.9% indicated the majority of their income came from non-real estate income from another job.

Growth in Value of Real Estate: In the next series of questions we asked local Realtors by what percentage they felt the values of various types of real estate had increased in the past year. (September 1975 through August 1976) We have combined these results in a chart with the results of the surveys for the past three years. Therefore, this chart shows the increase from September of 1972 through August of 1976. We also asked participants to make projections of their estimate of what the increases will be from September of 1976 through August of 1977 and these results are also included in the chart, but not in the following graphs. (Results for industrial buildings and industrial zoned land are not shown for 1973 because they were first included in the 1974 survey).

As stated earlier in this report, there is no method of accurately predicting future values, but it is our opinion that the cumulative opinion of a large number of Realtors, when analyzed on a statistical basis, is as reliable guide as any. Nevertheless, caution must be exercised in utilizing these figures because they are based merely on average opinion and not provable facts. It should also be remembered that the percentages shown are merely the arithmetic mean, and in several cases the standard deviation can be fairly large. Utilizing a plus and minus of one standard deviation, the most probable indicated range of value increases is shown on the following chart. The average increase (arithmetic mean) in both dollars and percentage is graphically shown on the following graphs, utilizing as a base of comparison an assumed typically priced property in September of 1972.

GROWTH IN VALUE OF ANCHORAGE REAL ESTATE

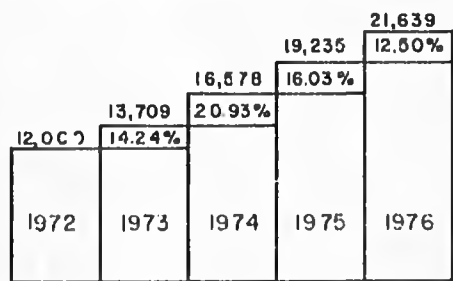
Based on a Survey of Anchorage Realtors

	1973	1974	1975	1976	Projected for 1977
Single Family Residences (arithmetic mean)	5.24%-10.84% 8.04%	11.00%-23.00% 17.00%	10.39%-20.41% 15.40%	5.50%-13.40% 9.45%	3.10%-10.44% 6.77%
Apartment Buildings (arithmetic mean)	0.76%-8.80% 4.79%	6.40%-20.20% 13.30%	10.84%-24.64% 17.74%	5.18%-16.58% 10.88%	3.66%-11.58% 7.62%
Commercial Buildings (arithmetic mean)	2.20%-10.24% 6.22%	9.00%-21.80% 15.40%	7.89%-17.25% 12.57%	2.23%-15.63% 8.93%	4.34%-13.22% 8.78%
Industrial Buildings (arithmetic mean)	Not Surveyed	7.60%-28.80% 19.20%	6.52%-16.48% 11.50%	6.45%-17.85% 12.15%	4.08%-12.60% 8.34%
Residential Zoned Land (arithmetic mean)	7.55%-20.93% 14.24%	11.04%-30.82% 20.93%	9.16%-22.90% 16.03%	5.90%-19.10% 12.50%	3.87%-12.85% 8.36%
Apartment Zoned Land (arithmetic mean)	4.08%-19.16% 11.62%	9.40%-32.00% 20.70%	9.85%-24.85% 17.35%	6.80%-19.20% 13.00%	4.82%-15.76% 10.29%
Commercial Zoned Land (arithmetic mean)	6.69%-19.79% 13.24%	9.80%-33.60% 21.70%	9.24%-20.56% 14.90%	4.28%-21.06% 12.67%	4.80%-15.20% 10.00%
Industrial Zoned Land (arithmetic mean)	Not Surveyed	7.00%-42.40% 24.70%	6.31%-25.25% 15.78%	2.57%-20.85% 11.71%	2.66%-14.64% 8.65%

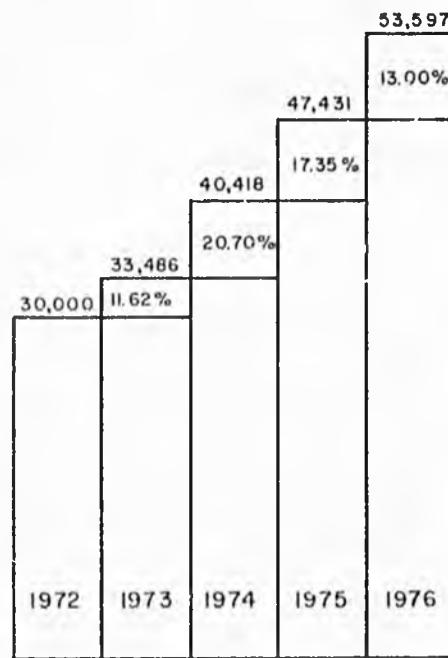
Based on a survey by

REAL ESTATE SERVICES CORPORATION

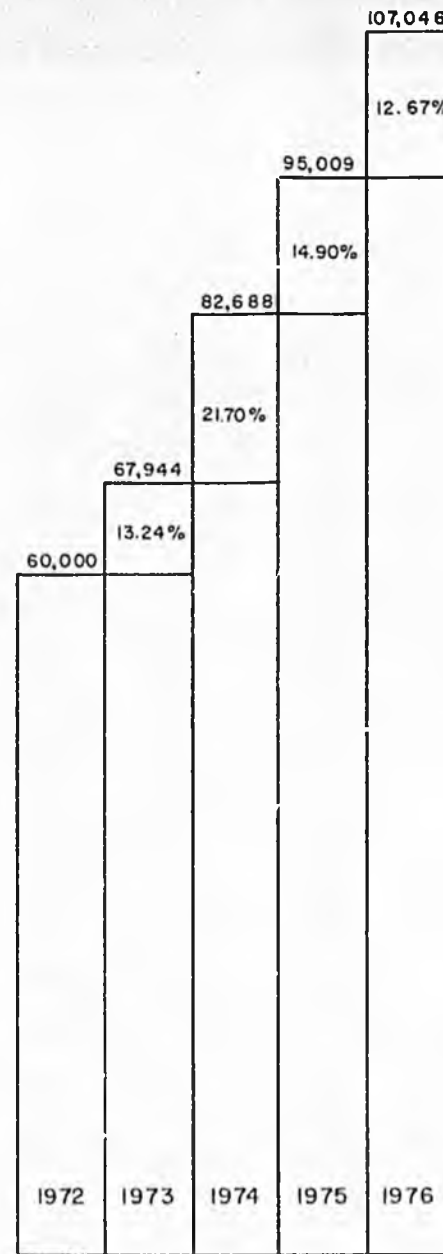
# GROWTH IN VALUE OF VACANT REAL ESTATE



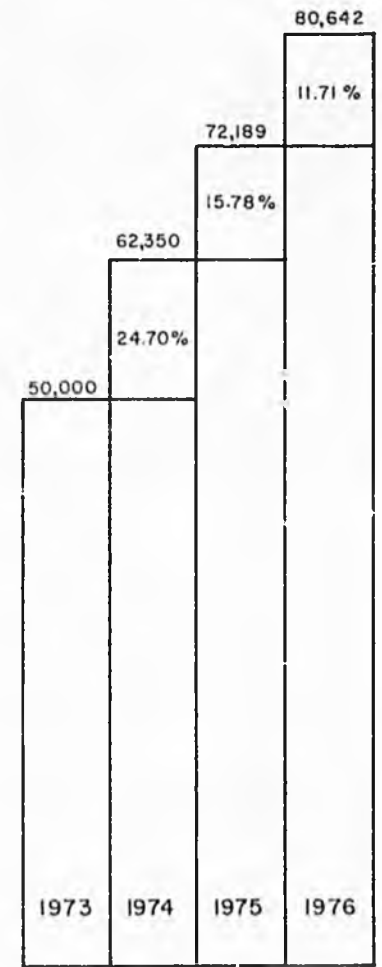
LAND ZONED FOR SINGLE FAMILY USE  
ASSUMING \$12,000 VALUE IN SEPTEMBER 1972



LAND ZONED FOR MULTI-FAMILY USE -  
\$30,000



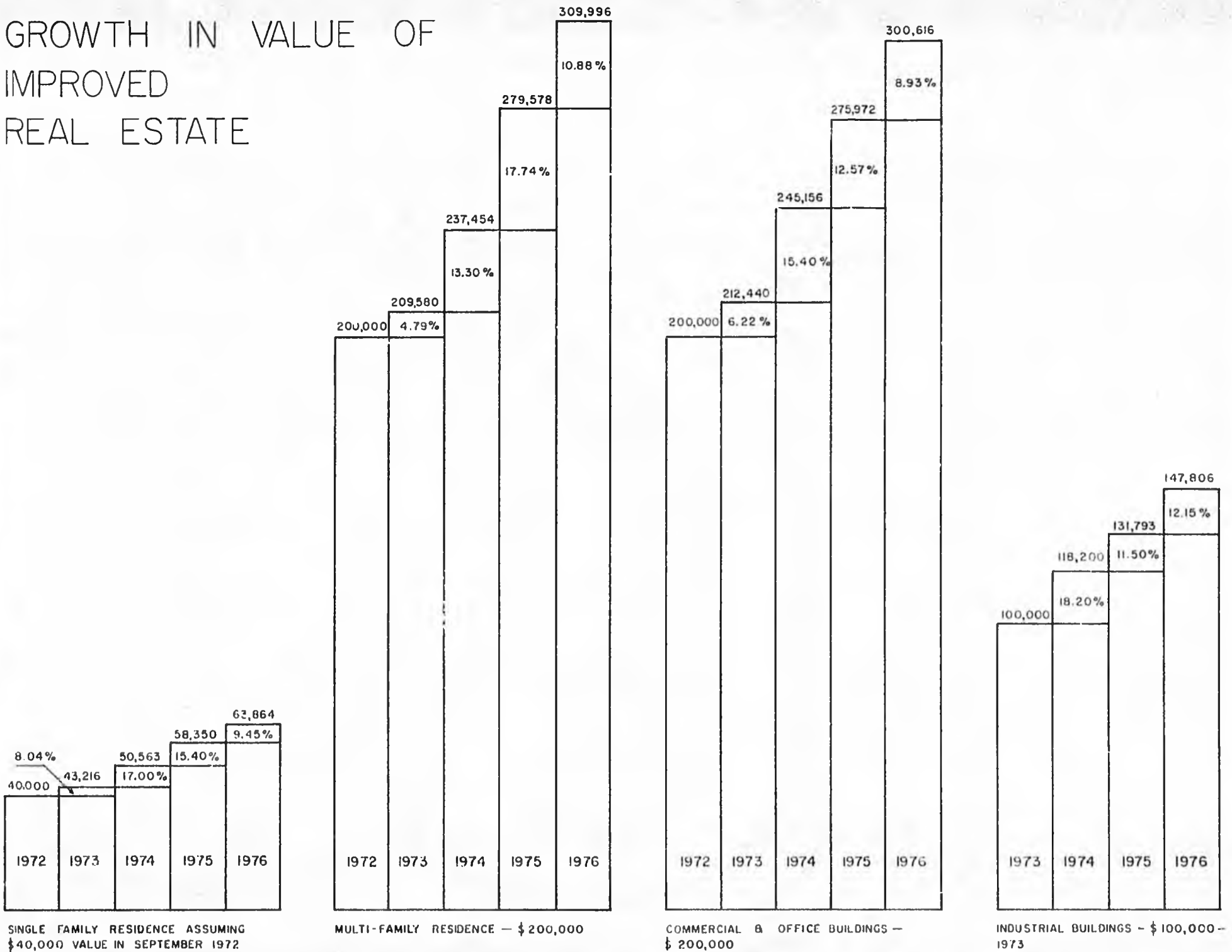
LAND ZONED FOR COMMERCIAL USE -  
\$60,000



LAND ZONED FOR INDUSTRIAL USE -  
\$50,000 - 1973

BASED ON A SURVEY TAKEN BY REAL ESTATE SERVICES CORPORATION

# GROWTH IN VALUE OF IMPROVED REAL ESTATE



GROWTH IN VALUE IN TERMS OF  
"INFLATION FREE OR CONSTANT DOLLARS"

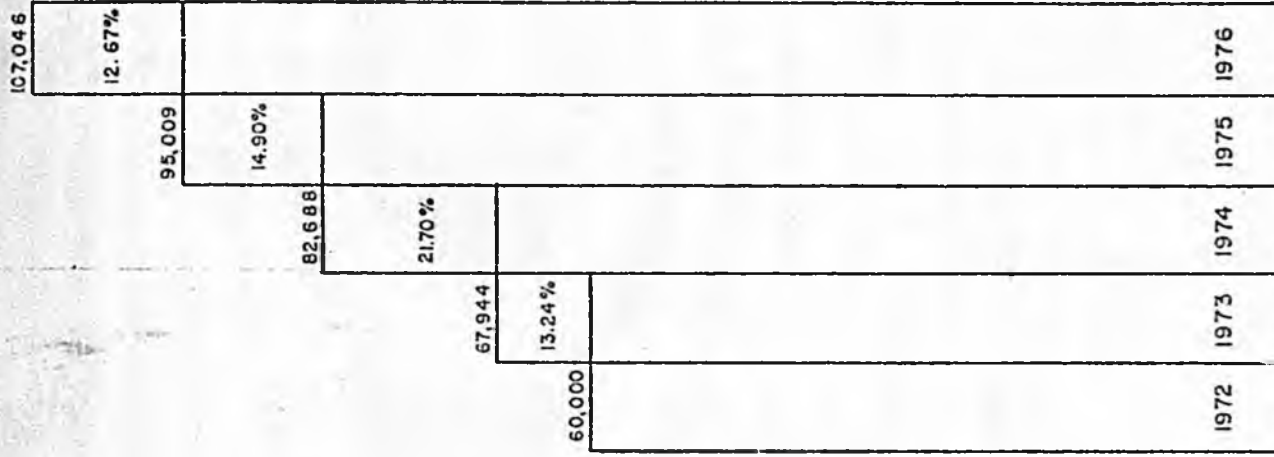
The percentage rates of growth for various types of real estate as shown on the preceding chart and graphs are expressed in straight percentages without adjustment for decreasing value of the dollar. This is the same method used to indicate the percentage return for competing investments. However, since it is common practice for real estate appraisers and real estate investment analysts to make future projections in terms of constant dollars, without regard to inflation, we have included the following table.

The following table shows the cumulative percentage increase for the various types of properties during the period September 1972 through August 1976, and also shows the average rate of increase based on annual compounding. Next is reflected the cumulative increase in the cost of living index from October 1972 through September 1976 (the nearest dates surveyed) as developed by the Bureau of Statistics of the US Department of Labor, which is considered the authoritative source on increases in cost of living and therefore the rate of inflation. In the column following the cumulative increase in the cost of living is shown the average annual increase in value expressed in terms of constant dollars and assuming annual compounding.

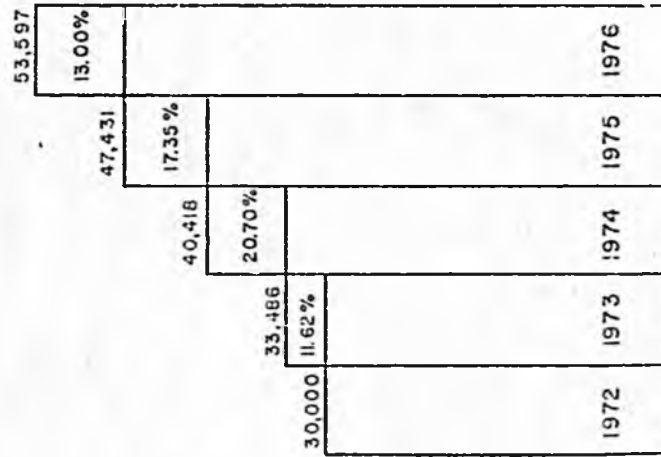
However, since such a table, utilizing constant dollars as a method of comparison, would tend to make it appear that the rate of return is less on a real estate than on other investments, which seldom make constant dollar comparisons, we have included typical yields on competing investments, analyzed in the same manner for the same period of time. The rate utilized for bond yields is based on the average September 1972 figures indicated in the American Institute of Real Estate Appraisers publication, "The Appraiser". The rates for certificates of deposits and savings accounts are the highest rates generally available to average investors during the past four years. All investments assume annual compounding except for the savings accounts and certificates of deposits which assume quarterly compounding. The common stocks are based on indicated average prices during the same period. The comparisons are all made without consideration of income tax consequences, and do not make allowances for dividends on common stocks, nor profit from rentals or mortgage amortization, paid for by tenants, in income producing real estate. Likewise, comparisons do not account for leveraging through mortgages, which in most cases will drastically increase the equity return in real estate investments. The comparison assumes 100% cash purchases for all investments.

Type of Investment	Cumulative Return	Cumulative Return	Cumulative Inflation	Average Constant Dollar Return
Single Family Residences	59.66%	12.41%	43.37%	3.85%
Apartment Buildings	55.00%	11.58%	43.37%	2.79%
Commercial Buildings	50.31%	10.73%	43.37%	1.69%
Industrial Buildings	47.81%	13.91%	35.38%	3.98%
Residential Zoned Land	80.33%	15.88%	43.37%	8.18%
Apartment Zoned Land	78.66%	15.61%	43.37%	7.85%
Commercial Zoned Land	78.41%	15.57%	43.37%	7.80%
Industrial Zoned Land	61.28%	17.27%	35.38%	7.98%
Savings Accounts (5.25%)	23.20%	5.35%	43.37%	-5.48%
Certificates of Deposit (7.50%)	34.61%	7.71%	43.37%	-2.27%
US 5-Yr. Bonds (6.01%)	26.30%	6.01%	43.37%	-4.57%
A rated-Municipal Bonds (5.49%)	23.84%	5.49%	43.37%	-5.29%
Baa rated-Corporate Bonds (8.19%)	37.01%	8.19%	43.37%	-1.63%
Dow Jones Industrial Average-Stock	5.29%	1.32%	43.37%	-11.29%
Standard & Poors - 500 Stock Average	-2.75%	-0.69%	43.37%	-14.32%
New York Stock Exchange Average	-5.00%	-1.27%	43.37%	-15.23%

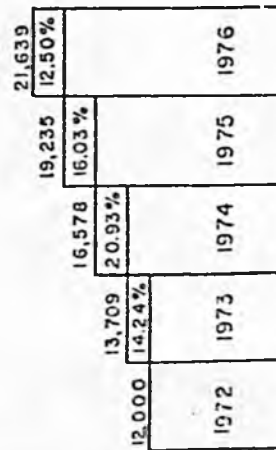
# GROWTH IN VALUE OF VACANT REAL ESTATE



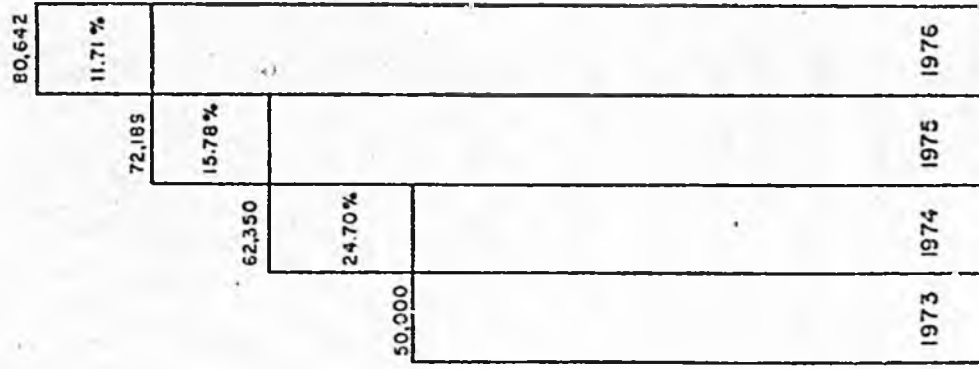
LAND ZONED FOR COMMERCIAL USE -  
\$60,000



LAND ZONED FOR MULTI-FAMILY USE -  
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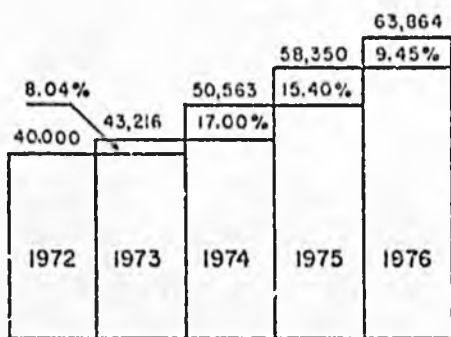
LAND ZONED FOR SINGLE FAMILY USE  
ASSUMING \$12,000 VALUE IN SEPTEMBER 1972



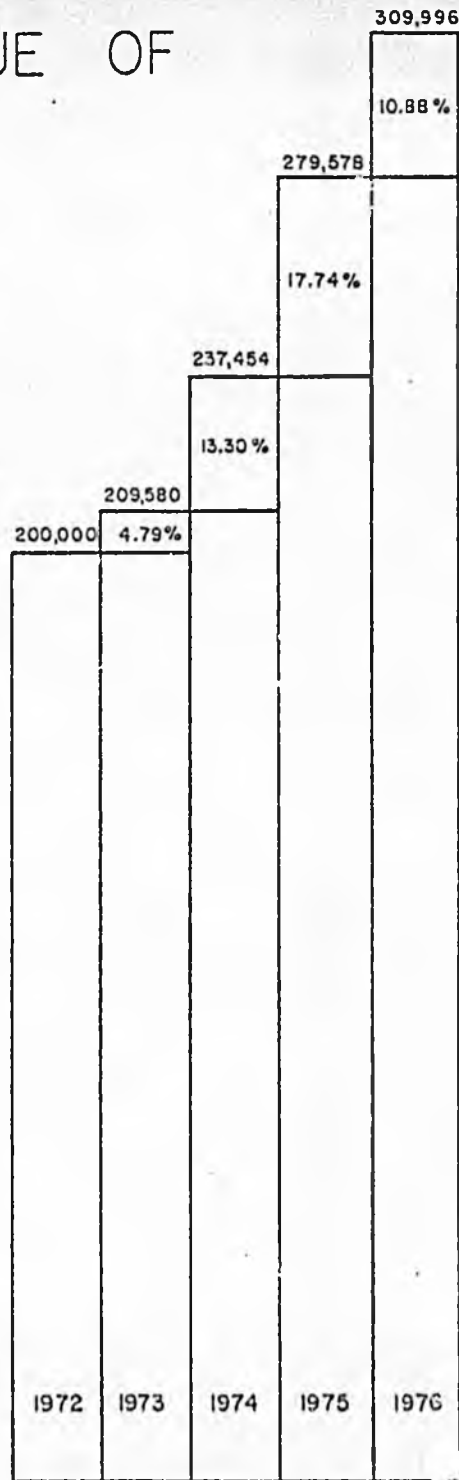
LAND ZONED FOR INDUSTRIAL USE -  
\$50,000 - 1973

BASED ON A SURVEY TAKEN BY REAL ESTATE SERVICES CORPORATION

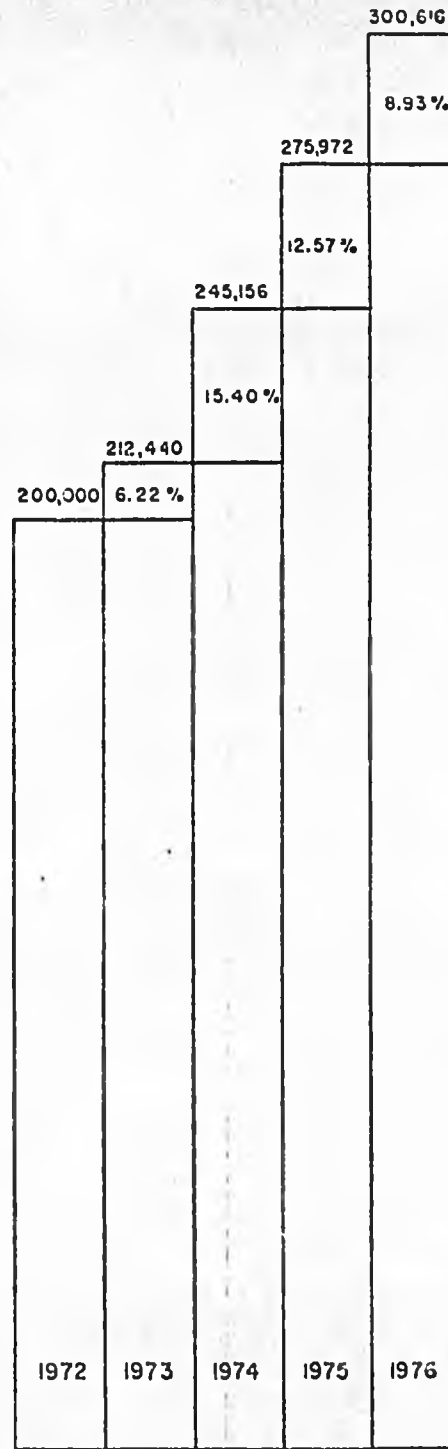
# GROWTH IN VALUE OF IMPROVED REAL ESTATE



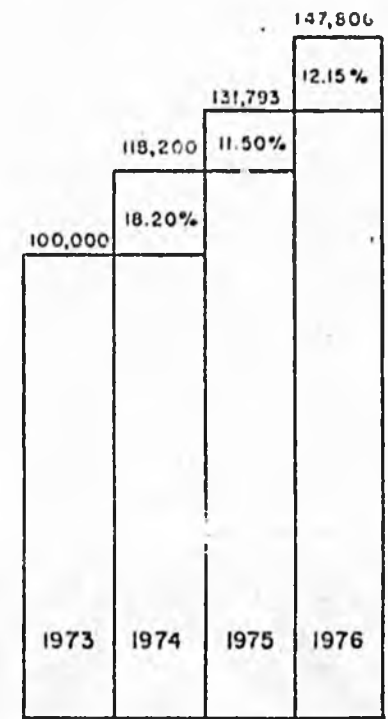
SINGLE FAMILY RESIDENCE ASSUMING \$40,000 VALUE IN SEPTEMBER 1972



MULTI-FAMILY RESIDENCE - \$200,000



COMMERCIAL & OFFICE BUILDINGS - \$200,000



INDUSTRIAL BUILDINGS - \$100,000 - 1973

# Alaska State Legislature

SENATOR  
JOE ORSINI  
2912 ALDER DRIVE  
ANCHORAGE, ALASKA 99504



WHILE IN JUNEAU  
POUCH V  
JUNEAU, ALASKA  
99811

## Senate

April 20, 1977

Representative Hugh Malone  
Pouch V  
Juneau, Alaska 99811

Dear Hugh:

Enclosed are some calculations for hypothetical examples of leasing state land. They are based on 10 year reappraisal periods, 10% maximum rental rate, and 170% maximum allowable rental increase from one period to the next. Case #1 is probably the most "typical" case, where 6% rental rate is used (the rate charged for the last 10 years) and an increase in property valuation of 100% in 10 years (the "historic" pre-pipeline rate).

This concept is the one I presented to the Senate Finance Committee, and I think is a compromise between the proposal in CSSB 159 (which a prominent banker said was a "ripoff" from the state) and the current situation (which a prominent legislator said was a "ripoff" by the state).

If I can be of any help, let me know.

Sincerely,

A handwritten signature in cursive script that reads "Joe".

JOE ORSINI  
Senator

JO:gd

Case # 1

Rental rate = 6% ; assessed value increases 100%  
every ten years; \$10,000 initial value

\$ 10,000

x .06  
-----  
\$ 600/yr

annual rental

years 1 - 10

\$ 600

x 10  
-----  
\$ 6000

\$ 20,000

x .06  
-----  
\$ 1200/yr

annual rental

years 11 - 20

\$ 1200

x 10  
-----  
\$ 12,000

$$\frac{6000 + 12,000}{10,000} = \underline{\underline{1.8}}$$

total payments in 20 years  
equal 1.8 times initial  
appraised value.

Case # 2

Rental rate = 6% ; \$10,000 initial value ;  
assessed value increases 340% every 10 years

$$\begin{array}{r} \$ 10,000 \\ \times .06 \\ \hline \$ 600 / \text{yr} \end{array}$$

annual rental ...  
years 1-10

$$\begin{array}{r} \$ 44,000 \\ \times .06 \\ \hline \$ 2640 / \text{yr} \end{array}$$

but  
maximum allowable  
is 170% increase

$$\begin{array}{r} \$ 600 \\ \times 10 \\ \hline \$ 6000 \end{array}$$

$$\begin{array}{r} \$ 27,000 \\ \times .06 \\ \hline \$ 1620 \end{array}$$

$$\begin{array}{r} \$ 1620 \\ \times 10 \\ \hline \$ 16,200 \end{array}$$

$$\frac{6000 + 16,200}{10,000} = \underline{\underline{2.22}}$$

total payment in 20 years is  
2.22 times initial appraised value

Case # 3

Rental rate = 10% ; \$ 10,000 initial value ;  
assessed value increases 100% every 10 years

$$\begin{array}{r} \$ 10,000 \\ \times .10 \\ \hline \$ 1000/\text{yr} \\ \text{annual rental} \\ \text{years 1-10} \end{array}$$

$$\begin{array}{r} 20,000 \\ \times .10 \\ \hline \$ 2000/\text{yr} \\ \text{annual rental} \\ \text{years 11-20} \end{array}$$

$$\begin{array}{r} \$ 1000 \\ \times 10 \\ \hline \$ 10,000 \end{array}$$

$$\begin{array}{r} \$ 2000 \\ \times 10 \\ \hline \$ 20,000 \end{array}$$

$$\frac{10,000 + 20,000}{10,000} = \underline{\underline{3.0}}$$

total payment in 20 years is  
3.0 times initial appraised  
value

Case # 4

Rental rate = 10% ; \$10,000 initial value ;  
assessed value increases 340% every 10 years

\$ 10,000  
    .10  
\$ 1000/yr  
annual rental  
years 1-10

44,000  
    x .10  
\$ 4400/yr  
but  
maximum allowable  
increase is 170%

\$ 1000  
    x 10  
\$ 10,000

\$ 27,000  
    .10  
\$ 2700

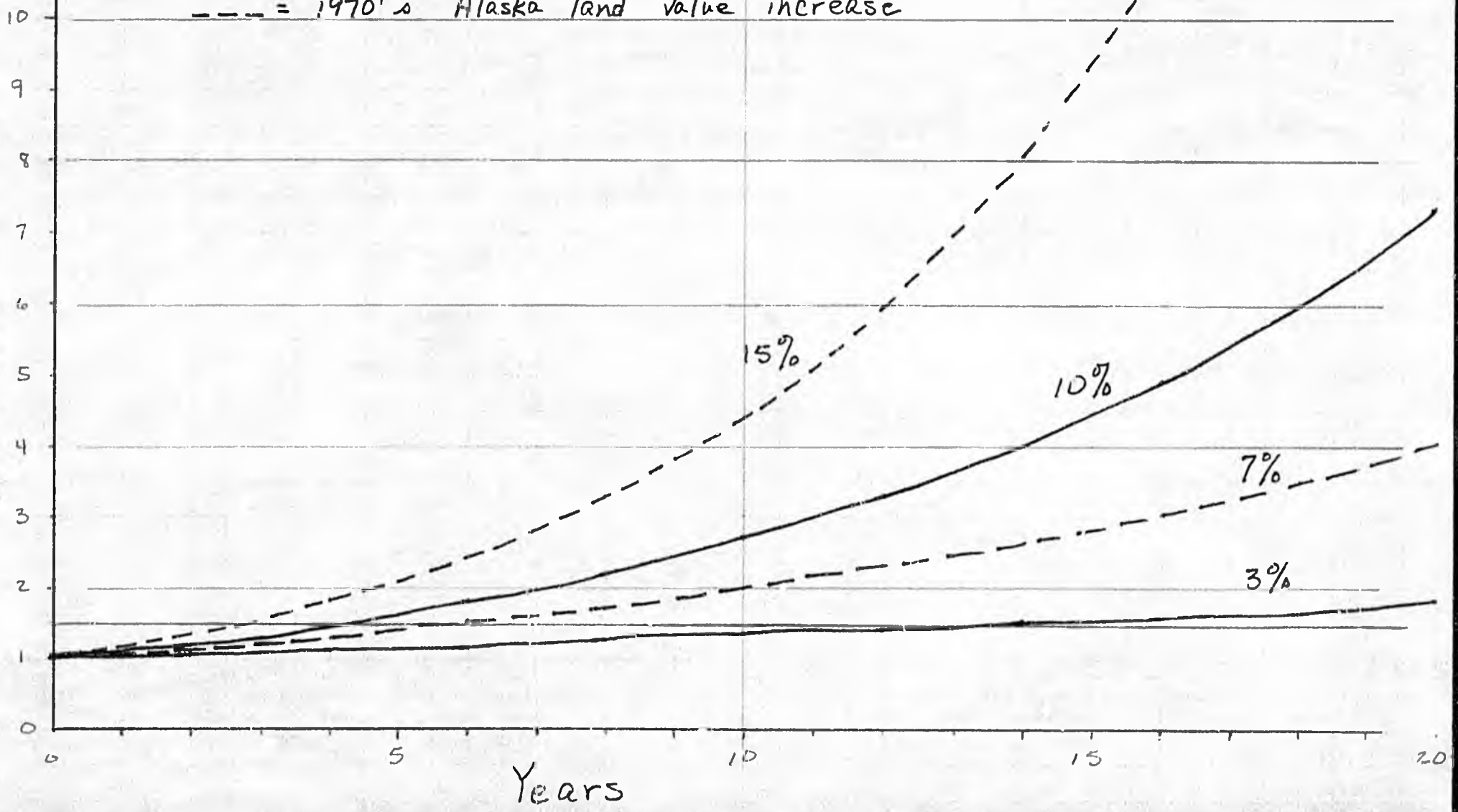
\$ 2700  
    x 10  
\$ 27,000

$$\frac{10,000 + 27,000}{10,000} = \underline{\underline{3.7}}$$

total payment is 3.7 times  
the initial appraised value

Multiple of Value of Initial Worth @ Various Interest

- = long term "cost of living" rate increase
- - - = long term Alaska land value increase
- = 1970's "cost of living" rate increase
- - - = 1970's Alaska land value increase



	HCS CS SB 159 was not adopted	
p. 5, l. 1	Amendment No. 1 - Adopted	UNANIMOUS
p. 2, l. 10	Amendment No. 2 - Adopted	29 yes - 11 No
	Amendment No. 3 - Failed	18 yes - 22 No
	Amendment No. 4 - Adopted (superseded by No. 6)	UNANIMOUS
	Amendment No. 5 - Failed	UNANIMOUSLY WITHDRAWN
	Revised Amendment No. 5 - Failed	13 yes - 27 No
	Amendment No. 6 - Failed	UNANIMOUSLY WITHDRAWN
Title	Revised Amendment No. 6 - Adopted	UNANIMOUS

Original sponsors: Poland, Croft,  
and Huber

Offered: 4/6/77  
Referred: Rules

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 159 (Finance) am  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating <sup>to</sup> ~~to the leasing of state lands,~~ other  
7 ~~than for the extraction of natural resources,~~ and pro-  
8 viding for an effective date." (amendment No. 6)

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

10 \* Section 1. AS 38.05.085 is repealed and re-enacted to read:

11 Sec. 38.05.085. TERM OF LEASE. (a) The lease shall provide that

12 (1) for the initial 25-year period of the lease, the lessee  
13 shall pay the state a fixed base annual rent to be agreed upon by the  
14 parties in compliance with the provisions of this chapter; however, this  
15 annual rent may not exceed 10 per cent of the fair market value of the  
16 property as determined in (b) of this section;

17 (2) the fixed base annual rent to be paid by the lessee shall  
18 be readjusted when the initial 25-year period of the lease has expired  
19 and, thereafter, every 10 years; and

20 (3) the readjusted annual rent may not exceed 10 per cent of  
21 the value of the property as determined in (b) of this section or 50 per  
22 cent more than the amount paid each year during the initial period or  
23 the preceding 10-year period, whichever is lower.

24 (b) When it becomes necessary to determine the fair market value  
25 of property as required by (a) of this section, the lessee shall appoint  
26 an M.A.I. appraiser and the state shall appoint an M.A.I. appraiser.  
27 The two appraisers so appointed shall, within a specified period of time  
28 agreed upon by the parties, make their appraisals of the property in  
29 question. If the two appraisers agree upon the fair market value, the

1 determination is absolutely binding on the parties. In the event the  
2 two appraisers are unable to agree, they shall together appoint a third  
3 M.A.I. appraiser who shall then make his appraisal of the property in  
4 question. When the third appraisal is completed, the two of the three  
5 appraisals which are nearest each other in their determination of the  
6 fair market value shall be averaged and the resultant sum shall be the  
7 fair market value of the matter in question and absolutely binding on  
8 the parties. All costs incurred in making the appraisals provided for  
9 in this subsection shall be borne by the state and the lessee equally.

10 → **Amendment No. 2**

(c) The lessee shall make advance payments of the annual rent or  
11 portion of it as the director, with the approval of the commissioner,  
12 may require.

(d) A preference right lessee of grazing or forest land may follow  
13 the payment schedule established in his cancelled federal lease or  
14 grazing permit if he so desires.

(e) Notice of all actions by the department affecting the rights  
15 of a lease or lessee shall be given to the lessee.

(f) A violation of a provision of this chapter or of a term or  
16 provision of a lease subjects the lessee to appropriate legal action,  
17 including, but not limited to, a forfeiture of the lease.

(g) In this section,

(1) "annual rent" means the amount of rent paid annually  
18 determined by multiplying the fair market value by the rental rate com-  
19 puted at the time of the initial 25-year period of the lease or of each  
20 subsequent 10-year period of the lease;

(2) "rental rate" means the rate, expressed as a percentage  
21 of fair market value, which a comparable class of privately owned pro-  
22 perty would bring in the open market with the same conditions of lease  
23 as offered by the state.

1 \* Sec. 2. AS 38.05 is amended by adding a new section to read:

2           Sec. 38.05.103. RIGHTS OF HOLDER OF SECURITY INTEREST. (a) If  
3 there is a breach or default of a term of a lease or of the provisions  
4 of this chapter relating to a lease, the division shall provide written  
5 notice of the breach or default by personal service or by registered or  
6 certified mail to the lessee and to any holder of record having a  
7 security interest in the leased property. The notice shall also make  
8 demand upon the lessee to cure or remedy the breach or default within 60  
9 days from the date of receipt of the notice and demand. If a lessee  
10 fails to cure or remedy the breach or default within 60 days, or within  
11 the additional time which the division may allow for good cause, the  
12 state may, subject to (b) of this section, exercise any right which it  
13 may have at law or as set out in the lease.

14           (b) If a lessee fails to cure or remedy a breach or default within  
15 the time allowed in (a) of this section, a holder of a security interest  
16 who has received notice under (a) of this section may cure or remedy the  
17 breach or default if the breach or default can be cured by the payment  
18 of money or, if this cannot be done, by performing or undertaking in  
19 writing to perform the terms, covenants, restrictions and conditions of  
20 the lease capable of performance by the holder. The holder shall act  
21 within 60 days from the date of receipt of notice under (a) of this  
22 section, or within an additional period as the director may allow for  
23 good cause.

24 \* Sec. 3. AS 38.05.105 is repealed and re-enacted to read:

25           Sec. 38.05.105. PERIODIC RENT ADJUSTMENTS. (a) Each lease shall  
26 stipulate that at the conclusion of the initial 25-year period of the  
27 lease and at intervals of 10 years thereafter the annual rent payment  
28 is subject to adjustment. Charges or adjustments shall be based pri-  
29 marily on an adjusted fair market value. However, if the director of

1 the division of lands determines that single-family residential develop-  
2 ment is the best use of the land, the reappraisal period may be length-  
3 ened or the readjustment waived in accordance with regulations adopted  
4 by the department. Before a waiver of rent adjustment is issued, the  
5 land shall have a current reappraisal. A waiver is valid only if  
6 single-family residential development actually occurs. The regulations  
7 adopted under this section shall ensure that the state receives a fair  
8 return from the land.

9 (b) The provisions of sec. 85(b) of this chapter are applicable to  
10 reappraisals of leases required by this section, except that, in deter-  
11 mining an adjusted market value

12 (1) changes in property value due to governmental actions,  
13 including zoning reclassifications, shall be included; and

14 (2) changes in property value due to private improvements  
15 made to the property since originally entering into the lease shall  
16 be excluded.

17 \* Sec. 4. The provisions of this Act are applicable to state leases which  
18 are in existence on or before the effective date of this Act if a lessee  
19 under a lease elects, in writing, to be bound by this Act. When a lessee  
20 elects to be bound by the provisions of this Act, the state shall enter into  
21 a new lease with the lessee for a term equal to the remaining period of the  
22 original lease which is being terminated that is consistent with the pro-  
23 visions of this Act. However, for purposes of determining the annual rent by  
24 the state, the fair market value of the property which is used to establish  
25 the fixed base annual rent for the initial period of the lease may not  
26 exceed the fair market value as it was last appraised on or before January 1,  
27 1975, brought forward to January 1, 1976, at the rate of 10 per cent per  
28 year, or, if the lease was entered into after January 1, 1975, on the basis  
29 of the fair market value at the time the lease was entered into.

## Amendment No. 1

1 \* Sec. 5. The provisions of sec. 4 of this Act expire on January 1, 1979.

2 \* Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-  
3 070(c).

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Original sponsors: Freeman, Haugen,  
Gardiner, et al

Offered: 3/25/77  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 2 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing state land to be made available as  
7 homesites."

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

9 \* Section 1. PURPOSE OF ACT. The longstanding policy of the state, de-  
10 clared in the Constitution of the State of Alaska (art. VIII, sec. 1) and the  
11 Alaska Land Act (AS 38.05.350), has been to encourage the settlement of the  
12 state's land and the development of its resources by making them available  
13 for maximum use consistent with the public interest. In authorizing the  
14 classification of land for settlement as homesites, this Act is intended to  
15 further that policy explicitly, by recognizing that the immediate production  
16 of revenues to the state through the auction of land to the highest bidder,  
17 virtually the only method by which state land has been made available to the  
18 public for residential use, is secondary in importance to the primary, and  
19 ultimately more beneficial and productive, goal of providing land for Alaskans  
20 to settle at a cost reasonably within their means, and that the highest and  
21 best use of some land may clearly be for habitation.

22 \* Sec. 2. AS 38 is amended by adding a new chapter to read:

23 CHAPTER 8. HOMESITES.

24 Sec. 38.08.010. CLASSIFICATION OF LAND FOR HOMESITE ENTRY. (a)

25 The director shall classify, survey, and plat for homesite entry state  
26 land which is otherwise vacant, unappropriated and unreserved and is  
27 suitable for erection of residential dwellings to use as a permanent  
28 abode.

29 (b) Land classified as homesite entry land shall be divided into

1 parcels not exceeding two and one-half acres, in reasonably compact  
2 form, with boundaries conforming as nearly as practicable to natural  
3 geologic and topographic features.

4 (c) Nothing in this section shall be construed to mean that the  
5 director must classify all vacant, unappropriated or unreserved state  
6 land as homesite entry land.

7 Sec. 38.08.020. OFFERING OF LAND FOR HOMESITE ENTRY. Following  
8 classification of land for homesite entry, offerings of homesite entry  
9 land shall be made on a rotating basis from among the four judicial  
10 districts of the state. The director shall publish notice of the  
11 availability of the land for at least three consecutive weeks through  
12 the electronic media and in at least three newspapers of general circu-  
13 lation in the state, at least one of which, if possible, shall be a  
14 newspaper of general circulation in the vicinity of the available land.

15 Sec. 38.08.030. APPLICATIONS FOR HOMESITE ENTRY; FEES. (a) To  
16 qualify for a homesite entry permit, an applicant shall

17 (1) at the time of application have attained the age of 18;

18 (2) submit proof acceptable to the commissioner that he is a  
19 resident of the state at the time of application, and that he has been  
20 a resident of the state for not less than three years immediately  
21 preceding the date his application was submitted, or that he has been a  
22 resident for 20 years cumulatively;

23 (3) agree to comply with the requirements for obtaining a  
24 patent to land set out under sec. 60 of this chapter.

25 (b) Fees for filing an application may not exceed \$10.

26 Sec. 38.08.040. ISSUANCE OF ENTRY PERMIT. (a) An applicant  
27 meeting the qualifications for homesite entry under sec. 30 of this  
28 chapter shall be issued a revocable permit to occupy and improve the  
29 homesite in order to qualify for issuance of patent as provided in this

1 chapter. The application fee is the sole rent chargeable on the permit  
2 for its duration.

3 (b) If the number of applicants qualified for homesite entry  
4 exceeds the number of available homesites offered, or if several appli-  
5 cants apply and qualify for the same homesite, priority in award of an  
6 entry permit shall be accorded to that applicant showing proof of the  
7 longest residency in the state.

8 (c) The permit may not be assigned, conveyed or otherwise trans-  
9 ferred, but rights under the permit may devolve by testate or intestate  
10 succession. An attempt to assign, convey, or to otherwise transfer the  
11 permit, is void and constitutes a substantial breach.

12 (d) An applicant may apply for more than one available homesite.  
13 No person holding a homesite patent may apply for a homesite entry  
14 permit, no person may simultaneously hold more than one homesite entry  
15 permit, and no person who is a member of the homesite entry permit  
16 holder's household may be issued a homesite entry permit while a member  
17 of the homesite entry permit holder's household.

18 Sec. 38.08.050. REVOCATION OF ENTRY PERMIT. (a) The entry permit  
19 may only be revoked for failure to erect a dwelling as required under  
20 sec. 60 of this chapter, or for other substantial breach of the terms  
21 and conditions of the homesite entry permit.

22 (b) Upon revocation and termination of a permit, improvements or  
23 chattels upon the homesite shall be managed, and subsequent issuance of  
24 a permit for entry on the homesite shall be conditioned, in the same  
25 manner as provided in AS 38.05.090 for removal or reversion of improve-  
26 ments upon termination of leases of state land.

27 Sec. 38.08.060. ISSUANCE OF PATENT. (a) A person who enters upon  
28 homesite entry land under a permit issued by the director shall be  
29 issued a patent to the land conveying an unencumbered title if that

1 person

2 (1) occupies the land for a cumulative total of 21 months  
3 within the three-year period following issuance of the homesite entry  
4 permit;

5 (2) erects a habitable, permanent, single-family dwelling on  
6 the homesite, which meets all applicable state and local regulations,  
7 within three years of the date of issuance of the homesite entry permit;  
8 for the purposes of this paragraph, mobile homes are not considered to  
9 be permanent dwellings unless they are placed on a permanent foundation;

10 (3) reimburses the state for the survey and platting under-  
11 taken in accordance with this chapter. The director shall provide by  
12 regulation for installment payments of this reimbursement.

13 (b) Nothing in this chapter shall be construed to prohibit a  
14 person issued a homesite entry permit from residing in a temporary  
15 habitable dwelling on the homesite until revocation of the homesite  
16 entry permit or issuance of a patent to the homesite.

17 (c) No person may be issued more than one patent during his life-  
18 time, nor may any person who is a member of a patent holder's household  
19 be issued a patent while a member of the patent holder's household.

20 (d) If a dwelling is found to have been substantially completed  
21 under sec. 100 of this chapter, patent shall be issued upon completion  
22 of the dwelling, notwithstanding (a)(2) of this section.

23 Sec. 38.08.070. LAND LOCATED WITHIN MUNICIPALITIES. No state land  
24 which is located within the boundaries of an organized borough or city  
25 may be classified for homesite entry under this chapter until the pro-  
26 posed use of the land has been studied and approved jointly by the  
27 director and the local planning authority. Nothing in this section or  
28 AS 29.18.190 prevents the director from selecting and classifying for  
29 homesite entry land which would otherwise be available for borough or

1 city selection under AS 29.18.190. If classified for homesite entry,  
2 the land shall not be available for city or borough selection.

3 Sec. 38.08.080. REQUIRED ZONING. No state land which is located  
4 within the boundaries of a municipality which exercises planning and  
5 zoning authority under AS 29 may be offered by the director for homesite  
6 entry under this chapter until the land has been zoned by the governing  
7 body of the municipality for residential use only. No state land which  
8 is located within a municipality which does not exercise planning and  
9 zoning authority, or which is located in the unorganized borough, may be  
10 offered by the director for homesite entry under this chapter unless the  
11 division of lands has adopted zoning regulations under AS 38.05.037 to  
12 restrict the use of the land to residential purposes.

13 Sec. 38.08.090. DISCLAIMER OF INTENT TO PROVIDE SERVICES. Nothing  
14 in this chapter obligates the state to provide services to lands which  
15 are the subject of homesite entry and patent.

16 Sec. 38.08.100. SUBSTANTIAL COMPLETION OF DWELLING. An entry  
17 permit may not be revoked for failure to erect a dwelling in the time  
18 required under sec. 60(a)(2) of this chapter if the director finds that  
19 erection of the dwelling has been substantially completed and progress  
20 toward completion is being made at the expiration of the time required.

21 Sec. 38.08.110. REGULATIONS. The commissioner shall adopt regula-  
22 tions in accordance with AS 44.62.180 - 44.62.290 to carry out the  
23 purposes of this chapter.

24 Sec. 38.08.120. DEFINITIONS. In this chapter

25 (1) "commissioner" means the commissioner of natural re-  
26 sources;

27 (2) "habitable dwelling" means a dwelling of a permanent  
28 nature, together with fixtures and facilities, including sanitary  
29 facilities, required or customary in the vicinity of the land made

1 available for homesite entry.

2 (3) "resident" means a person who is not claiming residence  
3 in another state and shows by all attending circumstances that his  
4 intent is to make this state his permanent residence.

5 \* Sec. 3. AS 29.33.090 is amended by adding a new subsection to read:

6 (c) The assembly shall regulate and restrict the use of state land  
7 within the borough which is vacant, unappropriated and unreserved and  
8 which is found suitable for classification and disposal for homesite  
9 entry under AS 38.05.327. Compliance with the provisions of this sub-  
10 section is a prerequisite to issuance of homesite entry permits for land  
11 within the borough.

12 \* Sec. 4. AS 29.13.100 is amended by adding a new paragraph to read:

13 (37) AS 29.33.090(c) (zoning of state land for homesite  
14 entry)

Amendment No. 2

27 <sup>c</sup>  
28 (d) If the director determines that private recreational or resi-  
29 dential development is the best use of the land, the reappraisal period  
provided in this section may be lengthened, the initial rate may be ad-

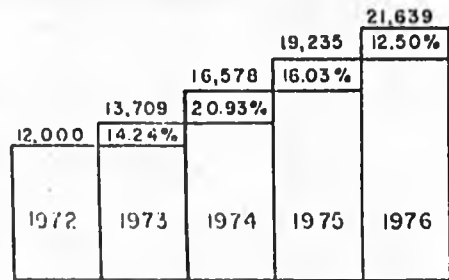
HCS CSSB 159

-2-

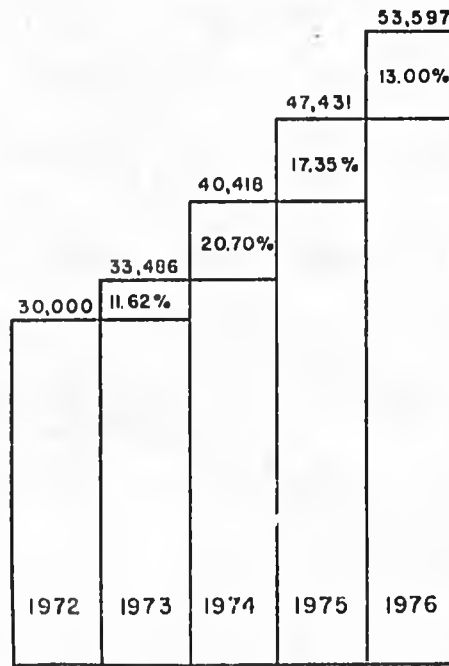
1     justed, or the rent adjustment may be waived in accordance with regula-  
2     tions adopted by the commissioner. Before action is taken under this sub-  
3     section, the director shall prepare a written finding that the extension,  
4     rental rate adjustment, or waiver of rent adjustment is in conformity with  
5     this section and is in the best interests of the state. Notwithstanding  
6     the provisions of AS 38.05.315(d), if the rental rate is adjusted, the  
7     adjusted rent may not exceed four per cent of the fair market value of  
8     the property. An extension, rent adjustment, or waiver is valid only if  
9     private recreational or residential development actually occurs.



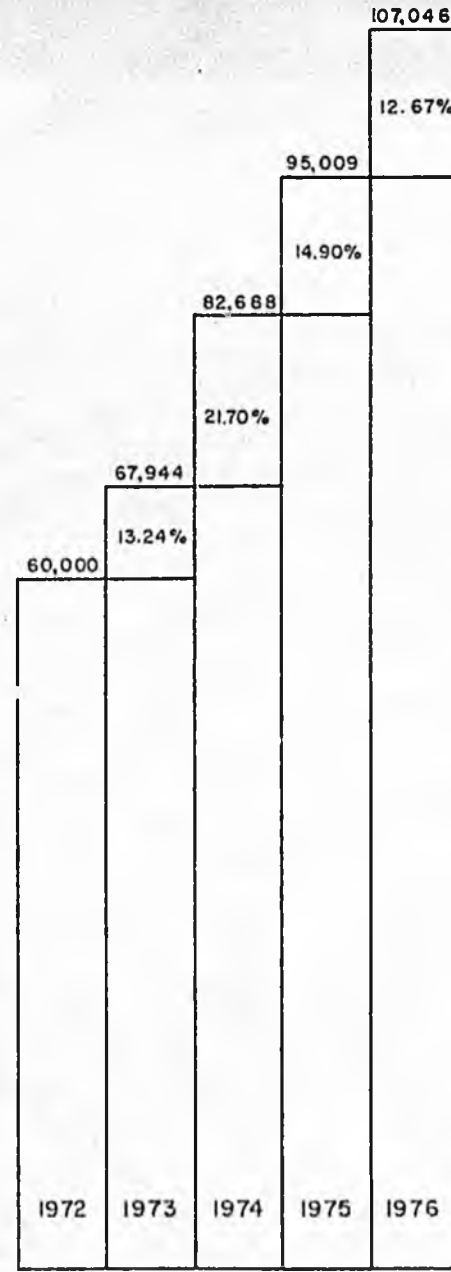
# GROWTH IN VALUE OF VACANT REAL ESTATE



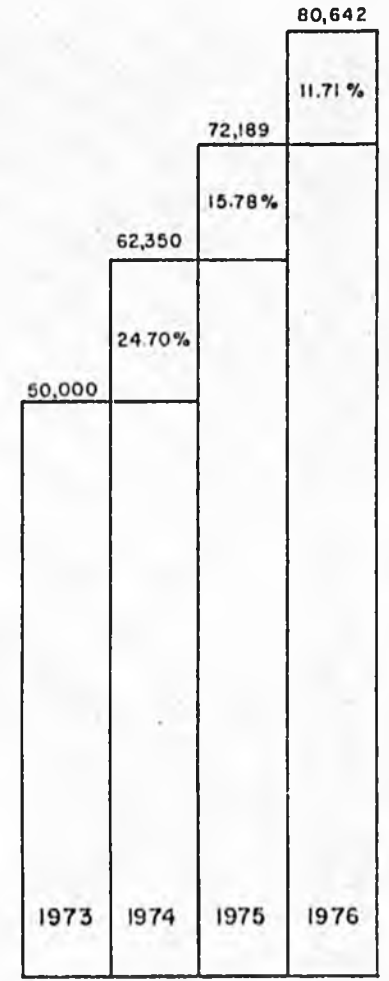
LAND ZONED FOR SINGLE FAMILY USE  
ASSUMING \$12,000 VALUE IN SEPTEMBER 1972



LAND ZONED FOR MULT-FAMILY USE -  
\$30,000



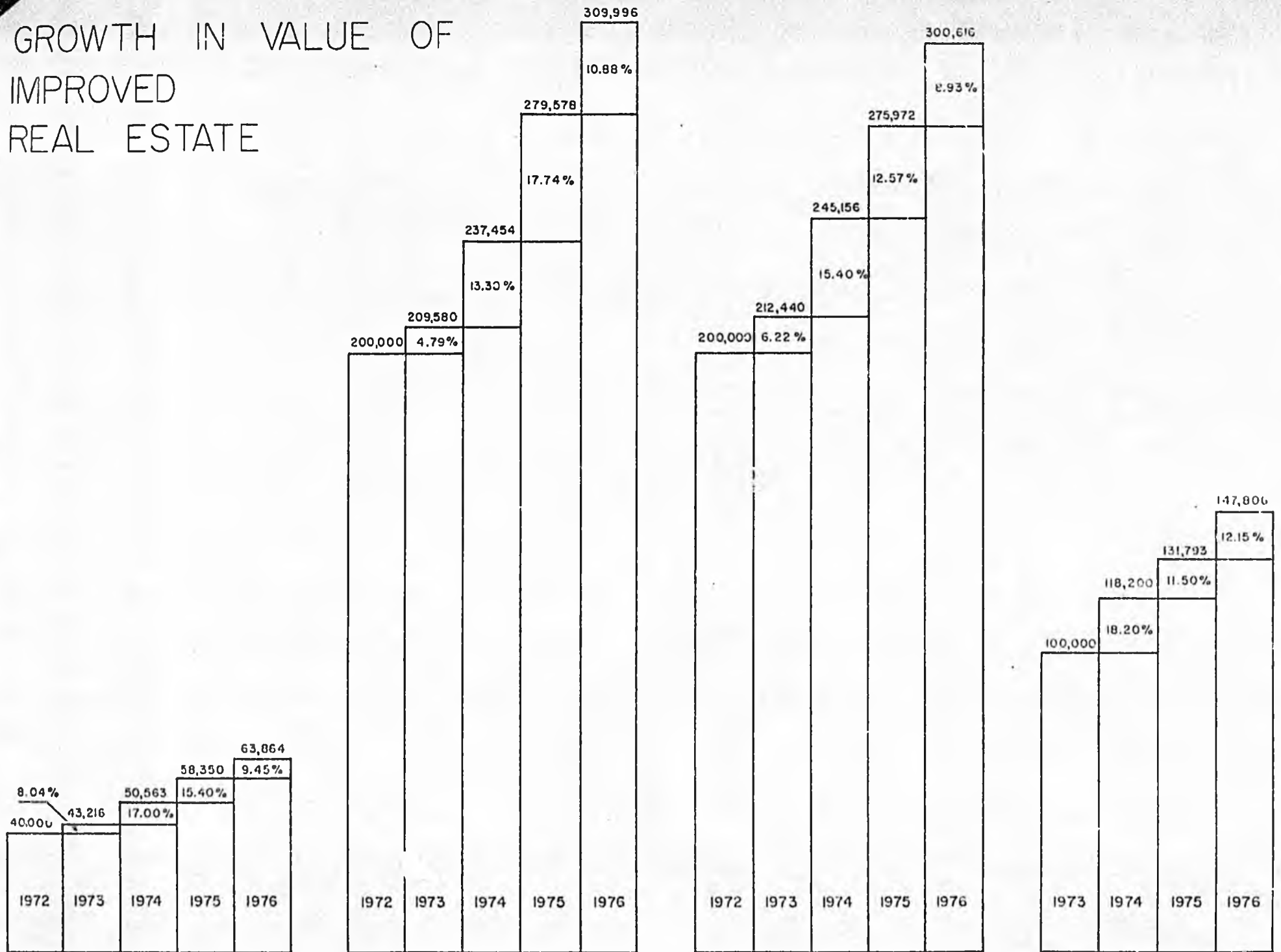
LAND ZONED FOR COMMERCIAL USE -  
\$60,000



LAND ZONED FOR INDUSTRIAL USE -  
\$50,000 - 1973

BASED ON A SURVEY TAKEN BY REAL ESTATE SERVICES CORPORATION

# GROWTH IN VALUE OF IMPROVED REAL ESTATE



SINGLE FAMILY RESIDENCE ASSUMING \$40,000 VALUE IN SEPTEMBER 1972

MULTI-FAMILY RESIDENCE — \$200,000

COMMERCIAL & OFFICE BUILDINGS — \$200,000

INDUSTRIAL BUILDINGS — \$100,000 — 1973

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LANDS

323 E. 4TH AVENUE - ANCHORAGE 99501

April 1, 1977

Senator Joseph Orsini  
Pouch V  
Juneau, Alaska 99811

Dear Joe:

Confirming our conversation this afternoon, the following are my recommendations for amendments for your proposed Finance Committee Substitute for Senate Bill 159.

1. On page 3, lines 13-17, delete all after the word "determined" and substitute the following:

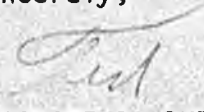
"high bid at public auction, except as provided in Section 70(b) of this chapter".

This is to conform with the requirement in AS 38.05.075 that the initial offering of the lease be by public auction. There is really no other method possible besides negotiation since at the first offering there is no existing lessee with which to enter the process contemplated in the original SB 159.

2. On page 3, Subsection 85(j), delete the reference to "M.A.I." preceding the word "appraiser" where it appears. There are presently only 11 M.A.I. appraisers in the State and there are a number of competent appraisers who are not Institute members.
3. Also in Subparagraph 85(j) on page 3, provide an alternative method of resolving disputes. After the word "lessee" on the third line of subparagraph (j) insert "may elect to follow either of the following two procedures (1) the lessee". This sentence now reads "The lessee may elect to follow either of two procedures: (1) the lessee shall appoint an appraiser and the state shall appoint..." After the last word in this subparagraph "equally", add "or (2) the lessee may appeal to the Commissioner who may establish an Ad Hoc Hearing Panel to recommend resolution of the dispute."

I am also enclosing the lease method comparisons for your new bill. As I indicated to you on the phone, in my opinion, this bill establishes too much of a negotiable leasehold interest with the lessee when it should properly remain with the trust lands.

Sincerely,

  
THEODORE G. SMITH, Director  
Land and Water Management

LEASE METHOD COMPARISONS

	(1)	(2)	(3)	(4)
Rent Per Present Law & State Appraisal	\$5,691	\$5,232	\$1,300	\$1,650
Rent Per Lessees Appraisal	\$4,552	\$4,160	N/A	N/A
Rent Per Ad Hoc Committee	\$4,552	\$4,160	\$1,300	\$1,650
Rent Per S.B. 159 (Original)	\$ 930	\$ 800	\$ 120	\$ 270
(Finance Committee)	\$1,498	\$1,288	\$ 193	\$ 435
(Resource Committee)	\$ 930	\$ 800	\$ 120	\$ 270

Rent per Ad Hoc Committee for leases (1) and (2) has taken the lower of the two appraisals.

	STATE	NO. 1	NO. 2	NO. 3	NO. 4	<i>Residential</i> NO. 5	NO. 6	NO. 7	NO. 8	NO. 9	NO. 10	NO. 11	NO. 12
				See Re- newal Op- tion	See Re- newal Op- tion							See Re- newal Op- tion	
TERM	55 YRS.	55 YRS.	55 YRS.	15 YRS.	25 YRS.	75 YRS.	55 YRS.	55 YRS.	55 YRS.	75 YRS.	25 YRS.	5 YRS.	59 YRS.
RENT ADJUSTMENTS	5 YRS.	5 YRS.	1st 10 yrs. the after	5 YRS.	5 YRS.	after 30 yrs. then 10 YRS.	APPROX. 4 YRS.	5 YRS.	5 YRS.	5 YRS.	5 YRS.	5 YRS.	2&7 Yrs. then 10Yr
NET	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
ADJUSTMENT BASIS:													
REAPPRAISAL (F.M.V.)	X		X	X		After 30 yrs. X		X	X				After 30 yrs. X
C.P.I		X								X	X		
STEPPED RENTAL												X	After 30 yrs.
ASSESSED VALUE					X		X						
% OF GROSS				X									
RATE	VARIABLES	8% COM	7%	8%	8%	8%	8%	9%	8%	9%	8.6% com	9% Com	8%
FIXED RATE	NO	N/A	YES	YES	YES	YES	YES	YES	YES	N/A	N/A	N/A	YES
RENT CIELINGS			X									X	X 30 Yrs.
REVERSION TO	LESSEE	LESSOR	LESSOR	LESSOR		LESSOR		LESSOR	LESSOR	LESSOR	LESSOR	NOT APPRAISED	LESSOR
SUBORDINATION		X	NO		X			NO	YES	YES	NO	YES	YES
COLLATERAL ASSIGNMENT	X												
OPTION TO PURCHASE		YES	NO			NO		YES	YES	YES	YES	YES	NO
OPTION TO RENEW FOR	55	0 YRS.	10 YRS.	15 YRS.	30 YRS.	0 YRS.		0 YRS.	0 YRS.	0 YRS.	5 YRS.	50 YRS.	0 YRS.

LEASE AGREEMENT

THIS AGREEMENT, made and entered into as of this day of September, 1975, by and between [REDACTED], hereinafter called the Lessor and [REDACTED], an Alaskan corporation of Anchorage, Alaska, hereinafter referred to as Lessee, WITNESSETH:

1. The Lessor, for and in consideration of the rents, covenants and agreements hereinafter mentioned, and reserved and contained on behalf of the Lessee to be kept, paid and performed, do by these presents grant, demise and let unto the said Lessee all of that certain property situated in the Anchorage Recording District, Third Judicial District, State of Alaska, and more particularly described on the attached Schedule "A" which is by reference incorporated as a part hereof.

Together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, subject to the rights and reservations in patent to said land, existing easements for roads, power, lights and other utilities and restrictions of record, and to encroachment ascertainable by physical inspection of the property.

2. The term of the lease shall be the period of fifty-five (55) years, commencing on the 1st day of September, 1975 and ending midnight, the last day of August, 2030.

3. Lessee shall pay Lessor monthly rentals during the term of this lease of [REDACTED] each month. The rent shall be paid to Lessor in advance on or before the 1st day of each and every month during the term of this lease. The rental shall be paid to Lessor by mailing to Lessor, at his address following the execution of this agreement or such other address as Lessor shall hereinafter in writing direct. Commencing on the 1st day of September, 1980, and upon the 1st day of September of each five (5) year anniversary date thereafter, the rent shall be adjusted upward or downward to reflect the increase or decrease in the consumer price index, prepared by the United States Bureau of Labor Statistics. The rental is based upon the Index number (153.8) for the month of, July 1975, which appears in the line "All Items" in the column for the "United States", the Consumer Price Index--U.S. (1967 = 100)--New Series, (reflecting the change in prices of goods and services purchased by city wage earners and clerical worker families to maintain their level of living) published by the Bureau of Labor Statistics, United States Department of Labor. A copy of said index for the month of July, 1975, is attached hereto as Schedule "B" and by reference made a part hereof. Subject to the provisions hereinafter set forth, the monthly rental for the five (5) year period, commencing September 1, 1980 and for each month of each five (5) year period thereafter, shall be arrived at by multiplying the rental set forth above by a fraction, the numerator of which shall be the index figure for the month of July of the year preceeding the date of such successive five (5) year adjustment and the denominator shall be the index figure for the month of July, 1975, which is 153.8. If the Bureau of Labor Statistics changes the form or basis of calculating the Consumer Price Index, the parties agree to request the Bureau to make available for the period of this lease, a monthly consumer price index for

55 YEARS FROM

the month of July of the year preceeding the date of each successive five (5) year adjustment and in its present form and calculated on the same basis as the index for July, 1975. However, it is expressly provided that the minimum rental regardless of changes in the Consumer Price Index, shall not be less than the sum of [REDACTED] per month for the entire term of this lease.

4. Except as hereinafter provided, it is intended by the parties hereto that Lessee shall pay all expenses with respect to the property and any improvements placed upon the property, and Lessor shall receive the rental payments free and clear of any and all expenses of the property. Accordingly, Lessee agrees that Lessee will pay all charges for electricity, water, gas, telephone, sewer, and all other utility services used on the leased premises, all taxes and assessments upon the lease premises which are payable during the lease term, and all other expenses of whatsoever nature incurred in connection with the leased premises. Taxes for the first year of the lease and for the last year of the lease shall be prorated as between Lessee and Lessor, based on the number of months of such year which the lease is to cover.

It is intended by the parties hereto that Lessor at Lessors sole cost and expense shall bring sewer and water to the property leased hereunder and shall backfill said property so as to provide a sufficient foundation for a two story building provided further that such foundation shall be sufficient and proper to support any adjacent property areas.

Lessor owns the adjacent property north of the leased premises and it is further agreed that no improvements above ground level shall be constructed on Lessor's adjacent property within twenty (20) feet of the north property line of the leased premises without the prior written consent of Lessee.

5. Both parties shall have the right of assignment at any time, provided, however, that such assignment shall not release Lessee of any obligations for the performance of each and every obligation contained herein. Lessee may sub-lease a part or all of the premises, and such sub-lease shall be subject to each and every provisions of this lease agreement, and such sub-lease shall not release the Lessee from the obligations of this lease, but Lessee shall remain liable to Lessor for the payment of the rental and the performance of all obligations of this lease.

6. Lessee shall not make or suffer any use or occupancy of the premises contrary to any law or ordinance now or hereafter enforced.

7. Lessee agrees to protect, indemnify and save harmless the Lessor from and against all claims asserted against the Lessor by reason of Lessee's use of the premises.

8. (a) If Lessee fails to pay the rent upon the day when the same shall become due and such failure continues for ten (10) days, after Lessor's written notice to Lessee of such failure and demand for payment of creditors, or then Lessee shall be in default in the performance of this lease.

(b) If Lessee shall fail to perform any of the other provisions, conditions or covenants of this lease and Lessee shall have failed to perform, correct or cure any such non-performance within thirty (30) days after the date of mailing of written notice by Lessor to Lessee of such non-performance, then the Lessee shall be in default, provided the Lessee shall not be in default if within said thirty (30) day period the Lessee shall have commenced all actions reasonably necessary to perform, correct or cure such non-performance and thereafter continue diligently to prosecute such action to conclusion so as to perform, correct or cure any such non-performance. A copy of any such notice of default from Lessor to Lessee shall be mailed to any financial institution holding a deed of trust or other security interest in the property.

(c) In the event of default in the performance of this lease by Lessee, Lessor may re-enter the premises, either in person or by agent, and re-let the premises as the agent of Lessee and receive the rent therefrom applying the same first to the payment of such expenses as Lessor may be put to in re-entering and re-letting and then to the payment of rents accruing hereunder, the balance, if any, to be paid to Lessee who shall remain liable for any deficiency, or Lessor, at Lessor's option, may terminate this lease and all rights of Lessee hereunder, and in such event all rentals paid in advance by the Lessee may be retained by the Lessors as liquidated damages for the breach of this agreement and as additional rental for the use of the property.

9. Lessor does hereby covenant and agree that Lessee, paying said rent in the manner aforesaid and performing Lessee's obligations to be kept and performed, may and shall have the right at all times during the term of this lease to quietly hold, possess, use, occupy and enjoy the said leased premises and property, and all improvements which may from time to time be placed thereon under and by virtue of this lease. It is agreed that Lessor, or his agent, shall have the right at all reasonable times to enter upon the premises and inspect the same.

10. Lessee, at Lessee's sole cost and expense may construct buildings or other improvements upon the premises, provided, however, that Lessee shall not at any time permit or allow any liens or other encumbrances to be placed against the above-described property or any part thereof, except as hereinafter provided by subordination agreement and that Lessee will at all times hold Lessor and the premises harmless against any expenses or charges arising out of any construction or improvements commenced or carried out at the request of Lessee. Prior to the commencement of any construction or improvements of a total cost which will exceed TEN THOUSAND DOLLARS (\$10,000.00), Lessee shall purchase a bond with a reputable insurance company authorized to do business in the State of Alaska, which will be of an amount at least equal to the total cost of such construction or improvements and shall be conditioned for the indemnity of the Lessor, to keep the property free and clear of all labor, material and mechanic's liens and other liens which may arise or be created in the erection of a building or improvements and that when completed, the said building, improvements and premises shall be free of all such liens, excluding those of financial institutions to which Lessor have subordinated the property. A copy of such bond

shall be furnished Lessor prior to commencement of any construction, or improvements costing in excess of TEN THOUSAND DOLLARS (\$10,000.00). The Lessor may post a notice of non-responsibility as to all liens in accordance with the Alaska Statutes, Sec. 34.34.065 or other applicable law. Upon termination of the lease or expiration of the lease term, all improvements placed upon the premises shall become the property of Lessor.

11. Lessee, may at any time, mortgage or convey by deed of trust in the nature of a mortgage, its estate in the premises and any building or improvement then or thereafter situated thereon; provided that Lessee shall not be in default in any of the agreements herein contained, to be kept, observed and performed by Lessee and shall have paid all rents, taxes and assessments and all other charges of every kind which shall have accrued hereunder; and provided further that no mortgagee or trustee or beneficiary, under such mortgage or deed of trust shall, by virtue thereof, acquire any greater rights in the premises and any buildings or improvements thereon, than Lessee then has under this lease unless Lessor shall have subordinated Lessor's interest in the property as hereinafter provided.

12. Lessor agrees that Lessor will consent to subordinate Lessor's interest in the property to a deed of trust or to deeds of trust, mortgages, or other security instruments necessary to finance the construction of improvements upon the premises which may hereafter be executed by Lessee and given to a financial institution, mortgage company, insurance company or other financier as security for a loan or loans the proceeds of which are used, directly or indirectly, for construction of improvements upon the premises. Lessor agrees to execute any instruments required to accomplish such subordination. Lessee agrees that Lessee will pay any deed of trust or deeds of trust, mortgage, or other security instrument given as security for construction of improvements upon the premises according to the terms thereof. If Lessee defaults under the terms of any such deed of trust, mortgage, or other security instrument, the proceeds of which were used for the construction of improvements on said real property in accordance with the terms of said instrument, such default shall constitute a default under the provisions of this lease agreement. It is agreed that damages would not be sufficient in the event Lessor fails to execute, upon request, such subordination agreement and Lessee may obtain specific performance of this subordination provisions. It is agreed that Lessee shall prepare any and all documents required for Lessor's signatures and shall pay the reasonable cost of attorney's fees by Lessor in reviewing the legal documents. Lessee agrees that it will carry insurance for protection of improvements against loss by fire or other casualty at least equal in amount to the amount of any mortgage or lien created by Lessee for construction of improvements upon the property.

13. In consideration of the execution of this lease, the undersigned Lessor, hereby grants to Lessee the option to purchase the above-described property covered by this lease at any time after the 1st day of September, 2020, but prior to the 1st day of September, 2035, for an amount equal to the then fair market value of the property, exclusive of any improvements, at the time said option is exercised to be determined by agreement of the parties or by an appraisal as hereinafter set forth. The

Lessee may exercise this option by (1) mailing to the Lessors written notice by registered or certified mail on or before said date of the Lessee's intention to exercise this option and, if the parties have not previously agreed in writing upon the fair market value of the property, (2) setting forth in such written notice the name of the appraiser who shall represent the Lessee in the determination of the fair market value. Within thirty (30) days of receipt of such notice of election to exercise this option, if the parties have not agreed in writing upon the fair market value to be used for the purchase price, the Lessors shall send to the Lessee notice of the appointment of an appraiser to represent the Lessor setting forth the name of such appraiser. The two appraisers so selected shall on or before ten (10) days after the mailing of the notice of the appointment of the appraiser to represent the Lessor, appoint a third appraiser who shall act as chairman of the group. The appraisers shall be disinterested persons not related to either of the parties by consanguinity or affinity. Said appraisers shall then immediately proceed to appraise the market value of the land (exclusive of buildings or improvements) as of the date of the mailing of the notice by Lessee of the Lessee's election to exercise this option and shall report the same in writing to the parties hereto, on or before the thirtieth (30th) day following the selection of the third appraiser. Such report, whether unanimous or by majority, shall be final and binding upon the parties thereto, as to the market value of said premises to be paid by the Lessee to the Lessor for the purchase of the property pursuant to this option. Promptly after the execution of this agreement, the Lessor shall have a warranty deed prepared and execute the same conveying the property to the Lessee free and clear of any and all encumbrances, except those encumbrances arising by acts of the Lessee or persons acting under them, but subject to existing easements for roads, power, light and other utilities and restrictions of record, as of the date of such conveyance, and subject to any encumbrances placed against the property by reason of improvements constructed on the premises by the Lessee. Said warranty deed shall be placed in the Trust Department of [REDACTED] at Anchorage or such other bank or financial institution as the parties may hereinafter agree with written instructions signed by the Lessee and the Lessor providing for the delivery of said deed to the Alaska Title Guaranty Company, or any title guaranty company succeeding to the business of said company, to be recorded simultaneously with the deed of trust to be given by the Lessee for payment of the purchase price of the land as determined by the appraisers for the parties. The instructions to the Trust Department shall provide for the delivery of the deed to the title company for recording when the Trustee shall have received the report of value from the appraisers appointed by the parties or upon an agreement for the delivery of the same executed by the parties, their successors assigns or heirs. Upon the conveyance of said property, this lease shall terminate. Promptly and within ten (10) days from the date that said warranty deed has been delivered to the title insurance company, the Lessee shall pay to the Lessor twenty percent (20%) of the purchase price of the property, said purchase price being the fair market value determined by agreement or appraisal as hereinabove set forth. The balance of the purchase price shall be secured by a deed of trust upon the property and payable in equal monthly installments over a period of one hundred twenty (120) months together with interest at the rate of eight percent (8%) upon the unpaid balance of the purchase price.

It is intended that if the Lessee desires to purchase the property, it must exercise the option by the date set forth herein and in the manner set forth and if it fails to do so that Lessee shall have no right to purchase the property during the remaining term of this lease, and extension thereof, or any time thereafter. If this lease is terminated by reason of the default of the Lessee prior to the exercise of this option then this option to purchase shall terminate and thereafter shall be null and void. The instructions to the Trust Department holding the deed shall contain provisions for the redelivery of the deed to the Lessor after the date within which the option is not so exercised, or in the event that this lease is terminated.

If prior to the beginning of the option period provided for herein, the Lessor proposes to sell said property to a bona fide purchaser, the Lessee shall first be afforded an opportunity to purchase the property under the terms herein provided at the same price as offered by the bona fide buyer or at the then determined fair market value, whichever is lower, said fair market value to be determined in accordance with provisions heretofore set out in this paragraph with date of fair market value to be the date Lessor notifies Lessee of Lessors intent to sell the property.

14. The provisions of this lease and all questions arising concerning this lease shall be determined and resolved in accordance with the laws of the State of Alaska.

15. Failure of the Lessor to insist on the strict performance of the terms, conditions and agreements herein contained or any of them, shall not constitute or be construed as a waiver or relinquishment of Lessor's rights to thereafter enforce any such terms, agreements or conditions, but the same shall continue in full force and effect.

16. The provisions of this lease shall extend to and include the heirs, executors, administrators, successors and assigns of the parties hereto.

17. Any notice required to be given by the terms of this lease may be mailed to the address of the person as hereinafter set forth following the signature of each party to this lease or such other address as a party may hereafter in writing direct.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the date first hereinabove written.

LESSOR:

\_\_\_\_\_

Address:

\_\_\_\_\_  
\_\_\_\_\_



Lease Agreement

Schedule "A"

The description of the leased property is:

LEASE AGREEMENT

THIS INDENTURE OF LEASE is made this 22<sup>nd</sup> day of July, 1976, by and between \_\_\_\_\_, a domestic corporation, of Anchorage, Alaska, hereinafter called Landlord, and \_\_\_\_\_, hereinafter called tenant.

WITNESSETH :

1. Premises.-- Landlord, for and in consideration of the rents, covenants and conditions hereinafter specified to be paid, performed and observed by Tenant, does hereby let, lease and demise to Tenant the vacant, unimproved real estate located in the Anchorage Recording District, Third Judicial District, State of Alaska, more particularly described as follows:



2. Appurtenances, Etc.-- Landlord cedes and grants to Tenant all easements, parking and loading rights, right of ingress and egress, fixtures and appurtenances now or hereafter belonging or appertaining to said premises.

3. Encumbrances.-- The described premises are leased, subject to deed restrictions, easements, rights-of-way, if any; zoning and building restrictions and governmental regulations now in effect or hereafter adopted by any governmental authority.

4. Term.-- The term of this Lease shall be fifty-five (55) years, commencing December 1, 1975, through and including November 30, 2030, unless sooner terminated as hereinafter provided, and subject to Tenant's option to extend the term of this Lease for two successive five (5) year periods commencing on December 1, 2030, and December 1, 2035.

In order to exercise the respective successive options to extend, Tenant must give Landlord written notice of its election to extend not less than six (6) months prior to the beginning of each such extended period or such options terminate and become null and void.

5. Rental.-- Tenant agrees to pay, quarterly in advance, on or before December 1, March 1, June 1, and September 1, of every year, during the entire term hereof, a quarterly rental of \_\_\_\_\_, except as rental is hereinafter modified. Provided, that rental shall commence as of June 1, 1976, and additional rent under provision 7 hereof shall commence as of January 1, 1976.

6. Prior Lease Cancelled.-- The Lease Agreement dated November 14, 1975, between Landlord and \_\_\_\_\_ and \_\_\_\_\_ has been cancelled by mutual consent. The sum of \_\_\_\_\_ (\_\_\_\_\_) paid on execution of the cancelled Lease shall be applied to the quarterly rent due June 1, 1976, under this Lease Agreement.

7. Taxes and Other Charges.-- As additional rent, Tenant agrees to pay to the public authorities charged with collection thereof, promptly as the same become due and payable, all taxes, assessments, general and special, permits, inspection and license fees and other public charges, whether of a like or different nature, levied upon or assessed against the leased premises and any buildings, structures, fixtures or improvements now or hereafter located thereon, or arising in respect of the occupancy, use or possession of the demised premises, and which are assessed and are, or become, a lien during the term of this lease, and Tenant agrees to exhibit to Landlord, on demand, receipts evidencing payment of all taxes, assessments and public charges so payable by Tenant. All real estate taxes for the first and last years of the term hereof shall be equitably pro-rated between the parties.

It is expressly agreed, however, that Tenant shall not be obligated to pay any income tax, profits tax, excise tax, or other tax or charge that may be payable by or chargeable to Landlord, under any present or future law of the United States or any political or taxing subdivision thereof, or any other governmental agency, upon or with respect to the rent received by Landlord under this lease; provided, however, that in any case where an income tax may be levied, assessed or imposed by the State or any political subdivision thereof upon the income arising from the rents provided hereunder, for the use and occupancy of said demised premises in lieu of or as a substitute for a tax upon said real estate or premises, Tenant; and not Landlord, shall be required, and hereby agrees to pay the same; and provided further, that in no event shall Tenant be obligated to pay for any year any greater amount by way of such substitute income tax had the rentals upon which such tax was imposed been the sole taxable income of Landlord for the year in question. Nor shall Tenant be obligated to pay any inheritance, transfer, estate, succession or similar tax or charge that may be payable under any present or future law of the United States or the said State, or imposed by any political or taxing subdivision thereof, or by any other governmental agency, by reason of the devolution, succession, transfer passing by inheritance, devise, acquisition, or becoming effective of the right to possession and enjoyment of all or any part of the estate of Landlord in said premises, whether by descent, deed, testamentary provision, trust deed, gift, mortgage, or otherwise.

In the event any special assessment is levied on the premises for a part of the cost of any public work or improvement assessed according to benefit found by the levying authority to accrue therefrom to the demised premises and the option is given to pay such assessment in installments, Tenant may elect to pay the same in installments and in that case shall become liable only for such installments as shall accrue during the term of this lease and during any term or terms for which this lease shall be extended. In the event that any assessment or installment of assessment coming due and payable during the term of this lease has added to it any interest or service charge, Tenant shall pay such interest or service charge even though such charge relates back to a date prior to the execution of this lease. A mortgage or other lien granted by Landlord for special benefits in lieu of a special assessment shall be considered a special assessment hereunder, whether such mortgage exists at the time of the execution of this lease or is granted hereafter by Landlord and Tenant.

Notwithstanding any of the foregoing provisions, in the event the City of Anchorage or the State of Alaska or any governmental subdivision thereof, shall impose a sales tax on the yearly rentals paid hereunder, Tenant shall reimburse Landlord in the amount of such sales tax.

Tenant shall also pay all charges for water, gas, electricity, power or other public utility services rendered during term of this Lease as such charges become due.

If the demised premises are not assessed for taxes as a separate parcel, Tenant shall pay taxes on the demised premises based on the valuation of the demised premises as arrived at for that purpose, using the records and methods of the tax assessor, multiplied by the appropriate mill rate.

If the Greater Anchorage Area Borough, or other public authority having jurisdiction requires that the leased premises be platted, Tenant agrees to pay all costs of such platting, including, without limitation, survey costs, filing fees and the like. Tenant agrees to pay all costs of road improvements imposed by public authorities, or desired by Tenant, for roads adjacent to or within the boundaries of the leased premises.

8. Modified Rental.-- Beginning with the lease year commencing December 1, 1985, and continuing at five-year intervals thereafter, the annual rental of [REDACTED] per year shall be modified so as to equal seven percent (7%) of the fair market value of the premises; as determined by mutual agreement of the parties, or, in case of their inability to agree, by appraisal as hereinafter specified; provided, however, that the premises shall be valued and appraised at the date of the rental modification as unimproved land as defined herein. For purposes of the rental modification, unimproved land shall mean the demised land in its existing condition at the date of valuation or appraisal, disregarding all building or structural improvements above or below grade (building or structural improvements do not include excavation or backfill) and disregarding all landscaping, paving, leases and encumbrances. The unimproved land, as above defined, shall be valued or appraised at its highest and best use regardless of its actual use.

If the Landlord and Tenant are unable to agree on a modified rental as above provided on or before September 1, of the year in which the rent shall be modified, the Landlord and Tenant shall jointly select an appraiser from the regular Alaska membership of the Society of Real Estate Appraisers or the American Institute of Real Estate Appraisers, or the successor body of either group who has been properly designated M.A.I. or S.R.E.A., or S.R.P.A., or any future similar designation which denotes proficiency in the appraisal of commercial property and which is recognized as such by either of the above two groups or their successor bodies. The written report of the above selected appraiser on the appraised fair market value of the demised premises (using the aforesaid definitions and methods) shall be conclusive and binding upon the Landlord and Tenant for the purpose of adjusting the rental, unless either Landlord or Tenant object to such appraised value. The cost of the appraisal report shall be shared equally by the Landlord and Tenant, even if objected to by either party.

If the Landlord and Tenant cannot agree on one appraiser as above provided, or either objects to the written report of the appraiser as above provided, the Landlord and Tenant shall each select an appraiser from either of the above groups who holds any of the above-required designations. Either party may select the appraiser who was jointly selected as above provided and whose report was rejected. Those two appraisers shall select a third appraiser from either of the above groups and who holds any of the required designations. The appraised fair market value agreed upon in writing by two of these appraisers, or upon failure of any two to agree, the average value of the two appraisals closest to each other, shall be conclusive and binding upon Landlord and Tenant for the purposes of adjusting the rental. Each party shall pay the fee of its selected appraiser and one-half the fee of the third appraiser.

Anything in the foregoing paragraph to the contrary notwithstanding, the minimum quarterly rental shall never be less than the quarterly rental for the initial ten (10) year period of the term of this lease. Nor shall the quarterly rental during the eleventh (11th) through the fifteenth (15th) years increase more than one hundred percent (100%) of the initial quarterly rental; nor the quarterly rental during the sixteenth (16th) through the twentieth (20th) year increase more than fifty percent (50%) of the immediately preceding quarterly rental; nor the quarterly rental during the twenty-first (21st) through the twenty-fifth (25th) year increase more than fifty percent (50%) of the immediately preceding quarterly rental. (By way of example, if the initial quarterly rental were \$100, then the maximum quarterly rental during the eleventh (11th) through the fifteenth (15th) years would be \$200; the maximum for the sixteenth (16th) through the twentieth (20th) years would be \$300; and the maximum for the twenty-first (21st) through the twenty-fifth (25th) years would be \$450.) After the twenty-fifth (25th) year, the above maximums shall not apply as limitations on the rental modification provisions of this paragraph 8.

9. Compliance with Laws and Care of Premises.--  
Tenant shall comply with all applicable laws, ordinances and regulations of duly constituted public authorities now or hereafter in any manner affecting the demised premises or the sidewalks, alleys, streets, and way adjacent thereto or any buildings, structures, fixtures and improvements or the use thereof, whether or not any such laws, ordinances or regulations which may be hereafter enacted involve a change of policy on the part of the governmental body enacting the same. Tenant agrees to hold Landlord financially harmless (a) from the consequences of any violation of such laws, ordinances and/or regulations, and (b) from all claims for damages on account of injuries, death or property damage resulting from such violation. Tenant further agrees that it will not permit any unlawful occupation, business or trade to be conducted on said premises or any use to be made thereof contrary to any law, ordinance or regulation as aforesaid with respect thereto.

Tenant, at its own cost and expense, shall keep the leased premises and all improvements which at any time during the term of this lease may be situated thereon, in good condition and repair during the entire term of this lease, hereby expressly waiving the right to make repairs at the expense of Landlord as provided for in any statute or law in effect at the time of the

execution of this lease or any amendment thereof, or any other statute or law which may be hereafter passed during the term of this lease.

10. Tenant's Right, Etc.-- Tenant, when not in default of performance of any of its obligations hereunder shall have the following rights, during the term of this Lease, from time to time, in such manner, and to such extent as Tenant may in its sole judgment deem advisable, except where said rights are conditioned upon prior approval of Landlord:

(a) To demolish, remove or otherwise dispose of any improvements presently or subsequently situated upon the demised premises.

(b) To erect, place, or install upon the leased premises, buildings, structures, and improvements as from time to time it shall deem advisable.

(c) To make such alterations, additions and repairs to the leased premises as it may desire.

(d) Anything in the foregoing to the contrary notwithstanding, Tenant must, prior to the commencement of construction of a building or other structure, deliver to Landlord for approval two (2) complete sets of construction plans and specifications for the exterior of said improvements, prepared by a licensed architect or licensed engineer, a plot plan showing the proposed location of said improvements, all utilities and service connections and all places of ingress and egress to public streets and roads and plans for outdoor signs, lighting and landscaping. If approved, such approval shall be endorsed by Landlord upon said plans, specifications and plot plan within thirty (30) days from the receipt thereof, one (1) set of which shall be retained by Landlord. If Landlord does not approve of such plans and specifications, Landlord shall, within thirty (30) days from the receipt thereof, notify Tenant of its reasons for not approving said plans and specifications. Landlord agrees that it will not unreasonably withhold approval of such plans and specifications, and that the Landlord's failure to respond as herein provided within thirty (30) days of receipt of such plans and specifications shall be deemed an approval of same.

(e) No structure or other improvement, including, but not limited to, storage and/or display structures separate from the main structure, the plans, specifications and proposed location of which have not first received the written approval of Landlord, or which does not comply with such approved plans, specifications and locations, shall be constructed or maintained on the leased land. No material addition to or alteration of any building or structure erected on the leased land shall be commenced until plans and specifications covering the exterior of the proposed addition or alteration have been first submitted to and approved by Landlord in the manner above described. Any improvements constructed shall comply with all public laws, ordinances and regulations applicable thereto and shall be completed at the sole cost and expense of Tenant and without any cost, expense or liability of Landlord whatsoever.

(f) The approval by Landlord of any plans and specifications refers only to the conformity of such plans and

specifications to the general architectural plan for the leased land and neighboring land of the Landlord; such plans and specifications are not approved for architectural or engineering design and by approving such plans and specifications, Landlord assumes no liability or responsibility therefor, or for any defect in any structure constructed from such plans or specifications.

(g) All buildings, structures and permanent improvements, including signs which have been or may be installed, placed or attached in or about the leased premises by Tenant, shall remain the property of Tenant until the termination of the Lease. At the expiration or termination of the term of the Lease, or any extended term thereof, Landlord shall become the owner of all improvements located on the demised premises.

(h) Upon termination by expiration of time or otherwise of this Lease, or of any renewal thereof, or at any prior time, Tenant shall have the right, if it is not in default, to remove all trade fixtures and other movable items of personalty, provided that any damage caused to the leased premises by reason of such removal shall be paid by Tenant. Any trade fixtures and other movable items of personalty not so removed by Tenant shall become the property of Landlord. Tenant may, as part of a rebuilding or expansion program, demolish any part or all of the buildings, structures or improvements to be located on the leased premises.

11. Bond for Construction of Improvements.-- Before commencing the construction or installation of improvements on the demised premises, where the contract price or cost of such improvements exceeds the sum of \$25,000, Tenant must furnish to Landlord a corporate surety bond in the amount of the cost or contract price of such improvements and the condition of said bond being the payment of all claims for labor and materials used in the construction or installation of such improvements.

12. Liens.-- Tenant will not permit any mechanics', laborers' or materialmen's liens to stand against the leased premises or improvements for any labor or materials furnished to Tenant or claimed to have been furnished to Tenant or to Tenant's agents, contractors, or sublessees, in connection with work of any character performed or claimed to have been performed on said premises or improvements by or at the direction or sufferance of Tenant; provided, however, that Tenant shall have the right to contest the validity or amount of any such lien or claimed lien. In the event of such contest, Tenant shall give to Landlord reasonable security as may be demanded by Landlord to insure payment thereof and prevent any sale, foreclosure or forfeiture of the premises or improvements by reason of such nonpayment. Such security need not exceed one and one-half times the amount of such lien or such claim of lien or Tenant may record the bond contemplated by Section 34.35.072, Alaska Statutes. Tenant will immediately pay any judgment rendered with all proper costs and charges and shall have such lien released or judgment satisfied at Tenant's own expense.

13. Use of Premises.-- The Tenant may use and occupy the demised premises for any lawful purpose.

14. Indemnification.-- Tenant agrees to protect,

defend, indemnify and save harmless Landlord from and against any and all claims, demands and causes of action and of any nature whatsoever, and any expenses incident to defense of and by Landlord therefrom, for any injury to or death of persons or loss of or damage to property occurring on the demised premises, or in any manner arising out of Tenant's use and occupation of said premises, or the condition thereof, during the term of this lease. Tenant shall procure and maintain public liability insurance coverage, naming Landlord as an insured, which coverage, pertaining to the demised premises, shall not be less than (1) \$200,000 per person, \$500,000 in the aggregate per accident, and \$100,000 property damage; or (2) amounts which the Landlord reasonably requires to adequately cover the risks involved, whichever is greater. Tenant agrees to furnish copies of certificates evidencing insurance coverage of the demised premises to Landlord. The term "Tenant" shall not include a leasehold mortgagee unless the mortgagee has taken possession of the leasehold premises or acquires title pursuant to a foreclosure proceeding. X

15. Condemnation.-- If the whole or any part of the demised premises shall be taken for any public or quasi-public use, under any statute or by right of eminent domain or private purchase in lieu thereof by a public body vested with the power of eminent domain, then, when possession shall be taken thereunder of the demised premises, or any part thereof, the following provisions shall be operative:

(a) Taking of All Premises.-- The term herein demised and all rights of Tenant hereunder shall immediately cease and terminate, and the rent shall be adjusted as of the time of such termination so that Tenant shall have paid rent up to the time of taking only. Landlord shall be entitled to the full condemnation proceeds, except the portion thereof attributable to the value of the buildings or improvements put up by Tenant. X

(b) Taking of Substantial Part of Premises.-- If the taking reduces the ground area of the demised premises by at least thirty percent (30%) or materially affects the use being made by the Tenant of the demised premises, Tenant shall have the right, by written notice to Landlord effected not later than thirty (30) days after possession shall be taken, to elect to terminate this lease.

(1) If the election to terminate be made--

The provisions of (a) of this section relating to the taking of the whole shall govern; or

(2) If the election not be made--

(a) The lease shall continue;

(b) Landlord shall be entitled to the full condemnation proceeds except the portion thereof attributable to the value of the buildings or improvements put up by Tenant; and,

(c) Rent at the old rate shall be adjusted as of the date of taking of possession, and the rent for the balance of the term, except as modified from time to time under provision 8 hereof, shall be reduced so that the new rent shall

be that part of the former rent (before condemnation) which the unimproved value of the untaken premises (appraised after the taking) bears to the unimproved value of the entire premises demised immediately before the taking. Any dispute, controversy or claim arising out of or relating to the fixing of the new rent shall be settled by arbitration held in Anchorage, Alaska, in accordance with the Rule of the American Arbitration Association, and judgment upon any award rendered in such proceedings may be entered in any court having jurisdiction as provided by law.

(c) Taking of Insubstantial Part of Premises.-- If the taking is of such an insubstantial portion of the ground area that the use being made by Tenant of the leased premises is not materially affected, the provisions of (b) (2) above of this section (where election not made) shall govern.

16. Quiet Enjoyment.-- Provided Tenant is not in default hereunder, Landlord covenants that Tenant shall have peaceful and quiet enjoyment of the leased premises without let or hindrance on the part of Landlord, and that Landlord will warrant and defend Tenant in the peaceful and quiet enjoyment of the demised premises.

17. Notices.-- Any and all notices required or permitted under this lease, unless otherwise specified in writing by the party whose address is changed, shall be as follows:

Landlord: \_\_\_\_\_  
\_\_\_\_\_

Tenant: \_\_\_\_\_  
\_\_\_\_\_

18. Default.-- If Tenant at any time during the term of this lease (and regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency or other proceedings, in law, in equity or before any administrative tribunal, which have or might have the effect of preventing Tenant from complying with the terms of this lease) shall (a) fail to make payment of any installment of rent or of any other sum herein specified to be paid by Tenant, or (b) fail to observe or perform any of Tenant's other covenants, agreements or obligations hereunder, and if any such default shall not be cured as to (a) within ten (10) days after Landlord shall have given Tenant written notice of such failure to make payment, or as to (b) within thirty (30) days after Landlord shall have given to Tenant written notice specifying such default or defaults, Tenant shall not have commenced to cure such default and proceed diligently to cure the same, or

(1) if Tenant has filed a Petition for an Arrangement under Chapter 11 of the Bankruptcy Act, 11 U.S.C. 701 et. seq.;

(2) or a voluntary petition under any other provision of said Bankruptcy Act; or

(3) if Tenant finally and without further possibility of appeal or review is adjudicated a bankrupt or insolvent; or

(4) has a receiver or a Trustee appointed for all

or substantially all of its business or assets on the ground of Tenant's insolvency; or

(5) has itself appointed as debtor-in-possession in a proceeding for a reorganization or an arrangement; or

(6) files a petition seeking any relief under the Bankruptcy Act of the United States, or any other act of the United States or any state having the same general purposes; or

(7) a petition is filed against Tenant seeking the relief under (6) above, which petition Tenant fails to oppose within twenty-one (21) days after service of said petition, provided, nevertheless, Landlord may terminate this lease, even though Tenant opposes said petition against it if said petition is not dismissed within thirty (30) days after the date of opposition by Tenant to said petition; or

(8) if Tenant shall make an assignment for the benefit of its creditors,

then in any such event Landlord shall have the right at its election, then or at any time thereafter, and while such default, defaults or events shall continue, to give Tenant notice of Landlord's intention to terminate this lease and all Tenant's rights hereunder, on a date specified in such notice, which date shall not be less than thirty (30) days after the date of giving of such notice, and on the date specified in such notice, the term of this lease and all rights granted Tenant hereunder shall come to an end as fully as if the lease then expired by its own terms, and Tenant hereby covenants peaceably and quietly to yield up and surrender to Landlord said leased premises and all structures, buildings, improvements and equipment located thereon, and to execute and deliver to Landlord such instrument or instruments as shall be required by Landlord as will properly evidence termination of Tenant's rights hereunder or its interest therein.

In the event of termination of this lease as in this paragraph above provided, Landlord shall have the right to repossess the leased premises and such structures, buildings, improvements and equipment, either with process of law or through any form of suit or proceeding, as well as the right to sue for and recover all rents and other sums accrued up to the time of such termination, and damages arising out of any breach on the part of Tenant, including damages for rent not then accrued. Landlord shall also have the right, without resuming possession of the premises or terminating this lease, to sue for and recover all rents and other sums, including damages, at any time and from time to time accruing hereunder.

19. Costs Upon Default.-- In the event either party shall be in default in the performance of any of its obligations under this lease and an action shall be brought for the enforcement thereof, the defaulting party shall pay to the other all the expenses incurred therefor, including a reasonable attorney's fee.

In the event either party shall without fault on its part be made a party to any litigation commenced by or against the other, then such other party shall pay all costs and reasonable attorney's fees incurred or paid by such party in connection with such litigation.

20. Rights or Remedies.-- Except insofar as this is inconsistent with or contrary to any provision of this lease, no right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

21. Waiver and Forebearance.-- Except to the extent that Landlord may have otherwise agreed in writing, no waiver by Landlord of any breach by Tenant of any of its obligations, agreements or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or any other covenant, agreement or obligation. Nor shall any forbearance by Landlord to seek a remedy for any breach of Tenant be deemed a waiver by Landlord of its rights or remedies with respect to such breach.

22. Inspection.-- Landlord shall at all reasonable times during Tenant's business hours have access to the premises for the purpose of inspection.

23. Successors in Interest.-- This Lease shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the parties hereto.

24. Assignment or Subletting.-- Tenant must not sublet the demised premises, or any part thereof, or assign this Lease, or any part thereof, without the prior written consent of Landlord to such subletting or assignment, provided that Tenant may assign this Lease, or any part thereof, to a lending institution, for loan security purposes, and provided that this right to assign shall not be construed as a subordination of Landlord's rights hereunder, nor a subordination of its fee. Anything contrary in the foregoing notwithstanding, Tenant shall have the right to sublease all or any portion of space in any building which Tenant constructs upon the demised premises. Landlord agrees that it will not unreasonably withhold consent to a proposed subletting or assignment by Tenant.

25. Underground Conditions and Water Drainage.--

(a) Tenant has made, or prior to the construction of any building will make, its own soil tests and this lease is made subject to and without liability because of or resulting from any fill or any subsurface or soil condition upon the leased land.

(b) Tenant shall not drain or discharge water from the leased land on to adjoining land; the leased land shall be graded and drained to cause the discharge of all water on the street adjoining the leased land or into an established drainage easement, if any, on the leased land.

26. Mineral Reservation Clause.-- Landlord expressly reserves unto itself, its successors and assigns, all oil, gas, associated hydro-carbons and minerals and the right to prospect for, mine and remove said oil, gas, hydro-carbons and minerals, provided that such reserved estate and the rights incident thereto are limited to a depth more than five hundred feet (500') below the surface of the real estate conveyed, or more than five hundred feet (500') below any surface use of said real estate, whichever depth is the greater. In any event, the Tenant's use

of the surface and such portion of subsurface as is necessary for effective use of the surface shall not be disturbed or impaired by this mineral reservation or the exercise of any rights pertaining thereto.

27. Underground Utilities.-- Tenant agrees that all utilities within and serving the demised premises shall be installed underground, except the existing above-ground utilities located on the East ten feet (10') of said demised premises, provided that service connections to said existing above-ground utilities shall be installed underground.

28. Destruction of Improvements on Demised Premises.-- If all or part of the improvements placed by Tenant on the demised premises are destroyed by fire, earthquake or other cause, Tenant shall remove the debris and clean up the affected area within 120 days of the occurrence of such destruction.

29. No Dedication.-- Landlord shall have the right to close, from time to time, any or all portions of the parking area or areas to such extent as may, in the opinion of Landlord's counsel, be legally sufficient to prevent a dedication thereof or the accrual of any rights therein to any person or to the public.

30. Screening of Garbage Storage Area.-- Tenant must provide a screened or fenced area for the temporary storage of garbage, trash or snow pending removal of such material. Plans for such screening or fencing are subject to Provision 10 hereof.

31. Holding Over.-- In the event that the Tenant holds over at or after the end of the term, or any extended term, the tenancy shall be deemed a month-to-month tenancy commencing on the first day of the holding over period.

32. Mortgage of Leasehold Interest of Tenant.--

(a) Tenant shall have the unrestricted right to encumber, by mortgage, deed of trust, assignment or other appropriate instrument, Tenant's interest in part or in whole to the leased premises and in and to this lease.

(b) A leasehold mortgagee, a beneficiary of a deed of trust, or a security assignee shall have and be subrogated to any and all rights of Tenant with respect to the curing of any default hereunder by Tenant.

(c) If the holder of any such mortgage, the beneficiary of any such deed of trust, or the security assignee shall give Landlord, before any default shall have occurred in the Lease, a written notice containing the name and post office address of such holder, Landlord shall thereafter give to such holder a copy of each notice of default by Tenant at the same time as any notice of default shall be given by Landlord to Tenant; and Landlord will not thereafter enter into any modification of this Lease without the prior written consent of the holder of any first mortgage, beneficial interest under a first deed of trust, or security assignment in this Lease.

(d) If by reason of any default of Tenant, either this Lease or any extension thereof shall be terminated at the election of Landlord prior to the stated expiration therefor,

Landlord will enter into a new Lease with the leasehold mortgagee, the beneficiary of a deed of trust, or the security assignee, for the remainder of the term, effective as of the date of such termination, at the rent and additional rent and on the terms herein contained, subject to the following conditions:

1. Such mortgagee, beneficiary or security assignee shall make written request to Landlord for a new Lease within forty (40) days after the date of such termination; and such written request shall be accompanied by a payment to Landlord of all sums then due Landlord under this Lease, as if termination had not occurred, but with such costs as are permitted under provision 19 of this Lease.

2. Such mortgagee, beneficiary, or security assignee shall pay to Landlord, at the time of the execution and delivery of such new Lease, any and all sums due thereunder, in addition to those which would at the time of the execution and delivery thereof be due under this Lease but for such termination, and in addition thereto, any reasonable expenses, including legal and attorneys' fees to which Landlord shall have been subjected by reason of such default.

3. Such mortgagee, beneficiary or security assignee shall, on or before the execution and delivery of such new Lease, perform all the other conditions required to be performed by Tenant to the extent that Tenant shall have failed to perform such conditions.

(c) If the leased premises are rendered unfit for further use for office building purposes by earthquake, ground conditions or other natural disaster, or if a taking of the whole or any part of the demised premises for public or quasi-public use by right of eminent domain or purchase in lieu thereof results in the leased premises no longer being an economically feasible location for an office building financed by a lending institution, the leasehold mortgagee or the Tenant, with the consent of the leasehold mortgagee, may remove all improvements from the leased premises regardless of any provisions to the contrary in this Lease. However, this provision shall not terminate the Lease nor the obligations of Tenant under the Lease.

33. Short Form Acknowledgement of Lease.-- Tenant agrees that it will not record this agreement at full length, but will record a short form acknowledgement of lease in lieu thereof; in the form of Exhibit A attached hereto, unless recording of a short form adversely affects the ability of Tenant to finance improvements on the demised premises, in which event Tenant must request in writing that it be relieved of the provisions hereof.

34. Integration and Modification.-- This document contains the entire agreement of the parties hereto. All negotiations, statements, representations, warranties, and assurances, whether oral or written, which are in any way related to the subject matter of this lease and the performance of either party hereto are merged and integrated into the terms of this document.

This Lease may not be modified nor amended except by a writing signed by both parties hereto, and any purported amendment or modification is without effect until reduced to a writing signed by both parties hereto.





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GROUND LEASE

LESSOR:

LESSEE:

INITIATION DATE: October 2, 1975

TERM : 55 years

RENTAL: Rent to be 8% of the agreed upon Fair Market Value of \$255,000. or \$ 20,400. per year until January 2, 1977.

January 2, 1977 to January 1, 1979 rent to remain at \$20,400. per year.

January 1, 1979 and beyond the rent is to be established at 8% of Fair Market Value as determined by mutual agreement or an appraisal.

After 1979 rent adjustment, the next reappraisal is not to occur before January 1, 1981 and no rental thereafter shall be made more frequently than once every 5 years.

OPTION TO PURCHASE: Option to purchase for a 6 month period following the expiration of 5 years from the beginning of the term, that is for the 6 month period between January 1, 1981 and June 30, 1981.

Minimum purchase price to be \$350,000. and any rental paid during 1981 to be credited against the purchase price.

Purchase price will be the same as agreed upon for the 1981 rental.

DETERMINATION OF FAIR MARKET VALUE

Parties may initiate negotiations to determine the Fair Market Value at any time within the year immediately preceding the effective date of such determination. If agreement is not reached within 90 days prior to the effective date then either party may institute procedure for appraisal. In this case each party shall select an appraiser and if they do not agree on Fair Market Value or are not within 5% of one another then they shall appoint a third appraiser. If the two appraisers are within 5% of one another then the Fair Market Value shall be determined as the mid point between these two values.

NET LEASE: Lessee is to pay all taxes, assessments, and utility charges.

SUBORDINATION: Lessee may incur the lessor's interest with a mortgage.

REVERSION: Upon termination of the lease the improvements shall revert to the lessor without cost to the lessor.

9

LESSOR:

on.

LESSEE:

LOCATION:

LEGAL DESCRIPTION:

SIZE:

ZONING: B - 3

COMMENCEMENT DATE: April 1, 1973

TERM: 75 years (April 1, 1973 thro March 31, 2048)

TERMS: Lease entirely net. Rent to be \$27,000. per year for the first 5 years until 1978. This figure was based on the land value of \$300,000. and the lessors expected date of return of 9%.

The rent is to be adjusted in accordance with the Consumer Price Index and is to be based on the month of March, 1973. - ADJUSTED EVERY 5 YRS.

Option to Purchase:

The lessee has the option to purchase the land any time after the first five years of the lease. Purchase price to be based on an appraisal of the land.

Reversion:

Improvements to revert to the lessor upon lease termination.

Subordination:

Lessor to subordinate it's interest to aid the lessee in securing financing of improvements.

DRAFT FINANCE CS for CS SB 159...

(1) Where reference is to a "fixed base annual rental" or "annual rental" throughout the document, the better term would appear to be "annual rent" or just "rent."

(2) Page 1, line 25: for each subsequent five year period until the termination of the lease...

(3) Page 2, line 9 [reference subsection (d) of AS 38.05.085] Are you talking about an annual rental rate or isn't it, in fact, a fixed rate applicable to the determination of the rent due and payable during each year of the particular period (10-year or 5-year) in which the lessee finds himself??

(4) Page 2, line 12: I don't understand the reference to "with the same lease conditions as offered by the state."

(5) Page 2, line 13 [reference to subsection (e)] Wouldn't it be simpler to draw the clear distinction between improvements benefitting the property by their construction by a party who is not the lessee (includable within the determination of the reappraised market value) and those improvements made to the property by the lessee himself or at his direction (exempted from determination of reappraised value).

(6) Page 3, line 1 [fifth line after the start of (j)] It appears that a part of the sentence has been left out following "by the parties,". Perhaps you need only insert the word "submit."

(7) Page 4, line 13: Delete "reappraised annual rental value" and insert "fair market value."

(8) Page 4, line 8 and lines 20 and 21: What is meant by "a single family residential development"? One home?? A subdivision full of only single-family homes??

\*

I guess my only serious question is this: On page 2, in subsection (c) of sec. 85, if it is your intent that "fair market value" be redetermined at the commencement of each rental period specified -- 10-year period or 5-year period -- you ought to specify this. As (c) is now written, while I think this is what you mean, the reference only to an appraisal "in its original condition at the time of first entering into the lease" gives pause. Perhaps this could be done by amending to read

(c) For the purposes of leasing under this section, "market value" or "fair market value" means the price, estimated in terms of money at the commencement of each 10- or 5-year lease period, which the property...

\*

I have drafted some language which, I believe, accurately reflects what you have tried to do in the first section of the bill but which may be a little more straight-forward. It is attached...

\* Section 1. AS 38.05.085 is repealed and re-enacted to read:

Sec. 38.05.085. TERM OF LEASE. (a) The lease shall provide that

(1) for the initial 10-year period of the lease, the lessee shall pay the state an annual rent which may not exceed 10 per cent of the fair market value of the property

(2) for each of two additional 10-year periods, the lessee shall pay an<sup>adjusted</sup> annual rent which may not exceed the lower of

(A) 10 per cent of the adjusted fair market value of the property as determined by a reappraisal at the beginning of each of the two 10-year periods; or

(B) 170 per cent of the annual rent paid during the preceding 10-year period;

(3) for each subsequent 5-year period until the expiration of the lease, the lessee shall pay an adjusted annual rent.

(b) In the event of dispute over the fair market value, the adjusted fair market value, or the rental rate applicable to any period under (a) of this section, the lessee shall appoint an M.A.I. appraiser and the state shall appoint an M.A.I. appraiser. The two appraisers so appointed shall, within a specified period of time agreed upon by the parties, make their appraisals of the property in question. If the two appraisers agree upon the appraisals of the property or the annual rental rate, their determination is absolutely binding upon the parties. In the event the two appraisers are unable to agree, they shall together appoint a third M.A.I. appraiser who shall then make his appraisal of the fair market value or the determination of the rental rate of the property in question. When the third appraisal or determination is completed, the two of the three appraisals or determinations which are nearest each other in their determination shall be averaged and the resultant sum shall be the fair market value or adjusted fair market value or rental rate of the property in question and absolutely binding on the parties. All costs incurred in making the appraisals or determinations provided for in this subsection shall be borne by the state and the lessee equally.

(c) subsection (f) of your draft

- (d) subsection (g) of your draft
- (e) subsection (h) of your draft
- (f) subsection (i) of your draft
- (g) In this section,

(1) "market value" or "fair market value" means the price, estimated in terms of money, which the property, in its condition at the time of first entering into the lease, would bring if offered for sale in the market between a willing seller and a willing buyer, both being fully informed of all the purposes for which the property is best adapted and for which it could be used;

(2) "adjusted market value" means the market value of the property inclusive of any change in its value attributable to improvements or changes made and affecting the property by a party who is not the lessee, including but not limited to zoning reclassifications, but exclusive of any change in its value attributable to improvements or changes made and affecting the property by the lessee since the lease agreement was entered into;

(3) "rental rate" means the rate, expressed as a percentage of fair market value, which a comparable class of privately-owned property would bring in the open market with the same conditions of lease as offered by the state;

(4) "annual rent" means the amount of rent paid annually determined by multiplying the fair market value by the rental rate at the time of commencement of the lease;

(5) "adjusted annual rent" means the amount of rent paid annually determined by multiplying the adjusted fair market value by the rental rate at the time of commencement of each rental period.

FINAL REPORT AND RECOMMENDATIONS

April, 1977

THE GOVERNOR'S AD HOC ADVISORY COMMITTEE ON  
STATE LAND PRACTICES AND PROCEDURES

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  - B. Recommended Bill Presented to the Legislature
  - C. Recommended Standard Lease Form with Attachments

I. SUMMARY OF THE COMMITTEE'S FORMATION,  
MISSION, AND ACCOMPLISHMENTS

On October 8, 1976 the Governor's Ad Hoc Advisory Committee on State Land Practices and Procedures met for the first time. The mission of the committee was outlined by Guy Martin, Commissioner of the Department of Natural Resources. He said that the Governor desired a small, precise, and efficient panel to find new ways to improve state land practices and procedures, not to set policy but to address the legal and technical aspects of disposal and other contractual relationships. Judgments, criticisms, and new recommendations were to be effected. Michael C. T. Smith, Director of the Division of Lands, clarified the mission further by adding that the committee should:

- 1) consider primarily revenue production, as opposed to social benefits, in its analysis;
- 2) make no assumptions as to state policy regarding the number, size, and location of land sales or other disposals; and
- 3) recommend changes that will be applicable to any likely state land policy.

The committee made a dedicated attempt to accomplish its mission. The tasks of studying existing statutes, regulations, and practices, and examining them in light of current land disposal and contractual relationships was formidable, but many members worked successfully to this end. Uncovering and identifying disposal and contractual problems involved considerable time and effort. Correct identification of a particular problem of this nature is a major step toward solving it. Perhaps the greatest success of the committee was discerning from Division of Lands personnel and state lessees the exact nature of their problems and concisely defining them. This action will have a lasting effect on Division of Lands personnel who are charged with formulating policy and procedures for land disposals and contractual relationships. The committee did make significant recommendations to effect changes in statutes, regulations, and Division procedures and policy. The lease form used by the State was revised to include terms and conditions that would offer benefits to both the State and the lessee. The recommendations of the committee in general give the State more flexibility to respond to client needs. Both client and State will benefit greatly if the committee's recommendations are carried out. The mission of the committee has been accomplished with admirable success in this regard.

Selected areas were covered, specifically those of sales and leasing. The committee states that this report is not meant, by any means, to be all-inclusive.

## II. THE INDIVIDUALS ON THE COMMITTEE

The individuals who served on the committee volunteered considerable time and effort. Each member was selected on the basis of having specialized knowledge and expertise. The following list of present members and their qualifications shows considerable diversity.

Mike Colletta - State Senator

Hugh Gellert - President of Bear Fritz, Inc., a land development company with interests in Anchorage and the Kenai Peninsula.

Herb Lang - President of Anchorage Sand and Gravel.

Jamie Love - Director of the Alaska Public Interest Research Group (AkPIRG).

David McCabe - Private Appraiser.

William Mack - Chairman of the Alaska Land and Lease Holders Association.

Carl Marrs - Land Manager for Cook Inlet Region, Inc.

John Norman - Attorney specializing in the area of corporate and natural resources law.

Lidia Selkregg - Anchorage Assemblywoman; Professor  
of Regional Planning at the Arctic Environmental  
Information and Data Center in Anchorage.

Theodore G. Smith - Former State Representative;  
present Director of the State Division of Land  
and Water Management.

### III. COMMITTEE WORK PROCESS

The committee worked in a series of sessions which were all open to the public. Meetings were held weekly from October 8, 1976 to March 30, 1977 with the exception of 12/17/76 - 1/5/77, when the committee recessed for the holidays. Two additional evening work sessions were held, and two evening meetings to hear public comments took place on 12/1/76 and 3/3/77. The meetings were loosely structured to accommodate those attending and to provide time for public comment.

The committee addressed the area of sales in its first sessions and proceeded to the area of leases in the later sessions. There was considerable public input from concerned individuals, and organizations, and many persons with specialized knowledge were invited. A great deal of support was provided by many state agencies, particularly by the State Division of Lands and the Department of Law. Considerable time was spent in information gathering. The Division often was requested to provide information on current procedures. Considerable information on Division activities was compiled. The changes recommended were made cautiously and are well supported by the information gathered. The committee's recommendations were made in the form of motions which were voted on by majority vote at the meetings. Recommendations were made freely as each subject area was explored.

Many meetings, including the two evening public comment sessions, were advertised in two newspapers. Press releases and newspaper articles appeared locally. Mass mailouts provided general information and announced upcoming meetings; lists of meeting dates were available at all sessions. The interested public was encouraged to contact the Division of Lands with any verbal or written questions and comments. Copies of materials used by the committee were available to the public and public comment was specifically taken on the committee's interim recommendations and draft bill to the Governor.

Almost all sessions were tape recorded in their entirety. Written minutes of meetings were time-keyed to the tapes to allow verification. The public is welcome to listen to or make copies of these tapes by contacting the Division of Lands.

#### IV. FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

The findings of the committee were numerous but can be grouped into major categories:

- 1) State lessees are dissatisfied with the state interpretation of lease contract terms, especially those relating to appraisal. Many lessees testified before the committee as to their grievances.
- 2) The Division's regulations covering sales and leases are often outdated and conflicting with statutes in some cases.
- 3) The State's lease contract form is not in line with commercial contracts and has many ambiguities in it.
- 4) Some state statutes in Title 38.05 are vague and unclear.
- 5) Payment methods for state sales contracts do not match those used in the private sector and may contribute to ballooning land values.

These findings outline the basis for the committee's recommendations which follow.

The recommendations of the committee concern statute, policy, and regulation changes, and can be grouped by topic.

The following three items are of general concern:

1. The committee wishes to note that in the course of public testimony it was apparent that Division of Aviation lessees had significant problems with their current leases. This subject was not within the scope of the committee's deliberations and, therefore, not addressed.
2. To comply with new statutes the committee recommends a major overhaul of Division of Lands regulations. The committee has found many of the regulations now in effect to be outdated and superceded by statutes.
3. The committee recommends that the Legislature apply the provisions found in Title 38 to those in Title 3, Title 19, and Title 35. The rationale would be to make land laws uniform among the Division of Aviation, Department of Highways, and Division of Lands.