

ALASKA LEGISLATURE COMMITTEE REPORT

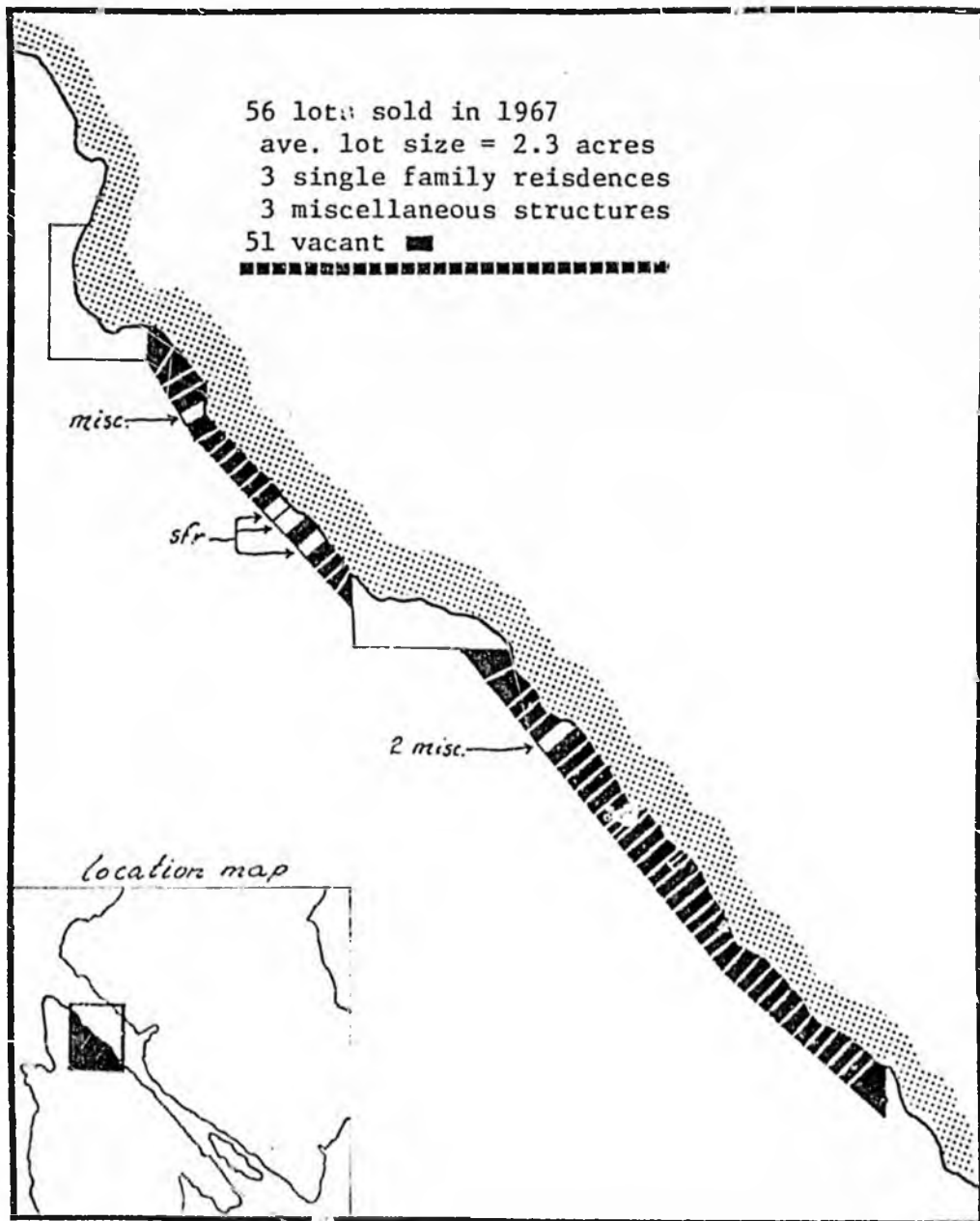
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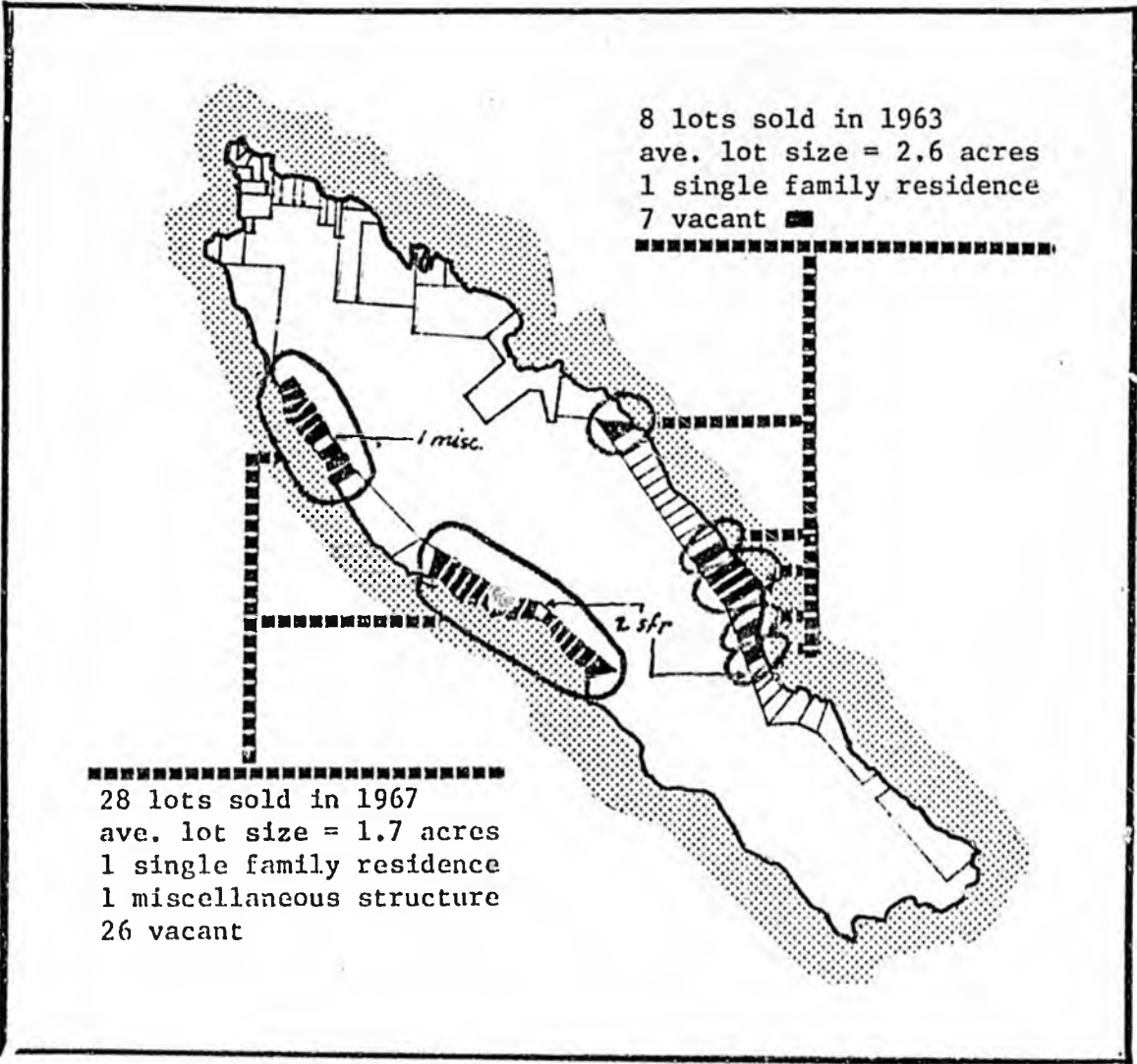
HRES

HB 31

188

56 lots sold in 1967  
ave. lot size = 2.3 acres  
3 single family residences  
3 miscellaneous structures  
51 vacant





4. BACKGROUND INFORMATION ON LAND DEMAND ANALYSIS



## KETCHIKAN GATEWAY BOROUGH

344 FRONT STREET  
KETCHIKAN, ALASKA 99901

TO: Borough Land Advisory Committee Members  
FROM: *JK* Kathryn L. Carsow, Planning Director  
RE: Considerations for Upcoming Committee Meeting  
DATE: December 5, 1979

Enclosed is a brief compilation of background information about land and housing activity in Ketchikan and implications for the borough's land program, prepared by George Gee, Borough land consultant. In summary, there will be public pressures to get land onto the private market quickly, as well as pressure to exercise restraints in land sales. There will be pressure on the borough to sell land cheaply; but, to get useful land onto the market will require costly investments in front-end improvements. There also will be concerns that the land program be financially self-supporting. These conflicting pressures will emanate from the same public: the citizens of Ketchikan. They cannot be all fully satisfied; a course of action needs to be formulated that is responsible to these different shifts in public perspective and opinion.

The best source of information to aid us in selecting and designing a desirable course of action is the experience the borough will gain from owning and selling land. However, to make best use of this experience we need to establish procedures that will enable us to compile and meaningfully interpret information as land sales occur. In the interim, and in preparation for initial borough land sales, program success depends on our ability to ascertain the different types of land demands in Ketchikan and people's attitudes about how the borough land program ought to function. To establish an information base that will aid us in initiating a borough land program and in evaluating its success over time, we propose to conduct a mail survey of approximately 500 households. Enclosed is a revised draft of the questionnaire presented at your last meeting. Wednesday night, we would like to go over the attached report and finalize the questionnaire with you.

BACKGROUND INFORMATION

FOR

LAND DEMAND ANALYSIS

TOPICS:

- \* Primary groups potentially affected by borough land sales
- \* Key land demand characteristics
- \* Apparent demand profile derived from current uses of past state land sales
- \* Age characteristics of Ketchikan housing stock
- \* Recent housing construction patterns, location of privately owned parcels, percent developed, and number of vacant properties

Prepared  
by

George E. Gee

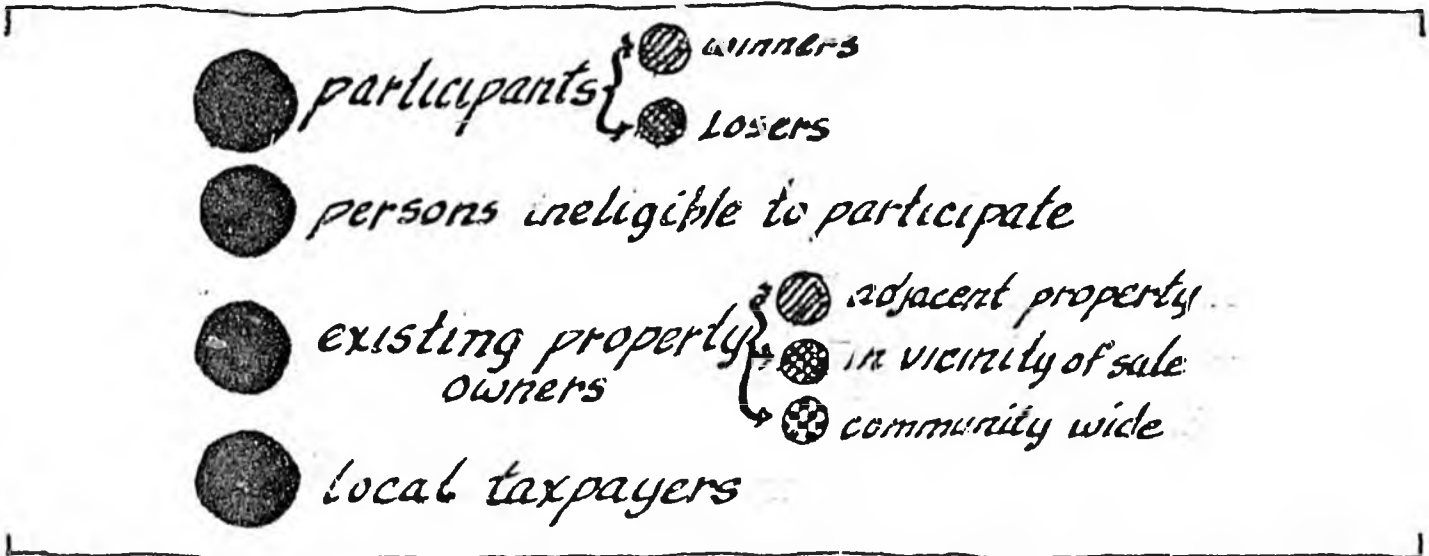
December 3, 1979

Public support for the Borough Land Program is critical if the program is to be successful and cost effective. The importance of ascertaining:

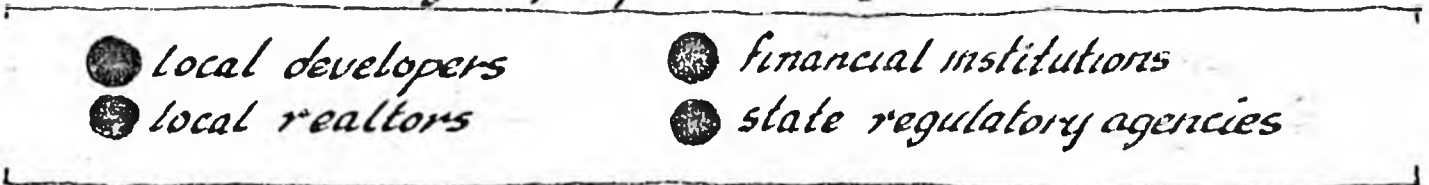
- ✿ the types of local land demand,
- ✿ citizens' expectations concerning how the Borough Land Program ought to operate, and,
- ✿ expectations about what the program should accomplish,

can be illustrated by a review of some of the groups that are likely to be affected by borough land sales.

### PRIMARY GROUPS POTENTIALLY AFFECTED BY BOROUGH LAND SALES



### other groups potentially affected

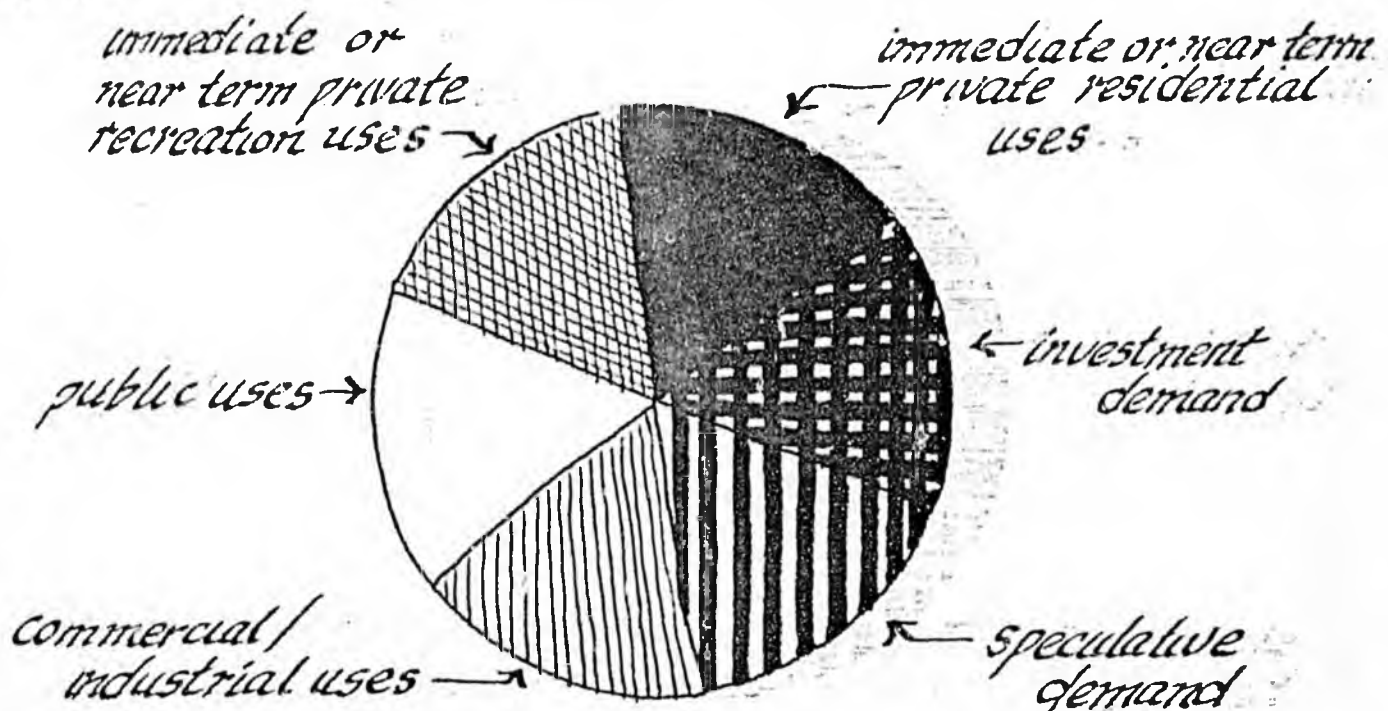


An initial observation that can be made from this review is that *the number of people who will benefit directly from any borough land sale will be a small percentage of Ketchikan's population.* For instance, in the most recent state land sale, there were more than 500 applicants for the 12 parcels offered for sale in Ketchikan. Approximately half of the applicants were local residents and upon the draw of names in the land lottery, six residents won land. The ratio of losers to winners in this example was nearly 50-to-1.

This relationship is not markedly altered when all state land sales since Ketchikan became an organized borough are considered. Since 1963, the state has sold about 350 parcels of land in Ketchikan, about 90 percent to local residents. Even when family members are factored into the winners' column, less than 10 percent of Ketchikan's current population have succeeded at acquiring land from the state.

This highlights the important difference between a *land sale* and a *land program*. Community support for the borough land program is not likely to be predicated on any one land sale or on land sales alone. In general, borough residents will share the concern: what is the likelihood that borough land is going to be available for uses that are important to my family and me? There will be different types of private land demand; some people will envision public as well as private uses as appropriate for borough land. Public and different types of private land demands are depicted in Figure 1.

Figure 1: KEY LAND DEMAND CHARACTERISTICS

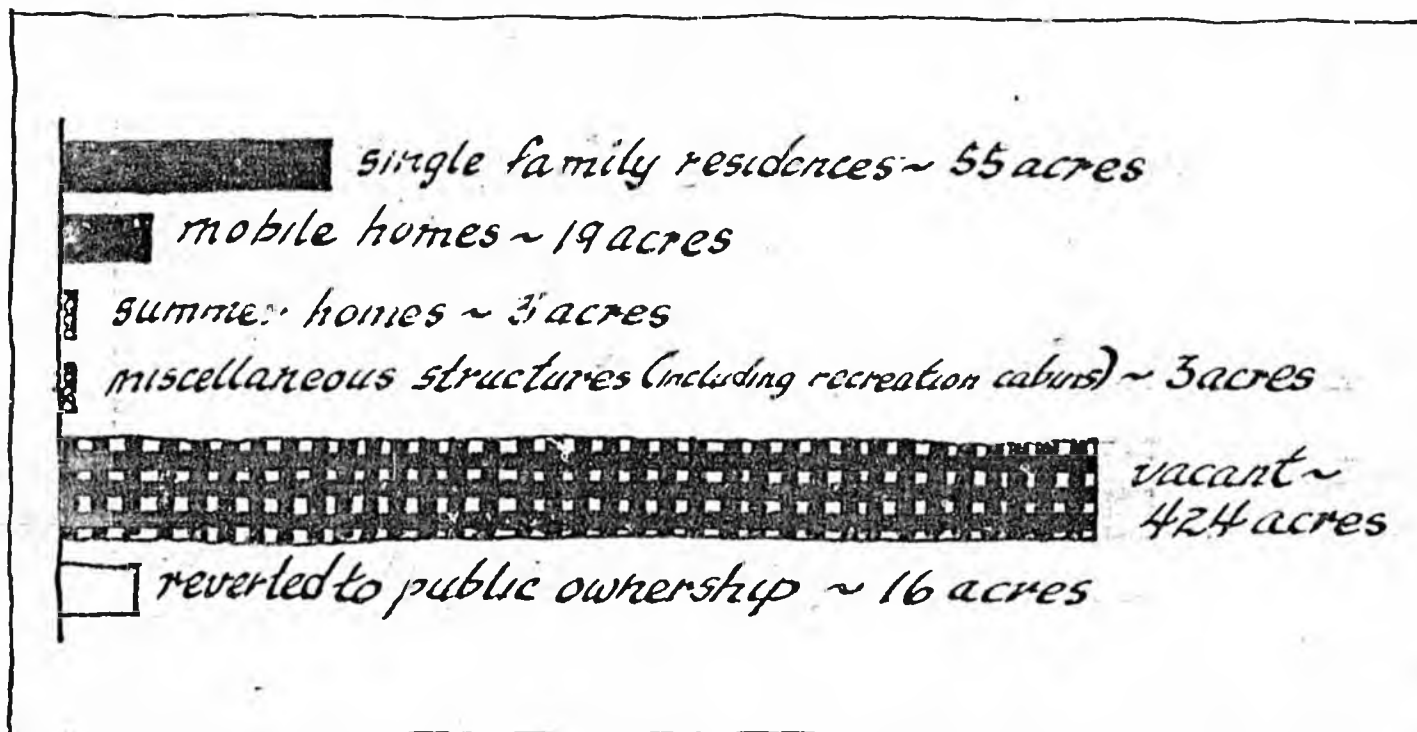


To what extent do different types of land demand prevail among residents of Ketchikan?

Since passage of Proposition 4 (the Beirne Homestead Initiative) on November 7, 1978, it has become almost an article of faith that there is a massive demand in Alaska for cheap land on which people want to build homes. Although the initiative was passed by 56 percent of the voters state wide, only 52.7 percent of Ketchikan's voters supported it. Of 5169 voters, 2447 were opposed to this free land program. While this doesn't negate the majority side of the vote, it does suggest there are a considerable number of people who have a different perspective on how public land ought to be used including how it should be conveyed into private ownership.

Considering the affirmative vote, is it realistic to conclude that there are 2700 local residents who would build homes if cheap land were available? Historically, home building in Ketchikan correlates with population growth rather than state land sales. Throughout the 1960s and 70s, there was one home built for every addition of three-to-four persons to Ketchikan's population. That is roughly a home per family over the past two decades. In contrast, more than 80 percent of the 519 acres of state land sold in the borough remains vacant and undeveloped today. Current uses of this land is shown in Figure 2.

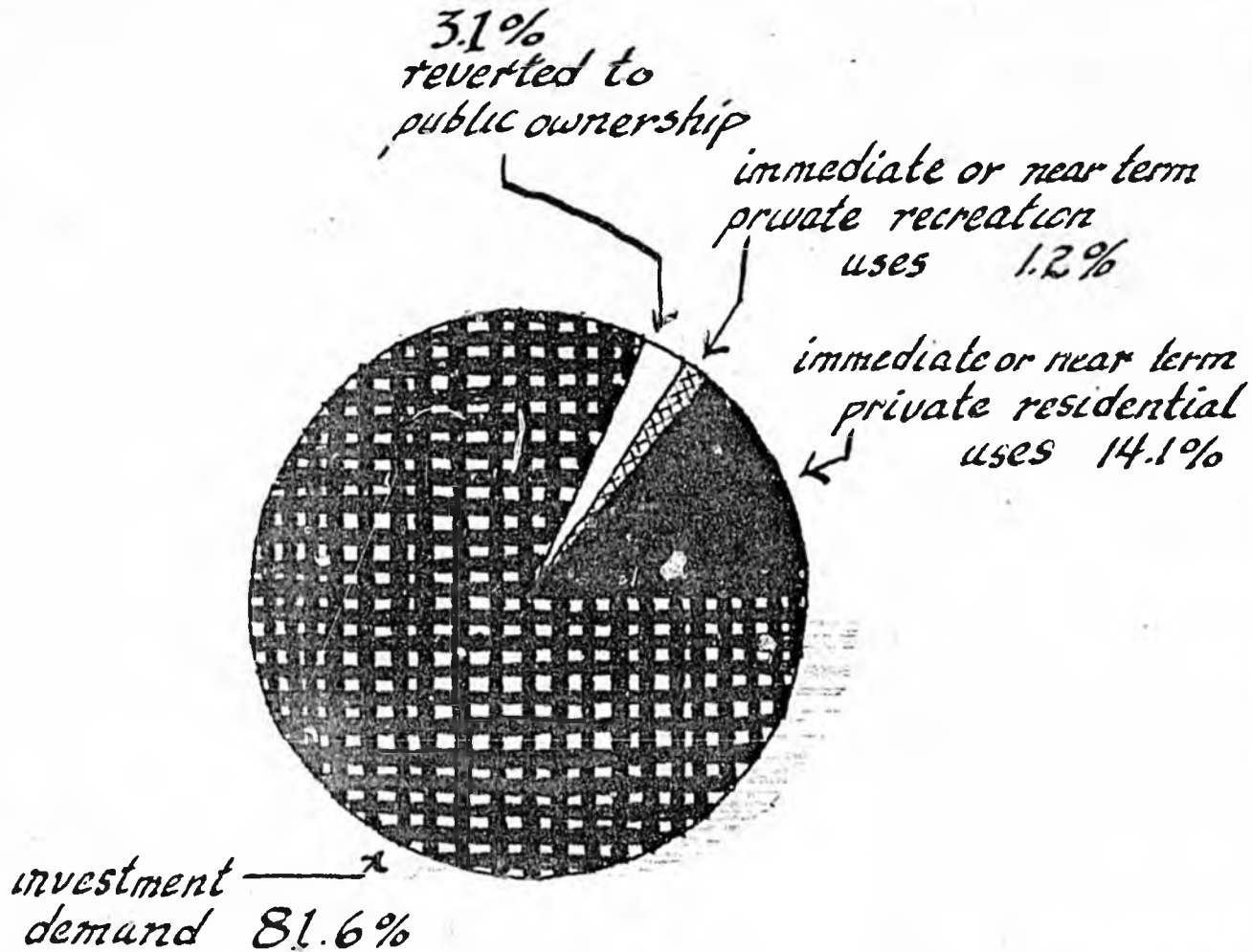
Figure 2:  
CURRENT USES OF 519 ACRES SOLD BY THE STATE  
BETWEEN 1963 AND 1979



When these figures are translated into the apparent types of demand for which the parcels were purchased (Figure 3), investment demand dominates other types by a wide margin.

*APPARENT DEMAND PROFILE DERIVED FROM  
CURRENT USES OF PAST STATE  
LAND SALES*

*Figure 3:*



Only 14 percent of the total acreage is currently in residential use: 61 single family residences and 21 mobile homes. This accounts for about 10 percent of the increase in the borough's housing stock during the same period.

The investment opportunity provided by past state land sales is demonstrated by the comparison of initial sale prices (in current dollars) and current assessed valuation.

<u>YEAR OF AUCTION</u>	<u>NUMBER OF ACRES</u>	<u>CURRENT VALUE OF SALE PRICES</u>	<u>CURRENT ASSESSED VALUE</u>	<u>ANNUAL AVERAGE INCREASE SINCE PURCHASE</u>
1963	120	\$ 56,464	\$836,400	20%
1964	93	82,685	843,950	18%
1967	176	123,030	716,250	17%

It can be noted that the increases in land values shown here basically match increases in the value of land already in private ownership. Consequently, existing property owners, as well as purchasers of state land, were beneficially affected by the state's slow rate of land disposals.

This recalls a second observation that can be made about the grouping of people potentially affected by borough land sales (on Page 1). Two groups could end up subsidizing in part borough land sales: local taxpayers, if the program operates at a deficit or if the base of municipal services must be expensively expanded; and, existing property owners, if the value of their land holdings decline due to the quantity and rate of borough land sales.

Borough population is tending to increase by about 300 people a year. This has yielded a new housing rate of about 100 per year. Although there are many motives that can guide people to purchase land and many factors that must be entered into the equation of specific land values, housing construction is a prime determinant of the value of residential land. *As a crude rule-of-thumb, so long as more parcels per year are being absorbed into actual residential use than are being added to the base of privately owned land, the values of undeveloped land will continue to rise. If new land comes onto the private market at rates greatly in excess of the rate of land absorbed by housing, when the market has adjusted to this situation, the value of undeveloped land will be lower than before.*

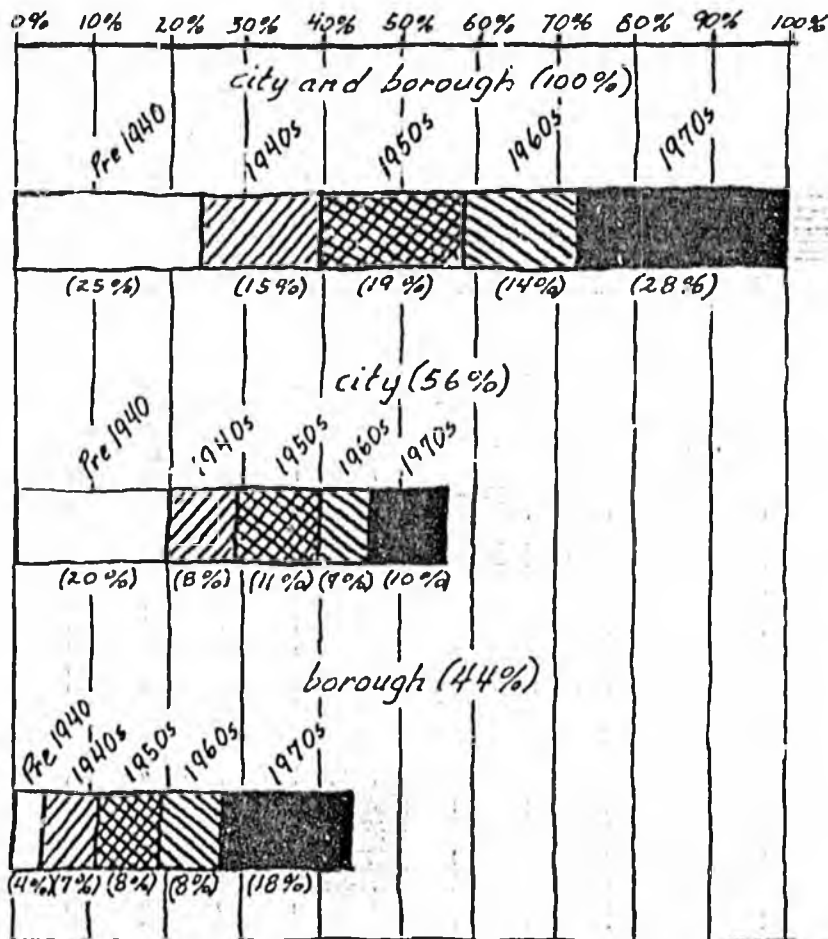
Even winners of borough land may not remain content with the borough land program. The decision to purchase land, and what one is willing to pay for it, at any time reflects both a weighing of alternative land purchase opportunities and expectations about the future availability of land. Just as a losing participant in a borough land sale can be expected to want to know that additional land will be made available in the future, a winning participant will be concerned that it is not put onto the market much faster than expected at the time of purchase. Having become a winner, the person enters the ranks of existing property owners with comparable concerns about future sales. This stresses again the need to define and advertise every land sale within the context of a longer range program of sales and other use objectives.

*Can the borough land program be oriented to supplying land for housing construction?*

This is perhaps the fundamental policy question that confronts the development of the borough land program. Not only is providing land for residential development a primary justification of municipal land entitlements, it is probably the paramount expectation of our citizens. Merely putting land onto the private market, particularly if it is held for speculative or investment purposes, is not likely to meet actual private land needs in a satisfactory manner. Housing construction on land sold by the borough could well prove to be a critical test in the mind of the public of the entire program.

Insight into the local pattern of housing development can be derived from a review of the rate and location of recent residential construction and an inspection of where vacant properties currently exist. Figure 4 depicts housing construction activity through looking at when existing structures were built.

*Figure 4:  
Housing Stock: when built*



*sample of 1950 structures from Kelchikan Land Use Survey  
\* Single and multi-family dwellings are not differentiated in source data.*


The decade of the 1970s marks a period of strong growth in Ketchikan's housing stock, whereas the 60s were relatively slow. These patterns correspond with the respective rates of population growth for the two periods: 1.4 percent yearly for the 1960s and 3.3 percent annually between 1970 and 1979. As has been noted, on a decade-to-decade basis, approximately one residential unit is built for each family added to Ketchikan's population. The gradual shift of construction activity from the city to suburban areas can also be observed in Figure 4. Housing construction within the city continued as a strong trend during the 1970s despite this proportional shift to borough areas. As shown in the following table, housing growth within the city increased by more than 50 percent between the 1960s and 1970s. Areas immediately south of the city experienced considerable housing construction during the 1970s. One new subdivision, Forest Park, accounted for 51 new units and a public housing program in Saxman accounted for 30 more. *Road access and electrical power are practical prerequisites for housing construction; during both the 1960s and 1970s, about 52 percent of all new homes were built in areas that also have water and sewer services provided.*

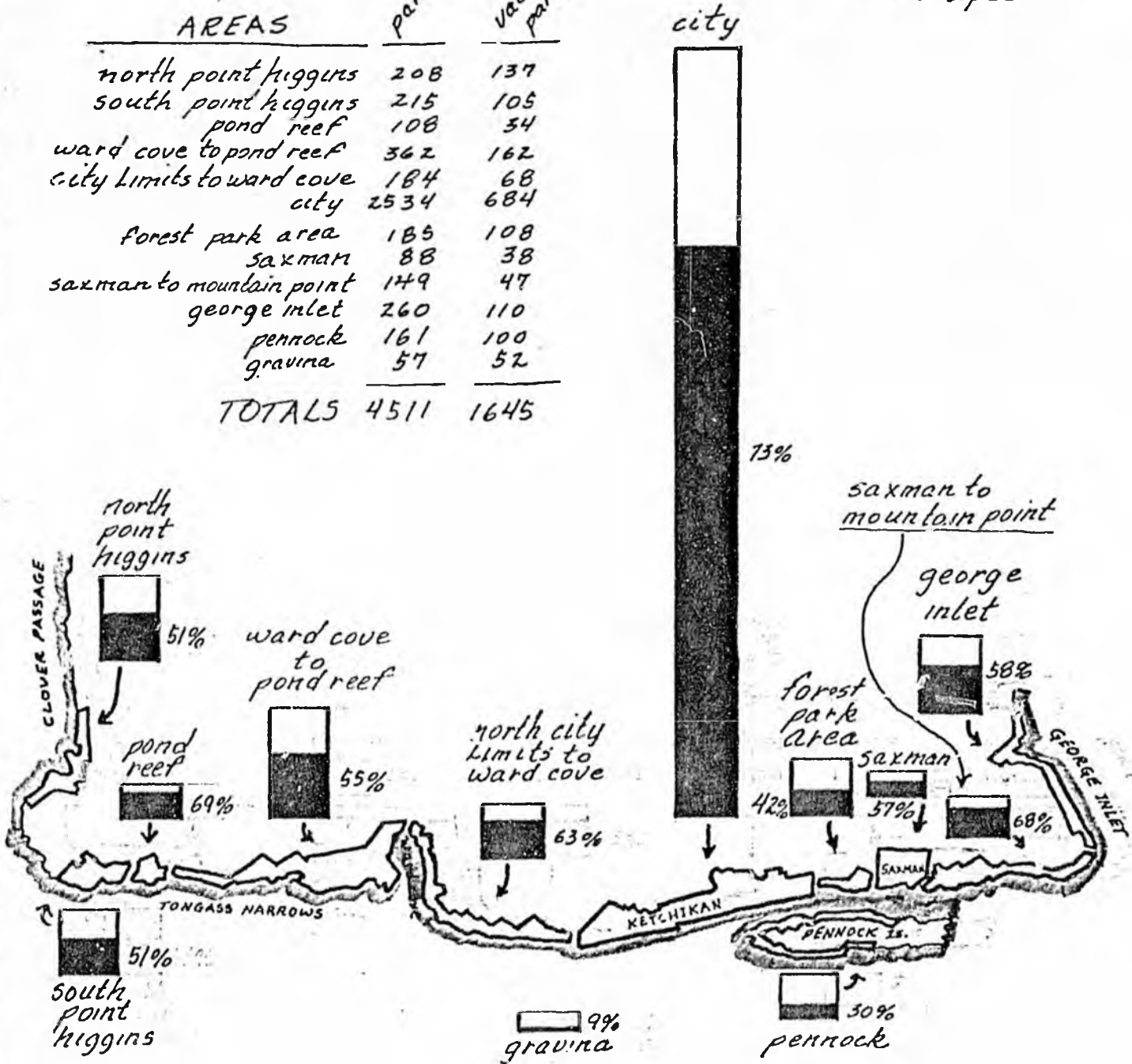
	Number of <u>Residences</u>	Houses Built in <u>1960s</u>	Houses Built in <u>1970s</u>
North Point Higgins	134	26	51
South Point Higgins	106	19	56
Pond Reef	71	15	22
Ward Cove to Pond Reef	171	27	53
City Limits to Ward Cove	97	26	21
City	1850	128	193
Forest Park Area	71	2	57
Saxman	42	15	30
Saxman to Mountain Point	93	19	34
George Inlet	144	39	24

Figure 5 depicts the number of parcels, percent developed, and vacant properties for the areas listed above and for Pennock and Gravina Islands. There is clearly a considerable quantity of undeveloped land capable of absorbing additional housing. With much of the Forest Park area yet to be developed and with several planned subdivisions within the city underway, it is likely that much future housing construction will continue to be concentrated in these areas. If borough land is to attract significant housing development, roads, electricity and some type of DEC approved sewage system will have to be provided.

Figure 5:  
LOCATIONS OF PRIVATE PARCELS, PERCENT DEVELOPED,  
AND VACANT PROPERTIES

AREAS	parcels	vacant parcels
north point higgins	208	137
south point higgins	215	105
pond reef	108	34
ward cove to pond reef	362	162
city limits to ward cove	184	68
city	2534	684
forest park area	185	108
saxman	88	38
saxman to mountain point	149	47
george inlet	260	110
penrock	161	100
gravina	57	52
<b>TOTALS</b>	<b>4511</b>	<b>1645</b>

 percent developed





5. EXISTING SETTLEMENT PATTERNS, LAND PRICES  
AND POLICY CONSIDERATIONS

EXISTING SETTLEMENT PATTERNS, LAND PRICES,  
AND POLICY CONSIDERATIONS

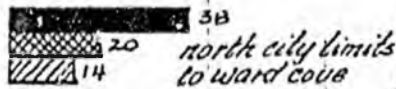
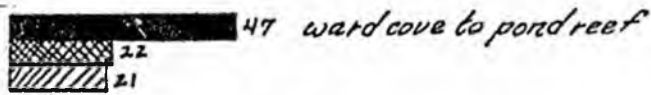
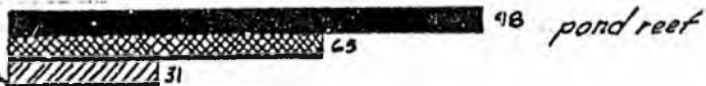
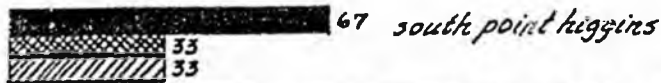
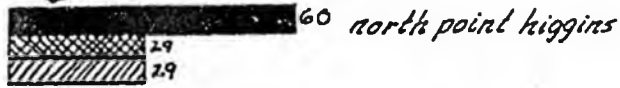
Existing private development patterns in Ketchikan were investigated using data available in a 1978 comprehensive land use inventory compiled by the borough planning department. First, discernible "neighborhoods" were defined encompassing all developed areas in the borough. Second, the total number of lots, the number of lots in residential use, and the number of vacant parcels were computed for each neighborhood.

These neighborhoods differ not only in terms of relative location (proximity to places of work, schools, retail centers, and other community facilities and services), the number of lots and the amount of built roads (versus platted access) vary greatly from one neighborhood to another. To standardize the differing neighborhoods to compare their respective extent of development, the total number of lots, of residences, and of vacant lots per mile of roads were calculated for each. The City of Ketchikan and nonroaded areas were excluded.

These comparisons shown on the accompanying illustration strongly indicate relatively even levels of residential development throughout all areas located on the road system. The results are strikingly similar when the areas north and south of the City of Ketchikan are aggregated: 53 total lots, 27 residences, and 23 vacant lots per mile of road north of the city compared to 58 lots, 30 residences, and 26 vacant lots per mile of road south of the city.

This is followed by a brief report entitled "Background Information: Land Prices and Policy Considerations" prepared for the Borough Land Advisory Committee.

EXISTING PRIVATE DEVELOPMENT PATTERNS:  
parcels, residences, and vacant lots  
per mile of road in suburban areas

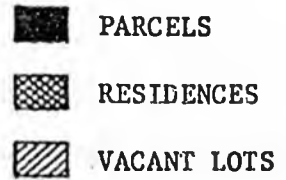


averages north of city

53 parcels per mile of road

27 residences

23 vacant lots



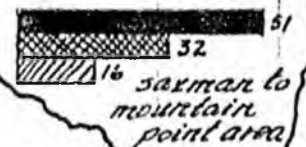
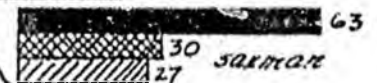
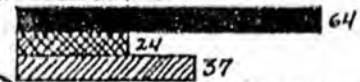
averages south of city

58 parcels per mile of road

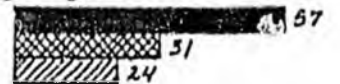
30 residences

26 vacant lots

south city limits to saxman



george inlet area



BACKGROUND INFORMATION:

LAND PRICES  
AND  
POLICY CONSIDERATIONS

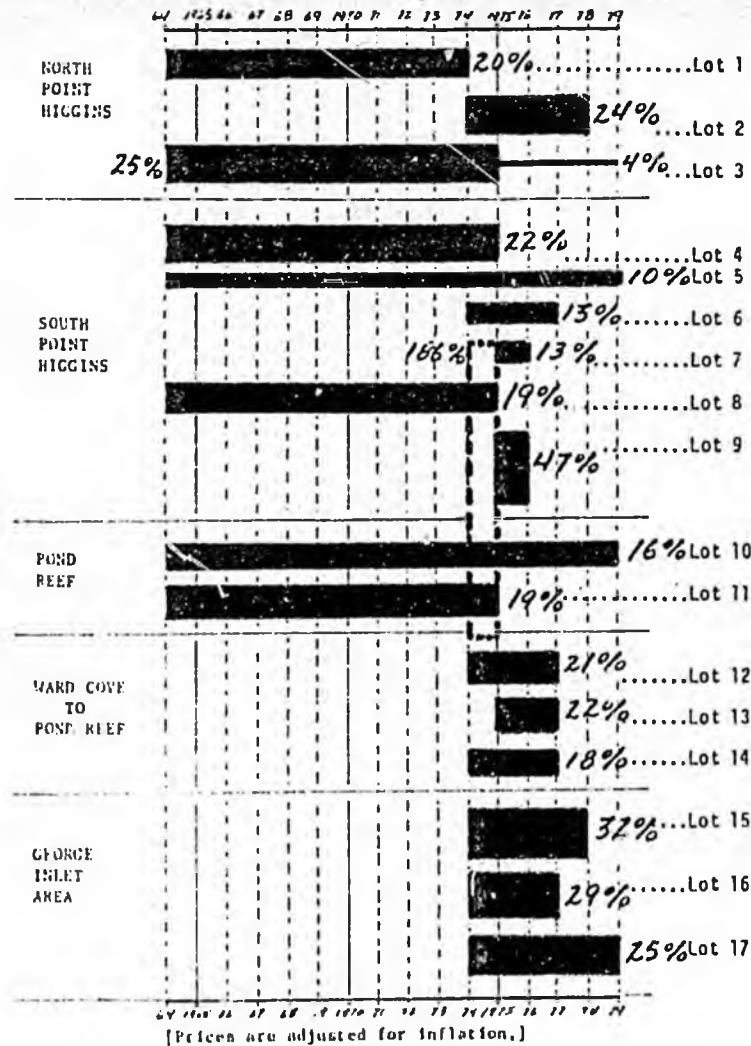
Prepared For The  
KETCHIKAN GATEWAY BOROUGH LAND COMMITTEE

by  
George E. Gee

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ANNUAL RATES OF CHANGE IN UNDEVELOPED LAND PRICES  
1964 to 1980



Each bar on the chart presents the annual rate of increase in the real price of an undeveloped lot in Ketchikan. Each bar begins at the year when the first price observation is available and terminates at the year for which there is a second or final price observation; note that Lot 3 and Lot 7 each have had three reported sales. The width of each bar is scaled to communicate visually the magnitude of that lot's annual rate of increase in value after adjusting for inflation.

For example, the real price of Lot 1 increased at a rate of 20 percent a year between 1964 and 1974. The price of Lot 3 rose at a rate of 25 percent annually between 1964 and 1975 and then at 4 percent a year from 1975 to 1979. The price data for Lot 7 are included to illustrate how disparate some price observations can be: its price skyrocketed by 186 percent between 1974 and 1975 and then recorded a mild 13 percent rise the following year.

The prices of lots presented are representative of more than 150 price observations that have been compiled for undeveloped lots in Ketchikan. In general, the trends suggest that the real prices of property in Ketchikan have been increasing in the neighborhood of 20 percent annually during the past 15 years.

EXAMPLES OF UNDEVELOPED LAND PRICES

	1975	1976	1977	1978	1979	1980
NORTH POINT HIGGINS				\$9000/.42a \$5500/.53	\$10,000/.36a \$12,000/1.9 \$35,500/2.8* \$10,500/.53	
SCUTE POINT HIGGINS		\$10,500/.85a		\$12,000/.51 \$14,000/.48 \$14,500/1.5	\$5,000/.47	
POND REEF			\$15,000/1.8	\$18,000 to \$20,000/1.3* \$16,000/.90	\$8,900 to \$12,500/.81	
WARD COVE TO POND REEF	\$10,000/.39		\$5,000/.82* \$18,500/.65	\$12,500/.35 \$8,000/1.6		
CITY TO WARD COVE			\$4,000/.19**		\$21,000/.42	

CITY TO SAXMAN			\$10,000/.35	\$10,000/.51	\$11,000/.36 \$9,800/.39 \$17,500/.36	
SAXMAN				\$6,200/.14* \$5,000/.10* \$6,000/.20	\$6,200/.14* \$5,000/.10* \$6,000/.20	\$21,000/.15*
SAXMAN TO MT. POINT			\$7,500/.34 \$15,000/.25* \$15,000/.24*	\$19,500/.24*		
GEORGE INLET AREA			\$9,200/.67 \$12,000/.47*		\$5,500/2.7 \$9,200/1.6	

\* Tide land lot

\*\* No road access

SUMMARY OF FACTORS THAT DETERMINE LAND PRICES

- 1) SPECIFIC LOT CHARACTERISTICS: *location, accessibility, site conditions affecting development costs, waterfrontage, view, terms of sale*
- 2) GENERAL MARKET CONDITIONS: *inflation, population changes, availability of developable lands, governmental regulations (DEC requirements and local ordinances)*

Finding of land prices analysis: *Adjusted for inflation, prices of undeveloped parcels have tended to rise at a rate of 20% yearly.*

PROPOSITION 1: *Population changes and the rate that the state has made land available to the private market are the major factors that have caused spiraling land prices in Ketchikan.*

PROPOSITION 2: *When the borough receives its land entitlement, in effect, it will have a "corner" on the local supply of undeveloped land. That is, the borough will own a sufficient amount of land that it will be able to deliberately or accidentally change both the market price of land and the rates of increase in prices for land. This will not be accomplished through dictating prices to the market; it will occur through the market's reactions to the prices the borough sets for its land and to the amounts of land the borough makes available over time for purchase.*

PROPOSITION 3: *A decision that is key to the success of the borough land sale program is how many parcels to offer annually.*

LAND DISPOSAL POLICY CONSIDERATIONS

1) WHAT TYPES OF LAND SALES?

residential  
recreation  
commercial  
industrial

2) TO WHOM?

restrictions on who can buy land from the borough

3) HOW MUCH LAND TO OFFER FOR SALE?

at one sale  
over time

4) LOCATED WHERE?

future costs of community services

5) IN WHAT LOT SIZES?

6) AT WHAT PRICES?

method of disposal: auction  
lottery  
development requirements  
lease  
  
basis for price: appraised value  
improvement costs  
  
price preference programs

7) WHAT KINDS OF IMPROVEMENTS PRIOR TO SALE?

8) IN ADDITION TO THE BOROUGH ASSEMBLY, WHO IS EMPOWERED TO MAKE THESE DECISIONS?

(NOTE: FIDUCIARY CONSIDERATIONS: In this context, "fiduciary" refers to the fact that borough lands are valuable assets owned corporately by all Ketchikan residents. In effect, borough lands comprise a land trust and the borough assembly members are its administrators.

When setting land policies, formulating disposal programs, and conducting sales, what responsibilities are recognized to:

- existing and future borough residents?
- potential purchasers of borough land?
- people wanting to build homes?
- existing and future borough taxpayers?
- existing property owners?
- local realtors?
- local land developers?

An Example:

If the borough sells land at less than fair market value, assets are "taken from Paul to give to Peter". The sellers, borough residents, receive a payment having less value than what was given up and the buyer receives a value greater than what was paid.

STATUTORY GUIDELINES FOR STATE DISPOSAL PROGRAMS: This is an extract from the report: Agenda For State Lands, prepared by the Federal-State Land Use Commission and published in 1975. It is included here as an example of types of issues that might be dealt with in borough ordinances. There have been many statutory changes in the state's program since 1975. In addition to radical changes made in lease procedures, the legislature has since mandated the number of acres to be offered for sale annually, the types of disposal programs to be use, price discount programs, and other policy objectives. Prior to 1978, practically all policy direction for the state land program was provided by the Director of the Division of Lands and the Commissioner of Natural Resources (see Guideline 10).

1. Land is generally sold or leased at public auction to the highest qualified bidder.
2. Lands must generally be sold or leased for no less than current appraised value.
3. Lands which are not sold or leased at public auction may be offered "over the counter" for private sale or lease for not less than appraised value.
4. Purchasers of State land are required to deposit 10 percent of the purchase price at the time of purchase and to pay the remainder in installments of not less than 10 percent per year with an interest rate of not less than 5 percent per year. By regulation, the minimum interest rate is currently 6 percent per year.
5. The purchaser or lessee of State lands may, with the approval of the Director, assign all or part of his property to another purchaser or lessee while he is still under contract with the State. By regulation, subleasing is limited to improved properties.
6. Leases are generally for a maximum term of 55 years and the annual rental payment is subject to adjustment at 5-year intervals based on a current appraisal of rental value.
7. When a lease expires, the lessee is "entitled to have his lease renewed for another term of equal length if he applies in writing for a renewal at least 30 days before expiration of the lease."
8. If the appraised annual rent of a lease is \$250 a year or less, the Director may negotiate a private lease for a period not to exceed 5 years.
9. State tidelands and lands classified as timber and grazing may be leased, but may not be sold.<sup>14</sup>
10. The Director, with the Commissioner's approval, decides which lands will be made available for sale and the limitations, conditions, and terms of the sale.
11. Surface and subsurface rights to land are handled under separate disposal programs. The mineral estate may be leased out, but may not be sold or otherwise permanently alienated from State ownership.

6. EXAMPLE: SOILS RECONNAISSANCE SURVEY

## SOILS RECONNAISSANCE SURVEY

The soil reconnaissance survey covered over 60,000 acres of existing and potential state lands within Ketchikan Gateway Borough. Soil mapping was accomplished on 1:15,840 scale aerial photographs. Soil types were identified by stereo interpretation backed by ground checks.

The first page of this section is an excerpt from the Borough's land nomination package explaining how the soils information was interpreted as a basis for identifying state lands suitable for consideration by the Borough for selection. Following this is an example soil mapping area and a legend to the soil classifications.

Ketchikan Gateway Borough contracted Richard Billings, soils and watershed specialist, to conduct a reconnaissance soil survey for the majority of state selected and state owned lands from which the borough formed its land nomination pool. Based on this soils information, the borough compiled overlays for a base map of the Ketchikan area at a scale of 1" to ½ mile showing the following information:

- Homesite Suitability - Based on factors including drainage, slope, hazards potential, bearing capacity, depth of soil layer, and organic content, land areas fall into one of six homesite suitability categories, ranging from "very good" to "unsuitable." Lands shown as "very good" in light of the above considerations are also most likely to meet on-lot sewage disposal and drainage requirements under State Department of Environmental Conservation subdivision regulations. Lands falling into the "fair", "poor" and "unsuitable" categories are likely to require off-lot sewage disposal systems for subdivisions of six or more lots.

- Road Suitability - Billings used soil composition, bearing strength, soil depth, slope, watertable depth, and hazard potential to determine the suitability of land areas for road construction. Land areas fall within one of six road suitability categories, ranging from "good" to "poor." In general, most soils in Ketchikan are best suited to overlay road construction. Shallow to moderately deep muskegs are usually favored locations for roads because they require little or no clearing, while a "variable" to "poor" rating indicates higher construction costs. Billings points out that strategic location and engineering may overcome many building limitations.

- Quarry Sites and Mining Claims - This overlay combines quarry site location information from Billings' survey with mining data provided by the U.S. Forest Service. The likelihood of finding suitable quarry sites throughout the borough was rated from "poor" to "very good" for each soils unit. In general, adequate quarry sites can be found throughout most of the state lands.

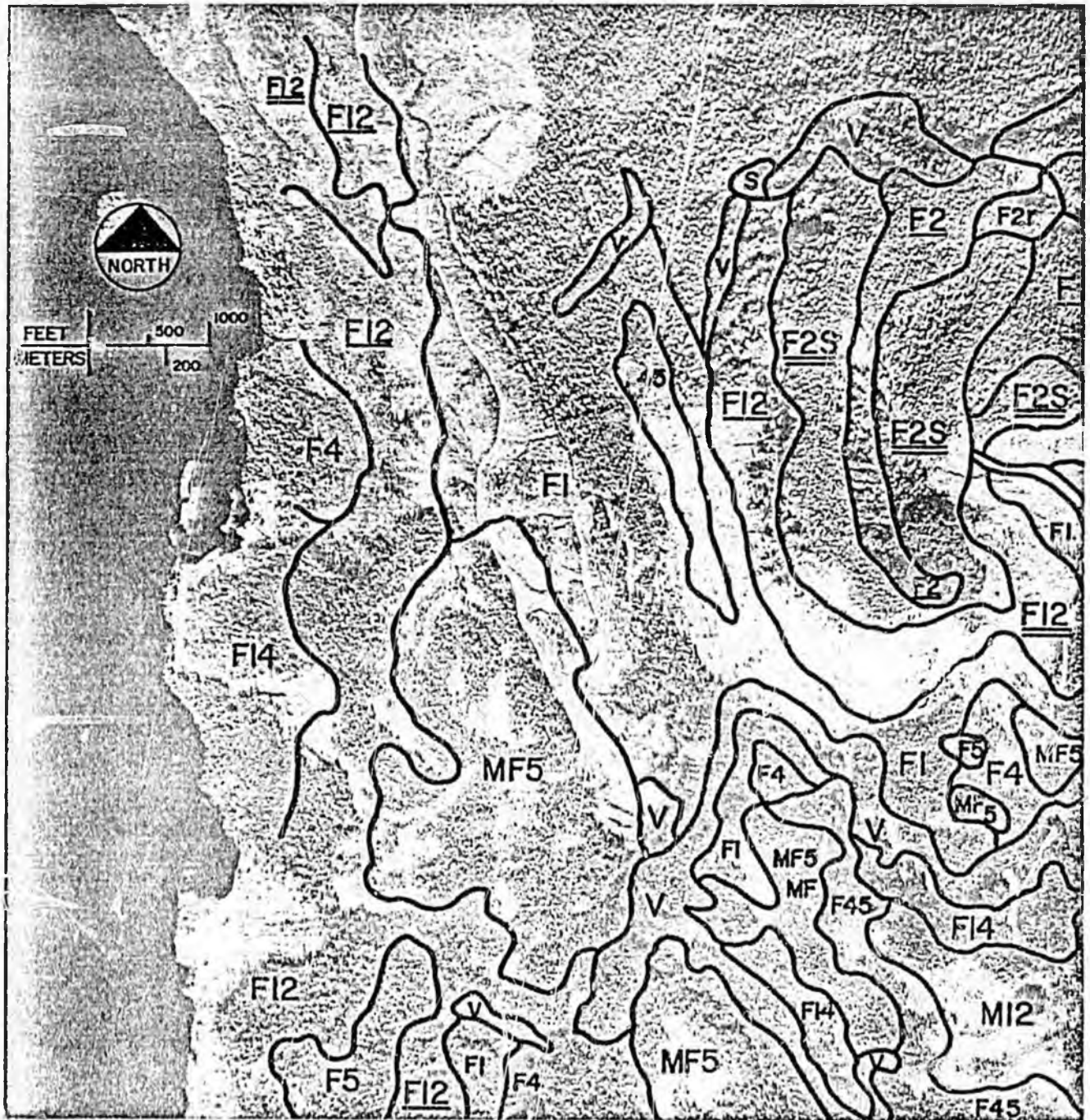
- Hazards - Areas with significant landslide, flood, snowpack, and avalanche potential are indicated along with major muskeg areas. Although such hazards may not ultimately restrict land use, they are likely to figure into construction costs.

- Hydrologic Characteristics - The susceptibility of land areas to induced sediment production is rated in three categories: "high", "moderate", and "low." This overlay shows potential land use constraints within identifiable watersheds.

- Timber Production - Billings judged timber productivity on the basis of the quality and density of existing timber stands, feasibility of harvesting, and the potential of the land to produce a second growth. His analysis has been condensed into six timber production evaluation categories, ranging from "very good" to "poor."

- Wildlife - Based on year-round survival needs, but stressing key winter ranges, Billings identified important deer and big game habitat by soil types. These are shown on the final map overlay along with valuable estuarine habitat.

ILLUSTRATION OF SOILS ANALYSIS INFORMATION -  
 ONE BASIS FOR BOROUGH LAND NOMINATION AND SELECTION DECISIONS



Soils

F1	Freely drained forested soils, gently sloping	F2r	Well drained timbered organic soils, steep	F5	Poorly drained timbered organic soils
F12	Freely drained forested soils, steep	F2S	Freely drained forested soils less than 20" deep, extreme landslide potential	M12	Muskeg (open bog soils)
F12	Freely drained forested soils, extreme landslide potential	F4	Somewhat poorly drained forested soils, gently sloping	MF5	Complex of Muskeg and poorly drained timbered soils
F14	Freely drained and somewhat poorly drained forested soils, gently sloping	F45	Complex of somewhat poor and poorly drained forested soils, gently to steeply sloping	S	Landslides
F2	Freely drained forested soils less than 20" deep, steep			V	V-notch stream drainages



7. EXAMPLE: LAND USE SUITABILITY ANALYSIS

## LAND SUITABILITY ANALYSIS

Following submittal of Borough nominations to the state, land suitability analyses were developed from aerial photography for 32 nominated tracts. The analysis of physical features of land was one type of information upon which final selection decisions were based.

The first two pages of this section briefly summarize the physical indicators incorporated into the land suitability analysis. The final three pages present an example of findings for one tract selected by the Borough.

## Procedures for Determining Land Suitability

An important work task prior to the selection of State Land by the Ketchikan Gateway Borough is to determine land suitability. What is land suitability? It can be defined as "the ability of areas of ground within a political unit to support a variety of uses for specific purposes in an economic manner with minimal disturbance to the natural environment."

How does a person go about determining the suitability of a parcel of ground? The first thing is that the person have a specific activity in mind, i.e., a house, store, marina, airport etc. The second thing is to locate a piece of ground that will support the activity at the most economic cost. There are many other factors involved once the specific activity is decided upon. There may be many parcels of ground that will support the activity. What will be addressed by this task are procedures for determining land suitability. Not addressed are the numerous, non-physical indicators that limit land development.

Certain visual and physical signs point out the suitability of land either for or against a specific activity. These "indicators" can be measured and these measurements can be used to determine the suitability of a parcel of land.

The Physical Indicators of Land Suitability are:

1. Average Slope
2. Ground Cover Type
3. Surface Soil Type
4. Elevation
5. Hazards
6. Hydrologic
7. Orientation

Before the advent of the airplane and photography, the only way a person could determine whether a parcel of ground was suitable for the activity in mind was to visit and walk over the specific land parcel. If the activity was small in scale, i.e. a house, the task was relatively simple. If the activity was larger, i.e. a railroad, the task was much harder. Now, the physical indicators can be determined in a general manner by aerial photography, thus narrowing down the choices available for the specific activity.

1. Average Slope - Slope is the degree of incline that a parcel of land is set at. It is expressed in percent i.e. the amount of rise in 100 feet horizontal distance. If the rise is 0' the land is perfectly flat. If it is 10' then the land has a 10% slope. A 100% slope is a 45° angle. An infinite slope is a vertical cliff. A parcel of ground may contain an infinite number of slopes. However an average slope can be determined by observation.

2. Ground Cover Type - This refers to the vegetation or lack of it on the land. This indicator has been broken down into five divisions: Forested, Muskeg, Swamp, Tidal, Open.
3. Surface Soil Type - This refers to the type of surface soil in the particular area. This is broken down into six divisions: Organic, Clay, Sand, Gravel, Rock, Water.
4. Elevation - This refers to the vertical distance a parcel of ground is above sea level. There may be many elevations on a specific land parcel.
5. Hazards - Refers to physical displacement of natural objects on a parcel of ground by natural methods. These have been broken into: Landslides, Floods, Avalanche, and Wind Damage.
6. Hydrologic - Refers to the susceptibility of land areas to induced sediment production.
7. Orientation - Refers to the direction that a parcel of ground faces. This has been broken down to Solar, View, and Wind.

These physical indicators can be measured by surveying instruments, on-site inspection, contour maps obtained from aerial photos and soil and vegetative expertise. Any of these manners will cost money since it takes someone to record the data and to interpret the data. In order to interpret data, the person needs a base document to interpret. A contour map fulfills the requirement. It will show levels of equal elevations, sea level, lake levels, drainage patterns, high ridges, flat areas, cliffs and steep areas, and other items as required by the person asking for the map. On-site surveying is the most economical for small parcels up to 10 acres (600' x 720'). The cost of on-site surveying increases as the size of the area increases. The expense of obtaining elevation data to produce a contour map for 1000 acres could be out of reach for a small community. A contour map drawn from aerial photos is the least expensive for large areas. The types of information that can be interpreted from the photos and the contour map are many. The eight physical indicators are but a few. Forest and timber analysis, geologic analysis, watershed and drainage analysis, urban and rural analysis, shoreline analysis, soils analysis, wildlife management analysis, engineering analysis are but some of the areas where aerial photos are invaluable.

# LAND SUITABILITY ANALYSIS

Name Rosa Reef South

Survey USS 3840, Portion 2

For Ketchikan Gateway Borough

## General Description:

Rosa Reef South, legally known as a portion of lot 2, USS 3840, is located on the northeast side of Gravine Island from a point south of Rosa Reef light where a creek enters a small bay to a point about 2 miles further south. (See USGS quad map B-6 Ketchikan). It encloses land from the beach to the 500 feet elevation. The area is land locked as all of the beach frontage is private ownership. There are three 50 foot utility and access easements that cross the private parcels. The northerly boundary of the parcel has been changed from the creek that flows into a small bay in USS 1748 to the drainage divide between this creek and the next one due south.

## Topography:

The area's elevation ranges from sea level to 1500 feet and higher. This analysis will deal with the area up to elevation 500 feet. The land slopes upward from the beach to a relatively flat grade to around elevation 200' where it begins to rise steeply. There are areas above 200 feet where the ground is flat, but these are in pockets.

## Streams & Lakes:

There are two major streams and two lakes on the parcel, however the lakes are very close to the 500 feet elevation. The streams flow in a northeast direction and then break abruptly at 90 degrees and flow in the opposite direction.

## Orientation:

The parcel is oriented in a northwest-southeast direction with an azimuth of 315 degrees. Solar orientation is poor due to the 1800 feet hills directly to the southwest. This means that the area goes into the shadow in the early afternoon around 1:00 P.M.. The parcel is exposed to winds from the northwest and southeast. There are views of the southwest side of Revilla Island from Point Higgins to Ketchikan including Ward Cove.

## Hazards:

There are no hazards within the parcel except that caused by high winds.

## Ground Cover:

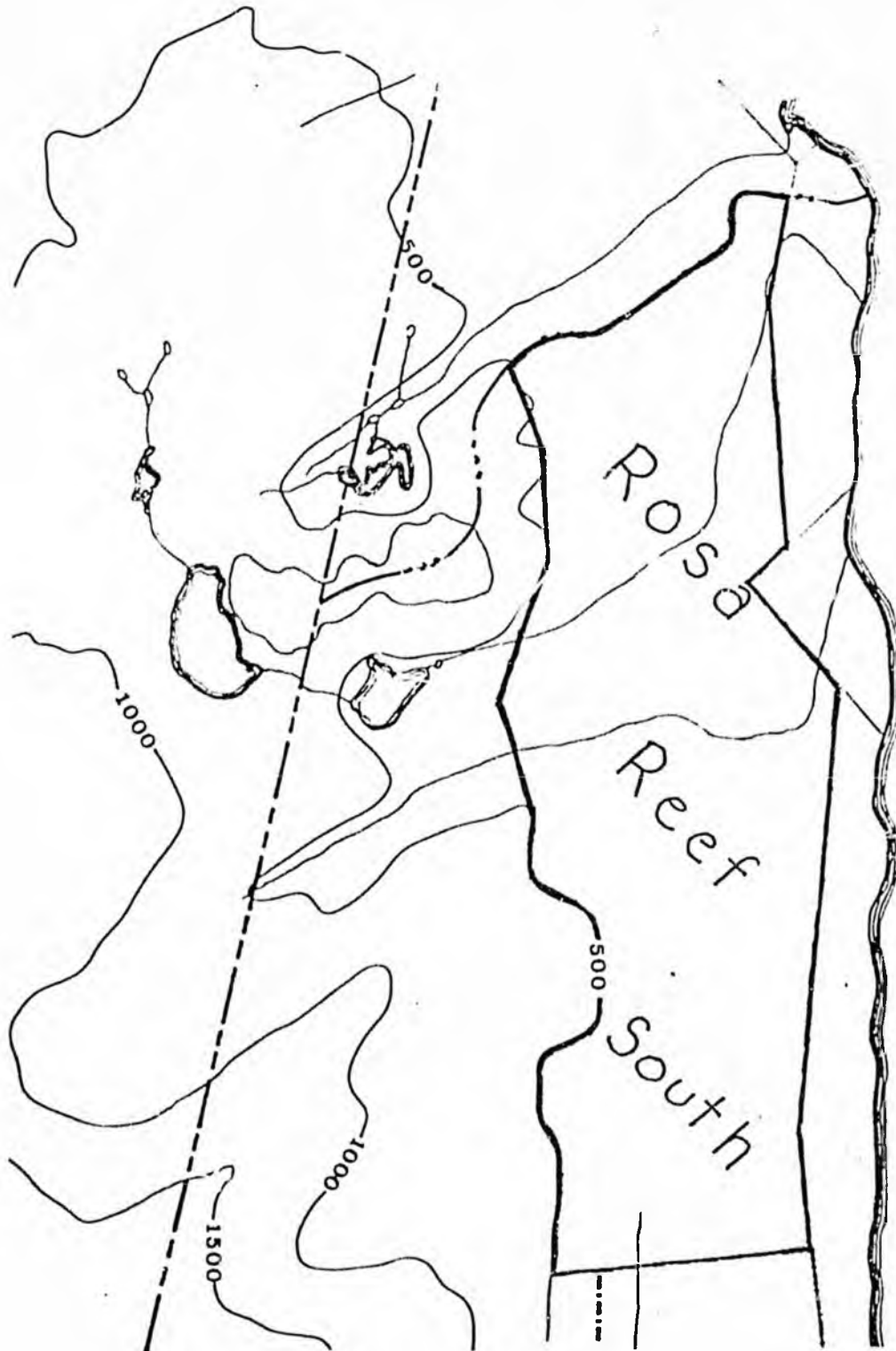
About 70% of the area is tree covered with a mixture of spruce and hemlock of doubtful economic value. The remainder of the area is open or very sparsely tree covered muskeg or exposed bedrock.

## Soil Cover:

Shallow rocky soils overlain with various depths of organic material with many bedrock outcroppings.

## RECOMMENDATIONS

The Lands Committee has recommended that this area be for dispersed residential and recreational parcels. A preliminary review of the area reveals that there are "pockets" of developable land below the 500 foot contour and between the streams and other obviously undevelopable lands. The development process can be made somewhat easier if a highway corridor is identified along the entire northeastern side of Gravina Island. This corridor would have to be surveyed and platted. Subsequent development would then have to tie into this corridor.



© Rosa Reef  
Light

Rosa Reef Light



Represents an estimated position for survey boundary. Approx elev. 500' or nearest slope break.

USS 1748

Rocky Beach (TYP)

Drainage Divide

USS 3840 Lot 2  
BLK 1

USS 1749

Proposed Location for Road

Sandy Beach (TYP)

50' Access Easement (TYP) 3

USS 3840  
LOT 2 BLK 2

Lake Elev 480'

Lake Elev 480'

STEEP SIDED STREAM VALLEY

TOE OF SLOPE  
EL 500'

Airport Parcel

MUSKEG (TYP)

ROSA REEF SOUTH  
Portion Lot 2, USS 3840

8. EXAMPLE: PRELIMINARY SUBDIVISION PLANNING

## PRELIMINARY SUBDIVISION PLANNING

One of the first steps in planning Ketchikan Gateway Borough land disposals was to "design" representative subdivisions for several areas the borough is considering for residential development. Lots, roads, and sewer systems were layed-out using aerial photography information. This provided the basis for estimating the direct and indirect costs per lot for surveying and improving the example subdivisions under consideration.

Not all of the improvements included would be made prior to sale by the borough. The perspective of the ultimate land owner, building a house to live in, was used in order to weigh the competitiveness of land offered for sale by the borough with land available on the private market.

Representative subdivisions and cost estimates were developed for the Waterfall Creek tract, the portion of USS 3761 selected by the borough, beach and lake front areas, and several inland parcels typical of land Ketchikan will be receiving.

The preliminary layout and breakdown of cost estimates for a representative subdivision located in USS 3761 are presented in this section. Total estimated costs are summarized in the following table.

Representative Subdivision	Total Cost	Number of Lots	Lot Size	Cost Per Lot	Cost Per Square Foot
USS 3761	\$1,278,389	154	26,617 sq. ft.	\$8,301	\$.31

REPRESENTATIVE SUBDIVISION

Portion USS 3761, Lot 1  
near Pt. Higgins Coast  
Guard Radio Station

for analysis only

DEVELOPMENT COSTS

The following is a listing of development costs associated with the representative subdivisions.

ELECTRICAL: (1979 data)

KPU costs per pole installed.....\$1600.00  
 Design spacing is every 200 feet minimum  
 Hookup to a dwelling.....\$ 22.00

SEWER:

Excavation in roadway prism.....\$ 4.00CY  
 Excavation in rock.....\$ 16.00CY  
 Bedding material.....\$ 8.00CY  
 Borrow material for backfill.....\$ 4.00CY  
 8 inch, ductile iron pipe.....\$ 26.50Lf  
 48 inch PCC manholes (complete).....\$1550.00Ea  
 Stubs for house connection.....\$ 10.00Ea  
 Septic Tanks.....\$1600.00Ea

ROADS:

USFS, March 1979 data  
 Clearing and Grubbing.....\$2865/Ac  
 Common Excavation.....\$ 1.81CY  
 Rock Excavation.....\$ 5.09CY  
 Rock Borrow.....\$ 6.87CY  
 Crushed Aggregate Base Material.....\$ 9.15CY  
 " " " " \$ 5.32Tn  
 18" Metal Culvert.....\$ 23.27Lf  
 24" .....\$ 29.50Lf  
 36" .....\$ 46.27Lf  
 48" .....\$ 77.51Lf

Average road costs per mile: 16' wide, 25-30MPH, ditches.....\$227795.00  
 24' wide .....\$341693.00 high  
 24' wide .....\$262858.00 low

SURVEYING: \$ 250/Ac  
 \$ 500/Lot

ENGINEERING & DESIGN 8 Per Cent

WATER: Roof Collector System.....\$4000.00

PROJECT DATA SUMMARY

LOCATION: Approx. 14 miles North Tongass

SURVEY: USS 3761, Lot 1

AREA: 200.4, subdivided area, 94.1 acres

NO. OF LOTS: 154

AVE. SIZE: 26617sf

ROAD LENGTH: 146001f

WIDTH: 24 ft.

RIGHT-OF-WAY: 30001f @ 66"  
28001f @ 50'  
88001f @ 40'

OPEN SPACE: 65.4 acres

CREEK R.O.W.: 25.06 acres

DENSITY PER ACRE: 1.64 lots

TRAVEL TIME(city P.O.): About 17 minutes by auto.

REMARKS: Approximately 55½ acre are unsubdivided due to the close proximity to the Coast Guard Base at Pt. Higgins; USS 3541.

DEVELOPMENT FEASIBILITY ANALYSIS

COSTS BREAKDOWN SUMMATION

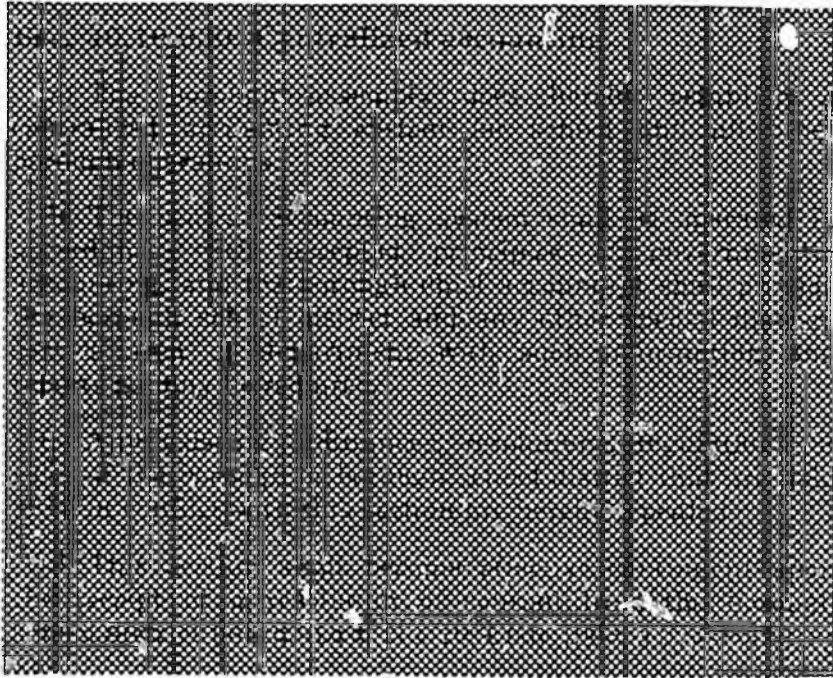
100	Land Acquisition	\$\$ _____	200	Planning & Engineering	\$\$110094.00 _____
110	Index		210	Index	
120	Location	\$ _____	220	Planning	\$ 2000.00 _____
130	Title	\$ _____	230	Surveying	\$ 22900.00 _____
140	Purchase	\$ _____	240	Engineering	\$ 83194.00 _____
150		\$ _____	250	Administrative	\$ 2000.00 _____
160		\$ _____	260	Approvals	\$ _____
170		\$ _____	270		\$ _____
180		\$ _____	280		\$ _____
190		\$ _____	290		\$ _____
300	Site Improvements	\$\$1168295.00	400	House Construction	\$\$ _____
310	Index		410	Index	
320	Roads	\$ 358067.00 _____	420	Planning	\$ _____
330	Sewer	\$ 681861.00 _____	430	Plans	\$ _____
340	Water	\$ _____	440	Site work	\$ _____
350	Grading	\$ _____	450	Construction	\$ _____
360	Electrical	\$ 116800.00 _____	460	Fees	\$ _____
370	Open Spaces	\$ _____	470		\$ _____
380	Miscellaneous	\$ _____	480		\$ _____
390	Fees	\$ 11567.00 _____	490		\$ _____



9. BOROUGH LAND TRUST FUND ORDINANCE

### BOROUGH LAND TRUST FUND

The Ketchikan Gateway Borough Assembly adopted the land trust fund ordinance in 1979. Federal in-lieu tax payments were earmarked for the Borough's new land entitlement program. To date the fund has accumulated over one million dollars. Expenditures, ranging from staff research to subdivision design and surveys, are allocated from this fund through a special account supporting the land entitlement program. Revenues from future land sales, leases, and permits will in turn be fed back into the fund. The land trust fund will provide front-end monies to finance initial land sales leading to the land entitlement program's eventual self-sufficiency.

**CHAPTER 40.15. LAND TRUST FUND\*****Sec. 40.15.005. Purpose.**

The land trust fund of the Ketchikan Gateway Borough is established to support the management and utilization of borough-owned entitlement land, and is intended to provide in whole the necessary resources for operation of the borough land program. (Ord. No. 338, § 1, 8-20-79)

**Sec. 40.15.010. Definitions.**

For the purposes of this chapter the following words and phrases have the meaning respectively ascribed to them:

- (a) *Borough entitlement land*: Land acquired by the borough under the provisions of Alaska Statutes, Title 29, Chapter 18, Article 3A, commencing at A.S. 29.18.201, or any amendments thereto, and other lands

\*Editor's note—Ord. No. 338, § 1, adopted Aug. 20, 1979, specifically amended the Code by adding Ch. 40.15, §§ 40.15.005—40.15.060, as herein set out.  
Supp. No. 23

acquired as a result of an exchange of such lands, or purchased by use of the proceeds of the sale, lease or other disposition of such lands.

- (b) *Borough land program*: All activities undertaken by the borough to acquire, own, manage, improve, sell, trade, or lease or otherwise dispose of or use borough entitlement land, or land acquired by the borough as a result of tax foreclosure proceedings.
- (c) *Direct cost expenditure*: All wage and salary payments, expenditures for equipment and supplies, charges for communication, transportation and reproduction services, fees for professional services or other cost items directly attributable to the formulation and implementation of the borough land program or fiscal management of the land trust fund.
- (d) *Indirect cost expenditures*: The proportional share of costs incurred by the land trust fund for payments of general, administrative and overhead costs of the borough in implementing the borough land program.
- (e) *Payments to general fund*: Appropriations duly authorized and made by the borough assembly to the borough general fund to offset the local tax burden. (Ord. No. 338, § 1, 8-20-79)

#### Sec. 40.15.020. Responsibility.

Management of the land trust fund and of activities comprising the borough land program shall be the responsibility of the borough manager or other person designated by the borough manager. (Ord. No. 338, § 1, 8-20-79)

#### Sec. 40.15.030. Conformity.

(a) All expenditures for services, supplies and equipment related to the management of the land trust fund and activities of the borough land program shall be in compliance with all applicable ordinances of the borough.

(b) All activities related to the disposal, development, retention, or management of borough entitlement lands shall be in conformance with local, state, and federal laws, rules and regulations, including but not limited to:

- (1) All applicable ordinances of the borough, including the subdivision and zoning ordinances.
- (2) The comprehensive plan policies and coastal management policies.
- (3) All applicable rules and regulations of the State of Alaska's Department of Natural Resources, Department of Health and Welfare, and the Department of Environmental Conservation. (Ord. No. 338, § 1, 8-20-79)

**Sec. 40.15.040. Annual program.**

A program budget for the land trust fund shall be established annually by ordinance of the assembly, and may be amended by ordinance. The budget shall detail anticipated costs and revenue of the borough land program, and the fiscal management of the program for the ensuing year. (Ord. No 338, § 1, 8-20-79)

**Sec. 40.15.050. Revenues.**

The following revenues shall be credited to the land trust fund:

- (a) Federal in-lieu tax payments made to the Ketchikan Gateway Borough, authorized by P.L. 94-565, or amendments thereto.
- (b) Receipts from the sale, lease, or other use or disposition of borough entitlement land.
- (c) Receipts from the sale of land acquired by the borough as a result of tax foreclosure proceedings, less taxes, penalties, interest, collection costs, or other amounts due the borough general fund, and/or any applicable service area fund.

- (d) Revenues from bonds secured by borough entitlement land for improvements to be constructed on such lands.
- (e) Interest payments made to the borough resulting from the fiscal management of the land trust fund. (Ord. No. 338, § 1, 8-20-79)

**Sec. 40.15.060. Expenditures.**

The following expenditures shall be debited to the land trust fund:

- (a) Direct and indirect costs incurred by the borough to acquire, own, manage, sell, trade, or lease borough entitlement land.
- (b) Direct and indirect costs incurred by the borough to accomplish the fiscal management of the land trust fund.
- (c) Repayment of bonded indebtedness for bonds secured by borough entitlement land for improvements to be constructed on such lands, pursuant to the borough land program.
- (d) Payments to borough general fund. (Ord. No. 338, § 1, 8-20-79)

**CHAPTER 40.20. PURCHASING OF SUPPLIES AND SERVICES\*****Sec. 40.20.005. Made by whom.**

All purchases of supplies, materials, equipment and contractual services for the offices, departments and agencies of the borough government shall be made by the

\*Editor's note—Ord. No. 164, § 1, enacted Jan. 6, 1975, repealed §§ 40.20.010, 40.20.015 and 40.20.020 derived from Code 1969, § 57.05.050 and Ord. No. 134, § 2, adopted Aug. 6, 1973. Said sections pertained to assembly approval of contracts for or purchase of supplies, materials, etc., and competitive bidding. Section 2 of said Ord. No. 164 enacted new §§ 40.20.010, 40.20.020, 40.20.030, 40.20.040, 40.20.050, 40.20.060, 40.20.070, 40.20.080, 40.20.090, 40.20.100, 40.20.110 and 40.20.120 as herein set out.

O.B.A.—Bidding requirements for used equipment, 73-21.

State law reference—Centralized purchasing, AS 29.48.250.



## THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801  
LAW DEPARTMENT (907) 586-3300

February 25, 1981

The Honorable Fred F. Zharoff, Co-Chairman  
The Honorable Terry Gardner, Co-Chairman  
House Resources Committee  
Alaska State Legislature  
Pouch V, State Capitol Building  
Juneau, Alaska 99811

File: 1981 Legislature - HB 31/SSHB 31

Subject: Suggested Amendments

Gentlemen and Members of the Committee,

Several of the provisions of House Bill 31, as introduced, deal with problems which are being encountered by municipalities in their land selection process. Unfortunately, Sponsor Substitute for House Bill 31 removes two of these. I request that you give serious consideration to adding to SSHB 31 what is section 2 of HB 31 and what is section 34 (beginning on page 16) of HB 31.

Section 2 of HB 31 corrects what can best be termed an oversight in Ch. 85 SLA 1979 (HB 66). That bill cut off the right of a municipality to make selections after October 1, 1980. However, if the director, after October 1, 1980 rejects a selection of a municipality there is no authority for the municipality to select alternate lands to meet its entitlement as its rights to select all expired on October 1, 1980. Section 2 of HB 31 corrects this oversight.

Section 34 of House Bill 31 deals with problems which have arisen because of the division's approach to the reservation of stream and beach easements and the regulation which it has adopted relating to such easements. The regulations requires the department to reserve a 50 foot easement along all public and navigable waters. This results in a 100 foot swath being reserved for public access along numerous small creeks within municipal selections where the department believes the creek is public or navigable. This reservation of 50 feet on each side of the creek is made even though a 10 foot easement on one side of the creek is not only sufficient but much more reasonable. It has been our impression that many determinations of public use or navigability were made by consulting a map rather than examining the body of water or soliciting public input as to its use. We recognize that the department may not have sufficient personnel to examine the numerous streams and bodies of water which

abut or flow through almost all the selections in Southeast Alaska; however, that seems a poor justification for reserving easements which are not needed or which are clearly excessive in width. Two municipalities are already in court with the State of Alaska over this issue. If the legislature will provide a reasonable solution to this problem it would, at least in our case, clear the way for recording some of the patents which are just now coming to us from the state and getting such lands into our proposed classification and disposal program. The approach to this problem set out in section 34 of House Bill 31 provides a good approach to the solution of this problem. I urge you to place this section in SSHB 31 with two changes. On page 17 of HB 31, beginning in line 20, delete the sentence which begins in this line and goes through line 24 and substitute the following:

If the commissioner, within 30 days of the action taken by a municipality under (d)(1), (2), (e) or (i) of this section, finds in a written decision that the action of a municipality was arbitrary or capricious, he may overrule such action by affirming the municipality within said 30 day period of his decision.

The municipality is required to hold a public hearing before making an easement decision. It seems only reasonable to put the burden on the commissioner to set forth specific reasons for overriding the municipality's decision.

On page 17 in line 14, add the phrase "or (i)" in front of the word "of". On page 17 in lines 17 and 21, change the reference to the subsections to read "(d)(1), (2), (e), or (i)". On page 18, delete lines 7 through 13 and substitute the following:

(i) A municipality may limit, vacate or modify, under the procedure specified in (f) of this section, easements and rights-of-way for public access to or along navigable or public waters reserved by the department in a patent issued under AS 29.18 before the effective date of this section or for which the public notice of the proposed conveyance was given before the effective date of this section if the municipality, after the public hearing, determines that the waters are neither navigable nor public or that the limitation, vacation or modification will not adversely affect the free access to and along the body of water.

The foregoing proposed amendments to subsection (i) would give to municipalities which have already received patent or are about to receive patent to lands in which excessive or unnecessary easements have been withheld the same right to deal with those easements as municipalities which receive patent without the reservation of ease-

ments but which are allowed to determine the necessary easements prior to disposal of the land. Where the state has reserved an easement, the municipality, in modifying the easement, will be faced with a presumption that the easement as reserved is needed and will thus have a much heavier burden of justifying its actions than will a municipality which is permitted to make a determination on a blank slate. Note that the commissioner still retains his veto power as to such modifications.

One item which neither the house bill nor the sponsor substitute for House Bill 31 addresses is the problem created by the requirement that 20% of the land to be disposed of in a survey district be homesites. The state is presently proposing to dispose of land on South Shelter Island which, at best, can be utilized for residential recreational purposes. The area is about a mile and a half by water from the nearest boat launch or tie-up facility and the property itself has relatively poor beach access for boats. Although the state has not submitted percolation tests to determine whether the soils will support on site sewage disposal, indications are that on site sewage disposal might not be possible. Thus, not only is the site not located where the bulk of the citizens of this state could be expected to meet the occupancy requirements of the homesite law (habitable dwelling, occupied 35 months out of five years) but is going to be requiring those who acquire these sites to build a habitable dwelling and live in it where on site sewage disposal does not appear to be practicable. Clearly, there should be some provision in the law to permit DNR to waive the 20% homesite mandate where the land available for disposal cannot reasonably be expected to be developed under the homesite law.

Sincerely,

Gerald L. Sharp  
City-Borough Attorney

GLS: jr

cc: Rep. Joseph Chuckwuk, Vice-Chairman  
Rep. Ben F. Grussendorf  
Rep. Vernon L. Hurlbert  
Rep. Sally Smith  
Rep. Anthony N. Vaska  
Rep. Ramona L. Barnes  
Rep. Robert H. Bettisworth  
Rep. Richard W. Halford  
Rep. Eric G. Sutcliffe  
Ginny Chitwood, Executive Director, AML  
James Wakefield, Assemblyman



## THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

February 25, 1981

The Honorable Fred F. Zharoff, Co-Chairman  
The Honorable Terry Gardner, Co-Chairman  
House Resources Committee  
Alaska State Legislature  
Pouch V, State Capitol Building  
Juneau, Alaska 99811

File: 1981 Legislature, HB 31/193

Subject: State and Municipal Lands

Gentlemen and Members of the Committee:

In 1979, the House Resources Committee heard testimony from the Department of Natural Resources that it was having difficulty meeting legislative land disposal mandates because of problems created by ANCSA land selections and by municipal entitlement nominations and by municipal platting requirements. After hearing from the municipalities, the committee conducted a number of hearings/work sessions with DNR. During one of these sessions a representative of DNR leaned back in his chair, put his boots on the hearing table and calmly pronounced something to the effect that "You guys [the legislature] are just going to have to push the municipalities aside." House Bill 66 pretty much implemented that solution to DNR's problems.

At the hearing last Thursday, it sounded to me as though the new group in DNR is singing the same song but a different verse. We are greatly concerned to say the least. However, before escalating the finger pointing which is now begun and, more importantly, to correct some misstatements of policy and fact which occurred during the Thursday hearing, I think it would be helpful to all concerned if we quickly review the history of the Municipal Land Entitlement Act, its sources and legislative history. A review of some of the discussions which preceded the "municipal platting override" may also be helpful.

In 1963 the legislature adopted a comprehensive borough Act which contained a section which permitted an organized borough to select 10% of the vacant, unappropriated, unreserved state lands which were located within its boundaries. AS 07.10.150. This section appeared in the chapter of the borough Act dealing with borough incorporation. Section 150 was followed by a section on land selection procedures. The next section dealt with organizational grants to newly formed boroughs. The purpose of the 10% land grant was never seriously disputed among those of us who were on the borough scene in the mid 60's. It was not only an inducement to borough formation, it was,

more importantly, a promise of certain valuable resources for the borough to help insure its stability and to give it some means of managing its growth.

When Title 7 on boroughs and Title 29, the municipal government code were rewritten and consolidated into a single Title 29 in 1972 the language of 07.10.150 was carried forward into AS 29.18.190 and was expanded to include cities under the 10% entitlement. This new section appeared in Chapter 18 under an article entitled Transitional Assistance. The three sections under the transitional assistance article covered organizational grants, state land entitlement and state land selection procedures. Again, the clear policy was that the land entitlements were to be a resource of the municipality.

Unfortunately, not all was going well in the selection department. The state had not taken the time to make any selections in the national forests so those boroughs which included national forest lands had almost no "state land" from which to gain an entitlement. Municipalities in the interior where the state had made a number of selections were having serious problems with procedures used by DNR to determine which state lands were "vacant, unappropriated and unreserved." In 1976 either one or two communities were in court with DNR over these problems and another community was on the verge of filing suit. In order to effect an amicable solution to the dispute, the interior communities and DNR got together and drafted a bill which purported to settle the entitlement computation question. It did so by providing that the amount of land a municipality would be entitled to would be 10% of the maximum amount of state owned land which was vacant, unappropriated or unreserved at any time prior to the effective date of the proposed bill. While this had the effect of cutting off the communities in Southeast Alaska with a pittance, this oversight was corrected and all the municipalities in the state joined with DNR to seek passage of the bill. The bill addressed almost every problem the municipalities had previously experienced in land selection and conveyance under their 10% entitlement. The new bill also fixed the actual number of acres to which each borough was entitled, thus ending the disputes on how the 10% was computed. For most boroughs the fixed entitlement represented about 10% of the maximum amount of state land which had been vacant, unappropriated and unreserved to that date. For others, it represented what was determined to be a reasonable amount in light of community needs and the present and likely future availability of state land within the borough.

In 1977, the municipal entitlement bill which was going through the house was passed out of the House Community and Regional Affairs Committee as a committee substitute and was sent to House Finance. The bill received hearings before the House Finance Committee in both 1977 and 1978.

Chronologically, it must be noted that somewhere along about this time the Beine Initiative was born. When the legislature returned in 1978 it was faced with the grim prospect of the Beine Initiative going on the ballot in the 1978 general election. The reaction of the legislature was to get DNR moving on land disposals to provide the citizens of Alaska with a land disposal policy which was more rational than the Beine Initiative, but was nevertheless massive. Two major pieces of land legislation came out of the 1978 session in addition to the municipal land entitlement bill.

Returning for a moment to the House Finance Committee, several efforts were made while this committee had the municipal land entitlement bill to amend it to require that municipalities dispose of a certain proportion of the entitlement lands they received under the bill. At that time only three or four boroughs had received any significant conveyances of land from the state under their prior entitlement. Unfounded accusations were made that municipalities were unwilling to dispose of their land and to be landlords, and needed something to force them to get the land out to the people. At that time, as I recall, it was pointed out that the Mat-Su Borough had already placed into private hands more acreage than the State of Alaska and that the Fairbanks North Star Borough had also made significant disposals when compared to the acreages which had been conveyed to it at that time. As I recall, the Kenai Pen Borough had also commenced to dispose of some of the lands it had received or was on the verge of initiating a substantial disposal program. In any event, the mandatory disposal proposals did not become a part of the municipal land entitlement bill. The municipal land entitlement bill passed in the dying days of the 10th Legislature along with the two other major pieces of land legislation. One of these, Ch. 182, SLA 1978, reclassified various trust lands as general grant lands and established a money trust in lieu of the former land trusts. The other major piece of legislation which the 10th Legislature passed, Ch. 181, SLA 1978 established a 50,000 acre disposal mandate for fiscal year 79.

Section 2 of Ch. 181, SLA 1978 provided that the director of the division of lands of DNR was to assess the supply and demand of land under the homesite and open-to-entry programs and to determine what type of land disposal was best suited to various regions of the state. The answers which the division received to some of the questions which they posed during their survey were enlightening. As I recall, a majority of those responding indicated that they wanted land which was accessible by road and had fire protection. (I would certainly stand corrected on this matter, but do not have a copy of the survey results at hand at this writing.) In spite of these findings, and the expressed concerns of the municipalities, the 11th Legislature, through House Bill 66, forced DNR into a disposal program which

essentially ignored the survey results; that is it was not going to spend any money to provide road access to its land disposals.

While the Municipal Land Entitlement Act was adopted at the same time as Ch. 181, SLA 1978, the Municipal Land Entitlement Act did not contain language which indicated that the essential purpose of the land entitlement established in 1963 had changed or been modified. Section 1 of that chapter set forth the Act's purpose as follows:

The purposes of this Act are to remove uncertainties in the existing municipal land selection law of the state; to provide for an immediate, final determination and settlement of municipal land entitlement; to provide for the completion of rational ownership patterns for sound land management; to provide for expeditious patent of land to municipalities to fulfill their respective entitlements; and to provide payment for land within certain municipalities which are unable to receive full entitlement rights in appropriate vacant, unappropriated, unreserved land.

Note that aside from the settlement aspects of the Bill it was also to provide for the completion of "rational ownership patterns for sound land management." I think this is a clear recognition of the necessarily strong land management and land policy making role which the municipality must occupy in land related decisions which affect local communities. The policy statement says nothing about any required disposal of municipal lands nor does it hint that there was any intention on the part of the legislature that municipalities would be required to dispose of their lands. In light of the legislative land disposal mandate which came down in Chapter 181 it is clear that the 10th Legislature did not intend to impose any land disposal mandate upon municipalities.

One of the things which Chapter 180, SLA 1978 (the Municipal Land Entitlement Act) did was to establish a selection procedure and standards. The procedure called for joint consideration between the director of the division of lands and the municipality of which vacant, unappropriated, unreserved land within the municipality was appropriate for municipal selection and approval by the director. The joint consideration was to include a cooperative land planning process which would, among other things, seek to identify both local and state interests in tracts of vacant, unappropriated and unreserved land within the municipality. The Act also established standards for determining local and state interests. The director could approve or disapprove a municipal selection based on his evaluation of the land and the application of the standards thereto.

Municipalities began immediately to gear up for the new selection process. DNR and the municipalities worked cooperatively to establish the detailed procedures for implementing the selection process. After a few rough spots were ironed out, municipalities began working with DNR nominating lands for selection and engaging in joint consideration with DNR. In the fall of that year, the Beine Initiative was approved by the voters. Interestingly, in Southeast Alaska where land is rumored to be so scarce, the Beine Initiative was turned down.

The joint consideration and selection process continued. In January of 1979, the 11th Legislature was seated and soon began to consider state land disposal problems again. The courts put the Beine Initiative on hold and later declared it to be invalid. In the meantime, it became quite apparent that the 11th Legislature was either going to make massive disposals of land via direct legislative grants or was going to see that DNR got the message, loud and clear. As I recall, fairly early during the session, the House Resources Committee held a teleconference hearing with the major boroughs and some cities to determine how things were going under the Municipal Land Entitlement Act. It had been enacted to iron out difficulties between municipalities and DNR and the committee wanted an assessment of the Act from the municipalities. As I recall, every municipality, except one city, testified that the selection process was going very, very well and that they saw no need to tinker with the Act. (That one city complained about a certain clause in the Act but it was later determined that this city was reading from a version of the bill which was not adopted and the language about which it complained did not appear in the Act.) Thus, in early 1979, the municipalities were all quite satisfied with the municipal land entitlement selection process. While large amounts of land had not been conveyed under that Act to most municipalities by that time, things were moving along at a reasonable pace and without serious, unresolved problems.

The House and Senate Resources Committees began holding hearings at which DNR explained where it was with its Chapter 181, SLA 1978 50,000 acre disposal mandate, what it had on tap for the next fiscal year and what the problems were. It was at this point that DNR pointed at ANCSA selections and municipalities as being their big problems. As everyone realized nothing could be done about the ANCSA selections, municipalities came in for the brunt of the blame. DNR claimed that the municipalities had all the close in good land tied up in its nominations and that DNR, therefore, did not have access to any of the good state lands for its disposal program. The fact that under the procedures adopted by the division of lands and agreed to by the municipalities the division of lands could require a municipality to select a nominated parcel or give up its nomination (thus forcing the municipality to either take the parcel or give it

up so that the state could dispose of it) seemed to be ignored both by DNR and the legislature. Thus, the municipal land nominations really were something of a red herring. However, both DNR and the municipalities pointed out that the joint consideration process and the decision making process by the director of the division of lands was, of necessity, time consuming. DNR also pointed out that municipalities could continue to select lands until two years after the expiration of the state's right to make its selections under the Alaska Statehood Act. This apparently engendered some concern. Apparently in pursuing the "move the municipalities aside" approach to solving DNR's inability to dispose of sufficient quantities of land, the House Resources Committee proposed several amendments to the Municipal Land Entitlement Act which ultimately became law in House Bill 66 (Ch. 85, SLA 1979). The solution was to speed up municipal selections by requiring that prior to October 1, 1980, municipalities would have to complete their selections to the extent vacant, unappropriated, unreserved lands were available to satisfy their entitlement. In addition, in order to ensure that the process did not get bogged down, the legislature repealed the requirements for joint consideration of municipal selections, repealed the standards by which the appropriateness for conveyance to the municipality was to be determined, repealed the authority of the director to either approve or disapprove a selection and amended another section of the Act to require that the director approve each municipal selection within nine months of its selection by the municipality and issue a patent within three months of the approval by the director of a plat of survey. Clearly, the purpose of these particular amendments was to eliminate the complaint levied by DNR that municipal nominations and selections were cluttering the landscape and impeding DNR disposals because it did not know which lands were being selected by the municipalities. These changes were solely to speed up municipal selections. They worked. Unfortunately, municipalities have commenced to experience other problems in the selection/conveyancing area. Some of these will be addressed later.

The other major problem which DNR claimed municipalities were creating was that DNR was required to comply with local platting regulations when it subdivided land within a borough. In particular, several municipalities required that certain minimal improvements be made to the subdivision before final plat approval could be given. Some of these required improved roads. Others went so far as to require not only an improved (graveled) road but also required the installation of sewer lines if the subdivision could be served by a public sewer system. These requirements were imposed upon all private land owners who proposed to subdivide their property and DNR found that it did not have the money to bear the burdens which were required of everyone else who subdivided land. For that reason, and over the protest of the municipalities, a provision was included in HB 66 reading as follows:

AS 29.33.150(b) The [platting] regulations adopted under (a) of this section apply to subdivision plats of undeveloped state land for disposal under AS 38.05 or AS 38.08 filed with the platting board, except that the platting board may not disapprove the subdivision plat or adopt regulations which require the state to construct access roads or capital improvements on state land included in the subdivision plat.

It is the clear intent of this section that the state would comply with all platting regulations of the municipality except those which require the construction of access roads or other capital improvements. The language in the opening phrases of this section clearly runs contrary to any interpretation that the legislature intended a total override of municipal platting authority.

House Bill 66 also added one other section relating to the platting procedures for state lands within boroughs. Prior to the adoption of House Bill 66, AS 29.33.160, dealing with platting procedures, provided that plats filed with the board which were not approved or disapproved within 60 days were deemed to be approved. The second subsection required the board to submit approved plats to the district recorder. With the adoption of House Bill 66, a new subsection (c) reading as follows was added:

(c) If a municipality has adopted a subdivision ordinance which requires the submission of a preliminary or sketch subdivision plat during the platting procedure, the commissioner of natural resources shall, not later than 60 days before filing a subdivision plat which contains land to be disposed of to individuals under AS 38.05 or AS 38.08, file a preliminary subdivision plat with the platting authority of the municipality.

During the discussion of the various platting procedures used by municipalities, one legislator pointed out that many municipalities require the submission of sketch plats or preliminary plats prior to submission of a final plat and that, from the subdivider or developer's viewpoint, the municipalities could hassle the developer with all sorts of delays and requirements during this preliminary plat procedure. The new subsection (c) appears to somewhat indirectly address this problem by requiring that in those municipalities which have a preliminary plat procedure, DNR give the municipality at least 60 days in which to make its preliminary plat review, thus eliminating any reason for the municipality to engage in a series of disapprovals under the guise of not having had sufficient time to review the plat the first time it was presented.

Clearly, this section does not provide any support for the contention that the platting override was for anything more than access roads and subdivision improvements.

In sum the municipal platting override which the legislature included as a part of House Bill 66 contained very clear language that the state was to comply with all platting regulations of the municipality other than access road and capital improvement requirements. Two state-platting board standoff scenarios are possible. One where the state refuses to accede to platting board requirements (other than capital improvements and access roads) and the state marches off to the recorder's office and manages to have the plat recorded. The other scenario is one where the platting board arbitrarily withholds its approval, levies unreasonable and unusual requirements on state plats or refuses to approve the plat for some other reason which is unreasonable or has no basis in law. In the first case, the municipality would be entitled to a court order vacating the filing of the unapproved plat. In the second case, the state would be entitled to a court order requiring the appropriate platting officer to sign and have the plat recorded. While I haven't any idea what sort of problems DNR is experiencing with other platting boards, I urge you not to take any action to expand the platting override without first having DNR present specific problems it has had with specific municipalities and allowing that municipality to respond to the allegations. In evaluating such disputes I would also urge you to attempt to determine whether the municipality treats private developers in essentially the same manner it is treating the state (except for access roads and capital improvements). Municipalities are merely attempting to provide for a planned and rational community development, one with which they hope its future citizens can live. If the platting override is extended, the state will be able to march in, dispose of land with little or no thought or consideration for rational community development patterns and then go home congratulating itself on a land disposal job well done, that is, having met its disposal mandate. Of course, to the municipality falls the burden of either correcting the problems created by the state disposal or trying to ignore the the pleas of those citizens who bought state land in the ill conceived, inadequately planned and unimproved subdivisions.

I urge you to not permit yourselves to be talked into further eroding the local planning process unless it is clear to you that municipalities generally, and throughout the state, are abusing their local planning prerogatives. If the problem exists in only one or two municipalities, I urge you to consider a system which would deal either with those municipalities or the specific excesses which those municipalities are committing but, let's not propose extensions of the platting override until both sides of the story have been heard and it is clear that an unreasonable number of abuses have occurred.

February 25, 1981

Finally, may I suggest that the problems being experienced by DNR are more reasonably laid at the doorstep of the unreasonably large disposal mandate it is under rather than municipal platving and planning requirements.

Sincerely,

Gerald L. Sharp  
City-Borough Attorney

GLS: jr

cc: Rep. Joseph Chuckwuk, Vice-Chairman  
Rep. Ben F. Grussendorf  
Rep. Vernon L. Hurlbert  
Rep. Sally Smith  
Rep. Anthony N. Vaska  
Rep. Ramona L. Barnes  
Rep. Robert H. Bettisworth  
Rep. Richard W. Halford  
Rep. Eric G. Sutcliffe  
Ginny Chitwood, Executive Director, AML  
James Wakefield, Assemblyman



## THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

LAW DEPARTMENT (907) 586-3300

March 13, 1981

House Resources Committee  
Pouch V  
Juneau, Alaska 99811

File: 1981 Legislature - HB 31  
Subject: Proposed Committee Substitute for SSHB 31

Ladies and Gentlemen:

Some of the provisions which your special subcommittee on SSHB 31 have agreed to and the problems which the subcommittee failed to deal with will leave municipalities with more problems than those which have been solved.

Alaska Statute 29.18.204 provides that the entitlements provided in AS 29.18.201 are "vested property rights which must be fulfilled as provided in AS 29.18.205 or 29.18...08." A reasonable definition of "vested property right" in this context certainly would not include what the subcommittee proposes in relation to withholding patents until the municipality has made available 20% of its entitlement for disposal under the State programs. The State would reduce each municipality's entitlement by 20% and would significantly delay the date upon which the municipality would otherwise be entitled to patent to its selections. The subcommittee's proposal would simply destroy the vested property rights given to municipalities under the Municipal Land Entitlement Act. It is probably a gross understatement to suggest that most municipalities would feel betrayed if this part of the subcommittee proposal becomes law.

The subcommittee proposal is an entirely new program aimed at land disposals. It seems that we have had a enough new land disposal programs over the last four or five years to have learned by now that each time we come up with a new land disposal program we encounter new and substantial problems and conflicts. Rather than back up and re-examine the assumptions upon which the land disposal program was based and attempt to work out solutions in light of more realistic assumptions we establish a new program or make a radical change to an existing program. This approach almost guarantees new problems and conflicts which will send us back to the drawing boards to devise another new program. I urge you not to continue this fruitless and frustrating cycle by creating yet another mandate-based land disposal program. The one which is proposed has all the earmarks of a plan which will destroy the cooperative atmosphere which presently exists between DNR and the municipalities.

Instead of "encouraging" municipalities to dispose of land by threatening them with a big stick, why not encourage land disposal through a land disposal assistance program? If land disposal is a truly high priority of the legislature, is there any reason the legislature should not provide assistance to another public agency, such as a municipality, which can, through such assistance, help the State meet its goals? The legislature seems quite willing to place

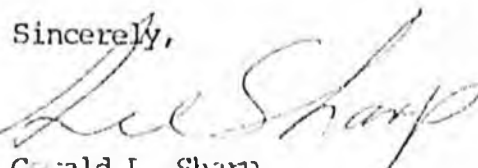
March 13, 1981

millions of dollars into various loan programs which are designed primarily to help citizens buy housing, boats, etc.; it would seem to be equally or more appropriate for the legislature to provide loans or other assistance to municipalities for the purpose of subdividing and disposing of municipal land so that the needs of individuals for land in our communities can be met. I strongly urge you to abandon the municipal disposal mandate approach and adopt instead a program of assistance for accomplishing patent surveys along with a grant or loan program to assist municipalities in meeting the costs of subdivisions. If a loan program is established to assist municipalities in meeting subdivision costs, a condition of that program could be that the municipality would be required to convey to the State a certain number of lots within a State assisted subdivision. The State, in turn, would deduct from the balance due on the loan an amount equal to the market value of these lots. The State could then dispose of such lots under any of its disposal programs.

It is also disappointing to note that the subcommittee did not deal with the problem of the loss of municipal entitlement arising out of a rejection of a selection by the Department of Natural Resources. Also, the subcommittee recommendations do not address the water access easement problem which already has two municipalities in court. Both of these matters are addressed in my letter of February 25, 1981 to the committee on the subject of suggested amendments to SSHB 31.

I urge you to take the course of action which will permit rational, planned, cooperative land disposals designed to meet the actual needs of communities rather than a course of action which will produce coerced and ill conceived land disposals which are not necessarily designed to meet the actual needs of any particular community.

Sincerely,



Gerald L. Sharp  
City-Borough Attorney

GLS: jr

cc: Rep. Fred F. Zharoff, Co-Chairman  
Co-Chairmen  
Rep. Perry Gardner, Co-Chairman  
Rep. Joseph Chuckwuk, Vice-Chairman  
Rep. Ramona L. Barnes  
Rep. Robert H. Bettisworth  
Rep. Ben F. Grussendorf  
Rep. Richard W. Halford  
Rep. Vernon L. Hurlbert  
Rep. Sally Smith  
Rep. Eric G. Sutcliffe  
Rep. Anthony N. Vaska  
Ginny Chitwood, Executive Director, AMI.

# League of Women Voters of Alaska

February 28, 1981

Dear Chairpersons Gardner and Zarhoff  
Members of the Resources Committee:

The League of Women Voters would like for you to have a copy of our Land Use position. The League has two immediate concerns. 1) the repeal of the mandated disposal of 100,000 acres of state land yearly and 2) repeal of the exemption from municipal or local sub-division requirements for state land disposed of within municipalities.

In general we believe that the purpose of the State land disposal program should be to:

- regulate patterns of growth and development
- regulate certain land for public uses
- consider the requirements of future generations
- provide a mixed balance between public and private uses
- get land into private ownership
- encourage the use of land by sale, permit, or lease
- develop land for homesites.

Should you have any specific question on the League's Land Use Position please feel free to contact Jeanne Sande, Natural Resources Chair in Ketchikan 225-5233 or me at 465-4070.

Sincerely,

*Margaret E. Holland*

Margaret E. Holland  
Action Chair  
8926 Birch Lane  
Juneau, Alaska 99801

# Land Use

STATEMENT OF POSITION: The League of Women Voters of Alaska supports the concept of a State Land Use Board with authority to carry out good land use planning; the formulation, implementation, and enforcement of a comprehensive plan for the use of all lands in the State of Alaska; the ensuring of coordination and cooperation among state, federal, and private land owners; and the establishment of geographical regional planning.

The League of Women Voters of Alaska believes the essential elements of comprehensive land planning should be to:

- include citizen participation, education, communication and on-going evaluation
- provide the public with alternatives and with possible consequences of their choices
- compile and catalog resource inventories to aid in land use decisions and to be available to all citizens when preparing impact statements, appeals, and testimonies
- identify and plan for areas of critical concern to the State and for areas where land use decisions have statewide impact
- research and establish innovative resource management systems and cooperative uses of the land
- evaluate social, environmental and economic impact prior to any major public or private development or disposal
- formulate land policy to ensure optimum use of the land after considering environmental, social, and economic interests as well as all available information concerning each area
- put responsibility for making and enforcing land use decisions on the lowest level of government immediately concerned with the land question.

AMPLIFICATION: The composition of the Land Use Board should include:

- representatives of each major geographical region
- people who are knowledgeable and representative of the social, economic, environmental and political factors involved
- ex-officio members from federal agencies to ensure communication among concerned agencies.

The League of Women Voters further recommends that an appeals or arbitration procedure be established.

Established 1975  
League of Women Voters of Alaska  
Rewritten/Concurrence 1979

STATEMENT OF POSITION - LAND DISPOSAL: The League of Women Voters of Alaska feels the purpose of the State land disposal program should be to dispose of land within specific parameters. Disposal programs should allow for a variety of land uses maintaining program continuity from year to year including adequate administration and enforcement costs in land price. Continued emphasis should be placed upon requiring land inventories, comprehensive land use plans, and public involvement. League members believe that a fair exchange value is an important aspect of State land pricing policy with investment returns from State lands going primarily to State or municipal governments.

AMPLIFICATION: The purpose of the State land disposal program should be to:

- regulate patterns of growth and development
- retain certain land for public uses
- consider the requirements of future generations
- provide a mixed balance between public and private uses
- consider the integrity of the land itself and reserve the unique features for appropriate uses and use appropriate disposal methods
- encourage the use of land by sale, permit, or lease
- get land into private ownership
- develop land for homesites.

All land disposal programs must require a land inventory and a comprehensive land use plan which includes coordination and compliance with State and local land use plans, subdivision requirements, and where necessary, protection of the right to access. Public involvement is essential in the selection of land to be disposed of, types of uses to be allowed on the land, and methods of disposal. It is essential that some program continuity be maintained from year to year, allowing for revision when necessary, and enabling people to know in advance when and what land will be offered for sale.

Methods of disposal favored by the League of Women Voters of Alaska include:

- varied lot sizes
- agricultural sales
- favorable State financing
- comprehensive leasing program
- permit process
- sale by auction and lottery
- remote parcel
- land discounts
- State low interest loan fund for land development.



# Alaska State Legislature

## House of Representatives

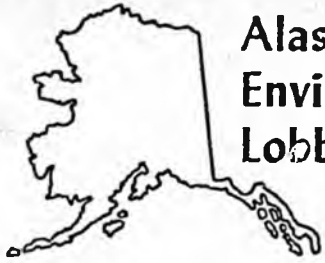
February 27, 1981

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

TO: All Members House Resources  
FROM: Representative Mike Beirn *MB*  
REGARDING: House Bill 2

Attached is a copy of House Bill 2 relating to the disposal of state land in the Land Bank. This bill is currently in your committee and I would appreciate its consideration since you are presently discussing other land related bills.



**Alaska  
Environmental  
Lobby**

419 6th St., Suite 321  
Juneau, Alaska 99801

586-2345

To: All House Members

May 6, 1981

From: Roland Shanks

Subject: HB 31

We have supported the reform of the land disposal system during this session. We have sot the removal of the quota, the restructuring of the classification system to provide more protection for public use areas, and to provide more local input into the disposal process. We would urge you to support any amendments that help reach these ends. We would ask your support in the passage of a land disposal reform bill during this session. We have particapated in the committee work on HB 31 and to the extent that it addresses our concerns we support it. We would appreciate your support in the passage of HB 31.

Sincerely

Roland Shanks

# Alaska MUNICIPAL League

TELEPHONES  
(907) 586-1325  
586-6526

204 N. FRANKLIN ST.  
JUNEAU, ALASKA 99801

March 12, 1981

to: House Resources Committee  
from: Ginny Chitwood, AML Executive Director  
re: Proposed amendments to HB 31

Alaska municipalities are in favor of disposing of a large portion of their entitlements for residential purposes, but they object to mandated percentages and terms. Rather than mandating disposal this session in HB 31, with its inherent two year delay of getting land out, why not simply require that municipalities submit plans for disposal as described by Section 1 of HB 31? At this time next year you can evaluate whether or not further legislative action needs to be taken. Up to this point in time, most of the municipalities have received very little of their entitlements. Before changing the ground rules again, please give them an opportunity to respond voluntarily.

Copied below is a telegram on this subject from the Haines Borough.

TO HOUSE RESOURCES COMMITTEE

REGARDING HB31 MUNICIPAL LAND SELECTION

THE HAINES BOROUGH BALKS AT THE RESTRICTIONS THAT WOULD BE PLACED ON THEM IF HB31 PASSES. WE REJECT THE IDEA THAT THE STATE DICTATE HOW WHEN AND WHERE TO DISPOSE OF LANDS. WE DO NOT WANT TO INHERIT THE PROBLEMS OF THE STATE DISPOSAL SYSTEM. WE NEED TO DEVELOP OUR OWN DISPOSAL POLICY. IF HB31 PASSES, YOU WILL IN EFFECT BE NEGATING THE MUNICIPAL LANDS ENTITLEMENT ACT. LEAVING THE STATE WITH OVERALL CONTROL OF LAND DISPOSAL. WE WHOLEHEARTEDLY REQUEST OPPOSITION TO HB31.

R E HENDERSON, MAYOR

HAINES BOROUGH

For an Act entitled: "An Act relating to the sale of State lands, and providing for an effective date."

Section 1. AS 38.04.020 is repealed and re-enacted to read:

Sec. 38.04.020. LAND DISPOSAL BANK. (a) The Commissioner shall establish a land disposal bank containing State land suitable for disposal of fee simple title (including special limitations or conditions subsequent thereon) into private ownership.

(b) The land disposal bank includes all State land except

(1) lands nominated for selection or selected by a municipality to satisfy a general grant land entitlement under AS 29.18.201 - 29.18.213;

(2) lands retained in State ownership for multiple use management (including conveyance of interests less than fee simple title); and

(3) lands retained in State ownership through a designation for an express purpose by the Legislature, the Governor or a State agency, under authority of law.

(c) Lands to be retained in State ownership shall be identified through classification by the commissioner into one or more multiple use management categories under the procedures in AS 38.05.300. Lands within municipalities retained in State ownership consist of those so classified as of December 31, 1980. Lands outside municipalities to be retained in State ownership consist of those so classified by the commissioner by July 1, 1983. Lands conveyed to the State by the federal government which are to be retained in State ownership consist of those so classified by the commissioner within two years of receipt of tentative approval or patent, whichever comes first. All State lands not classified for retention in State ownership pursuant to this section in accordance with the applicable deadline shall be classified and included in the land disposal bank, except that the commissioner shall insure that the bank includes at least 500,000 acres.

(d) Annually on January 15, the commissioner shall submit a report to the Legislature dividing lands in the land disposal bank into the following categories:

- (1) lands suitable for remote parcel disposal;
- (2) lands suitable for subdivision disposal; and
- (3) lands suitable for agricultural, commercial, or industrial disposal.

(e) Disposal of land in the land disposal bank during each fiscal year must be based upon an assessment by the commissioner of the current needs and anticipated uses of state land in the different regions of the state. The assessment must be completed each year, in writing. It must identify areas where land values are artificially inflated and include a survey of the supply of land in private ownership currently on the market, plans for the disposal of municipal land which have been submitted under AS 38.05.048, and the amount of federal land available for disposal through sales, leases, or permits for specific activities. The assessment of ~~demand~~<sup>needs</sup> for State land shall be based on an analysis of demand for land offered for a variety of purposes under terms equivalent to

those available under comparable State land disposal programs. The assessment must include findings regarding the amount of state land which is necessary to meet the statewide demand for three fiscal years immediately after the year in which the assessment is made. The assessment must also include the general location of land to be disposed of and recommendations for the methods of disposal and terms under which the land will be offered to the public.

(f) The commissioner shall annually submit to the governor a request for the disposal of state land in the land disposal bank together with the estimated costs thereof, which shall be included in the budget submitted to the legislature by

the governor. The request shall include the following:

(1) An estimate of the amounts necessary for identification, survey, and disposal of lands proposed to be made available for remote parcel staking for the succeeding fiscal year, together with the general location of said lands.

(2) An estimate of the amount necessary for survey, and disposal of lands to be offered as agricultural, commercial, or industrial land under AS 38.05.055 or AS 38.05.057 during the succeeding fiscal year, together with the general location of said lands.

(3) An estimate of the amounts necessary for the survey, and disposal of lands proposed to be offered as subdivisions, together with the location thereof. In addition, there shall be included separate estimates of the amounts necessary for preliminary feasibility studies, engineering design work, and construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of the platting board under AS 29.33.150. If an accurate determination of the amounts necessary for said access roads or capital improvements cannot be made at the time the estimate is submitted, a schedule for obtaining the estimates, constructing the access roads or capital improvements, and disposing of the land shall be submitted.

(4) An estimate of the amounts necessary for identification of lands which will be proposed for disposal under this subsection in future fiscal years.

(g) After July 1, of each year, the commissioner shall direct the expenditure of such funds as are appropriated for the disposal of lands in accordance with the instructions attached to the budget, including those relating to scheduling of disposals.

(1) Lands designated remote parcel shall be classified surveyed in accordance with 38.04, 38.05, and, after procedures required by law, made available for staking and lease under AS 38.05.077.

(2) Lands designated subdivision shall be surveyed, subdivided, and classified and, after procedures required by law, disposed of as follows:

(A) up to 80 per cent of the parcels shall be sold under the procedures for lottery sale specified in AS 38.05.057 and 38.05.065;

(B) at least 10 per cent of the parcels shall be disposed of as homesites under AS 38.08; and

(C) at least an additional 10 per cent of the parcels shall be disposed of as homesites under AS 38.08, except that notwithstanding AS 38.08.040(b),

parcels offered under this paragraph shall be offered by lottery under AS 38.05.057.

(3) Lands designated agricultural, commercial or industrial shall, after procedures required by law, be sold under AS 38.05.055 or 38.05.057.

(h) Individual parcels disposed of in subdivisions may not exceed 5 acres unless the commissioner finds that a larger size is necessary to permit the design of a viable subdivision because of site-specific topographical features, soil conditions, on-site sewage disposal requirements, or water drainage or supply considerations.

(i) Nothing in this section prevents the sale of other lands not in the land bank by the commissioner in accordance with AS 38.05.055, 38.05.057, or other laws, or the issuance of remote cabin permits under AS 05.079 or homesites under 38.08 or a lease pursuant to 38.05.070.

(j) A person or a government agency may nominate lands retained in State ownership for inclusion in the land disposal bank, or lands in the bank for retention in State ownership. The commissioner shall hold public hearings semi-annually to take nominations of State land under this subsection. Any transfer of land from retention in State ownership to the

land disposal bank, or vice versa, shall be accomplished through a classification order under the procedures in AS 38.05.300 and 38.05.345. The commissioner shall make a written finding within six months following a nomination if he determines that land nominated will not be classified or reclassified as requested.

(1) The commissioner may withdraw from the land disposal bank state land that has been offered for disposal but not conveyed within five years after inclusion in the land disposal bank. State land withdrawn from the land disposal bank under this section must be reclassified in compliance with AS 38.04.065.

Section 2. AS 38.04 is amended by adding a new subsection to read:

Sec. 38.04.021. IDENTIFICATION AND DISPOSAL OF MUNICIPAL ENTITLEMENT LANDS. (a) Notwithstanding AS 29.18, the commissioner shall refrain from issuing patents to municipalities for approved selections under AS 29.18 except in accordance with the procedures set forth in this section.

*May to amendment*

(b) The commissioner shall initiate, with each municipality entitled to receive lands under AS 29.18, a review of selections for which patent has not been issued as of the effective date of this Act. By July 1, 1982, the commissioner and each municipality shall jointly designate 20% of said lands which are most suitable for disposal into private ownership. A municipality may substitute land patented as of the effective date of the Act with the concurrence of the commissioner. If, by July 1, 1982, the commissioner and a municipality cannot agree on the lands to be designated, the commissioner shall make the designation. By September 1, 1982, the commissioner shall certify the legal descriptions of the lands designated and include them as a special category of lands in the land bank. Said lands shall be made available for disposal in accordance with AS 38.04.020(d)-(h), except that none shall be proposed for remote parcel disposal. Said lands are not subject to AS 38.04.020(j).

(c) On January 15, 1983 and annually thereafter, the commissioner shall submit to the governor an appropriations request sufficient

to survey all approved selections not patented, not designated under (b) of this section, and in need of survey under AS 29.18.207, which request shall be submitted by the governor to the legislature along with the budget. Upon receipt of an appropriation for this purpose, the commissioner shall survey the lands and issue the patents as expeditiously as possible. For approved selections not designated under (b) of this section and not in need of survey under AS 29.18.207, the commissioner shall issue patents by September 1, 1982.

(d) Upon disposal of land designated under (b) of this section, the commissioner shall make a partial assignment to the municipality in which the land resides of any receipts from the land sale contract relating to the value of the land without improvements.

(e) Notwithstanding (a) - (d) of this section, the commissioner may issue patents for approved selections otherwise in conformity with AS 29.18 if:

(1) the land to be patented is for an essential public facility or purpose for which there is an immediate need, as determined by the commissioner;

(2) the land has been scheduled and formally advertised for disposal by a municipality pursuant to its own land disposal program; or

(3) if the amount of land patented to a municipality is less than 10% of its entitlement as of the effective date of this act, and the municipality requests an amount of patented land sufficient to bring it to the 10% level.

Section 3. AS 38.04.055 is amended to read:

Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The director shall reserve easements and rights-of-way on and across land which is made available for private use as necessary to reach or use public water and public and private land. An easement or right-of-way reserved under this section may include established trails traditionally used for commerce, recreation, or transportation.

Section 4. AS 38.05.035(a)(14) is amended to read:

(14) when he makes a written finding that the interests of the state will be best served, he may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available lands, resources, property or interests in them, and, in addition to the conditions and limitations in the contracts as he, with the consent of the commissioner, determines will best serve the interests of the state; and no contract for the sale, lease, or other disposal of available lands or interests in them, is legally binding on the state until the commissioner formally records his consent to the contract; but if the appraised value is not greater than \$50,000 (\$10,000) in the case of the sale of land or an interest in land, or \$5,000 (\$1,000) in the case of the annual rental of land or interest in land, the director may approve and issue

the contract without the consent or approval of the commissioner; the (. THE) written finding shall be available to the public upon request; before (. BEFORE) a public hearing, if held, or in any case no less than 21 days before the sale, lease, or other disposal of available land, property, resources, or interests in them, the director shall make available to the public a written decision in which he sets out the facts and applicable law upon which he based his determination that the sale, lease, or other disposal will best serve the interests of the state; a written finding is not required before the approval of (A) a contract for a negotiated sale authorized by AS 38.05.115, (B) issuance of a permit under AS 38.05.330, or (C) the lease of land for a shore fishery site under AS 38.05.082.

Section 5. AS 38.05.035(b) is amended by adding new paragraphs to read:

(7) convey to an adjoining land owner a parcel of land created by a highway right-of-way alignment or realignment or a parcel created by the vacation of a state-owned right-of-way if

(A) he determines that it is in the interest of the state;

(B) the parcel does not exceed one acre; and

(C) the director and the platting authority having land use planning jurisdiction agree that conveyance of the parcel to the adjoining land owner will result in boundaries which are convenient for the use of the land by the landowner and compatible with municipal land use plans.

(8) for good cause extend the time for rental or installment payments by a lessee or purchaser of state land under this chapter if reasonable penalties and interest set by the director are paid.

Section 6. AS 38.05.035 is amended by adding a new subsection to read:

(c) a parcel of land may be conveyed under (b)(7) of this section without classification or reclassification under AS 38.05.300 but the parcel must be sold at its fair market value as determined by the director on the basis of an appraisal completed under AS 38.05.310.

Section 8. AS 38.05.050 is repealed and reenacted to read:

Sec. 38.05.050. DETERMINATIONS BEFORE DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The commissioner, upon recommendation of the director, shall determine the land to be disposed of for private use. The director shall determine the time and place of disposal. An auction sale, a lottery sale, or a

disposal of land for homesites under AS 38.08 must be held in the municipality that is closest to the land to be sold or disposed of and in which regular sessions of the superior court are held.

Section 9. AS 38.05.055 is amended to read:

Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method of sale is authorized under this chapter, under AS 38.07, or under (EXCEPT AS PROVIDED IN AS 38.05.057, 38.05.315(d), AND) AS 38.08, the sale of state land shall be made at public auction to the highest qualified bidder as determined by the director. A bidder must appear in person at the auction unless medical reasons prevent attendance. However, a bidder may be represented by an attorney or agent at the auction if the land offered for disposal is classified as commercial, industrial, or agricultural land. An aggrieved bidder may appeal to the commissioner within five days after the sale for a review of the director's determination. The sale shall be conducted by the director or his representative, and at the time of sale the successful bidder shall deposit an amount equal to five percent (ONE-TENTH) of the purchase price, or if the purchaser elects to use land discounts granted under AS 38.05.058, five percent of the amount bid after deduction of the discount. The director or his representative shall immediately issue a receipt containing a description of the land or property purchased, the price bid, the amount

deposited, and the amount of any discount allowed (TERMS OF SALE), which receipt shall be acknowledged in writing by the bidder. (A CONTRACT OF SALE ON A FORM APPROVED BY THE ATTORNEY GENERAL SHALL BE SIGNED BY THE PURCHASER AND, AFTER APPROVAL OF THE COMMISSIONER, THE CONTRACT SHALL ALSO BE SIGNED BY THE PURCHASER AND, AFTER APPROVAL OF THE COMMISSIONER, THE CONTRACT SHALL ALSO BE SIGNED BY THE DIRECTOR ON BEHALF OF THE STATE.)

Section 10. AS 38.05.057(a) is amended to read:

(a) The commissioner may dispose of land, including land limited to use for agricultural purposes, by lottery. The purchase price of land sold by lottery shall be the fair market value of the land as determined by the commissioner (BUT MAY NOT BE LESS THAN \$400 PER ACRE, OR, IF THE LAND IS LIMITED TO USE FOR AGRICULTURAL PURPOSES, THE PURCHASE PRICE MAY NOT BE LESS THAN \$100 PER ACRE). The commissioner shall (MAY) sell land by lottery for less than the fair market value of the land if he determines that scarcity of land for private use in the area of the land to be sold has resulted in unrealistic land values. Before the commissioner determines the purchase price for land which is located in a municipality and which is to be sold under this section, he shall consult with the assessor of the municipality. The lottery shall be conducted in public by the commissioner or his representative and an applicant may not be selected to purchase land unless he is present on the date and at the place that the lottery is conducted unless medical reasons prevent attendance.

However, an applicant may be represented by an agent on the day of the lottery if the land offered for sale is classified as commercial, industrial, or agricultural land. On (,AND AT) the day of the lottery (TIME OF SIGNING A CONTRACT OF SALE) a purchaser selected by lot shall deposit an amount equal to five percent of the purchase price, or if the purchaser elects to use land discounts granted under AS 38.05.058, five percent of the (DISCOUNT) purchase price after deduction of the discount.

Section 11. AS 38.05.077(a) is amended to read: ,

(a) The commissioner shall, under the procedures required by AS 38.04.020, 38.05.300, (AND) 38.05.305, and 38.05.345, classify state land which is suitable for disposal as remote parcels. The commissioner shall designate remote parcel selection areas consisting of land classified under this section. The commissioner (shall) may set the number of remote parcels that may be selected in each remote parcel selection area. A remote parcel may not exceed 40 acres. (THE COMMISSIONER SHALL DETERMINE FOR EACH REMOTE PARCEL SELECTION AREA, THE AMOUNT OF LAND IN EACH REMOTE PARCEL THAT MAY BE USED FOR RESIDENTIAL PURPOSES. LAND WHICH MAY BE USED FOR RESIDENTIAL PURPOSES IN A REMOTE PARCEL MAY NOT BE LESS FOR RESIDENTIAL PURPOSES IN A REMOTE PARCEL MAY NOT BE LESS THAN TWO ACRES AND MAY NOT EXCEED FIVE ACRES.)

Section 12. AS 38.05.077(c) is amended to read:

(c) A person who qualifies under (g) of this section may apply (UNDER THE PROCEDURES SET OUT IN AS 38.05.057) to lease a remote parcel in a parcel selection area designated by the commissioner under (a) of this section if he has staked the exterior boundaries of the remote parcel in accordance with the parcel selection procedures established under (b) of this section during an entry period established by the commissioner. A (EACH) person (WHO IS ENTITLED TO SELECT A REMOTE PARCEL) may enter a remote parcel selection (THE) area (FOR WHICH HE APPLIED) to stake the boundaries of a remote parcel. A person shall select a remote parcel in person and may not be represented by an attorney or agent.

Section 13. AS 38.05.077(d) is amended to read:

(d) Not later than 15 days after (SELECTION AND) staking the exterior boundaries of a remote parcel, the person who staked (SELECTED) the parcel shall file a sketch plat with the department which shows the location of the remote parcel (AND THE LOCATION OF THE LAND IN THE PARCEL THAT HE INTENDS TO USE FOR RESIDENTIAL PURPOSES). At the time of filing the sketch plat, the person who staked (SELECTED) the parcel shall apply to lease the land. An application to lease the land shall be on a standard form prepared by the department.

The annual rental payment for the first year of the lease shall be submitted to the department with the application. After the application to lease a remote parcel is approved, the commissioner shall offer to lease the land to the person who staked (SELECTED) the remote parcel. A lease granted under this section shall contain the following terms:

- (1) a remote parcel may be leased for five years;
- (2) a remote parcel lease may be renewed at the option of the lessee for a second five-period period under the same terms as provided for the first five-year period of the remote parcel lease and
- (3) a rental payment shall be paid annually and shall be \$10 an acre (\$150 A YEAR FOR FIVE ACRES OR LESS PLUS \$50 FOR EACH ACRE BY WHICH THE REMOTE PARCEL EXCEEDS FIVE ACRES).
- (4) Unless the land is surveyed, the lessee shall, within one year of approval of the lease application and continuously for the lease period, physically delineate the boundaries of the parcel so that they are readily visible from the ground and from the air unless obscured by vegetation overstory or canopy.

Section 14. AS 38.05.077 is amended by adding a new subsection to read: