

2159 HCRA COMMISSIONER CONFIRMATION HEARING (FILE 2 - 3)

roll of assessed property values to the Valdez City administration. On March 23, 1981, Randell discussed the figures with Lewis. Randell states that during that conversation he acknowledged that another appraiser might come in with different figures but held that the figures he had submitted were his best estimate of full and true value. Randell followed this conversation up with a March 31, 1981 letter to Lewis which DOR has included in their report as Exhibit F. Sometime in the middle or end of March, Lewis caused the values of most non-oil or gas related properties in the city to be reduced 15 percent.

In late March 1981, the tax notices were mailed to property owners at the reduced values. Twenty appeals were filed and Randell participated on the Board of Equalization hearings on these appeals in June 1981. Randell was aware at this time that the values had been reduced and he did not protest.

In late August 1981, Randell was reminded by the city that he had not submitted a formal letter certifying the tax roll as true and correct. On September 1, 1981, Randell wrote a letter to Lewis (Revenue Exhibit A) certifying the tax roll for 1981 as true and correct. Randell said that in his own mind he was certifying his original figures as true and correct, but he acknowledges that given his knowledge that the values had been reduced and the fact that he worked with the reduced figures at the Board of Equalization without protest, it was a reasonable assumption on the part of the city to believe he was certifying the reduced figures.

After examination of the sequence of events, I believe it could reasonably be held that Randell did certify the lower figures. This concurs with the report by DOR and the opinion by the Department of Law and supports the contention that the reduction of property values as handled and administered by Mark Lewis was legal.

Alaska State Legislature

Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szymanski



Room 104
State Capitol
Juneau, Alaska 99811
Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

TAB 4 - VALDEZ PERSONNEL POLICY CHANGE

Alaska State Legislature

Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szymanski



Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs
FROM: Staff
DATE: May 12, 1983
RE: Personnel Policy Change

Allegation: Four months after announcement of Mr. Lewis' departure, and two months prior to his actual departure, Mr. Lewis changed city personnel rules which resulted in his being paid an additional \$6,174 in compensation for accrued sick leave.

Alaska Statute: 29.23.555. "Each home rule and general law municipality shall adopt a conflict-of-interest ordinance which, other provisions of this chapter notwithstanding, includes provision that an officer or employee shall disqualify himself from participating in any official action in which he has a substantial financial interest. If a home rule or general law municipality fails to adopt such a conflict-of-interest ordinance within 90 days from September 10, 1972, the conflict-of-interest provision of this section is automatically applicable to and binding upon that municipality."

Discussion: Mr. Lewis followed the recommendations of a committee by changing the personnel rules. In that a 1971 ordinance requiring council approval of such an action had not been properly codified, it is understandable that Mr. Lewis believed that he was acting within his delegated authority under city code. The inclosed report by the Valdez City Attorney states that the change of personnel policy by Mr. Lewis was not in accordance with city code or state statutes.

compensation for service to the municipality. Per diem payments or reimbursements for expenses are not compensation under this section. (§ 2 ch 118 SLA 1972)

ALR and C.J.S. references.—Effect of illegality of appointment or compensation, 7 ALR 1682.

Actions for compensation by de facto officers, 93 ALR 258. 62 C.J.S. Municipal Corporations §§ 522, 541.

Mandamus to compel appropriation for payment of salaries of public officers, 81 ALR 1253.

Sec. 29.23.540. Prohibitions. (a) No person may be appointed to or removed from municipal office or in any way favored or discriminated against with respect to a municipal position because of his race, color, sex, creed, national origin or, unless otherwise contrary to law, because of his political opinions or affiliations.

(b) This section applies to home rule and general law municipalities. (§ 2 ch 118 SLA 1972)

Sec. 29.23.550. Personnel system. All appointments and promotions of municipal officers and employees are made on the basis of merit. The assembly or council may provide for a personnel system. (§ 2 ch 118 SLA 1972)

Sec. 29.23.555. Conflict of interests. Each home rule and general law municipality shall adopt a conflict-of-interests ordinance which, other provisions of this chapter notwithstanding, includes provision that an officer or employee shall disqualify himself from participating in any official action in which he has a substantial financial interest. If a home rule or general law municipality fails to adopt such a conflict-of-interests ordinance within 90 days from September 10, 1972, the conflict-of-interests provision of this section is automatically applicable to and binding upon that municipality. (§ 1 ch 147 SLA 1972)

Effective date.—Section 11, ch. 147, SLA 1972, provides that this Act takes effect September 10, 1972.

Sec. 29.23.560. Reports. (a) Home rule and general law municipalities shall file with the Department of Community and Regional Affairs:

- (1) maps and descriptions of all annexed or excluded territory;
- (2) a copy of the annual audit or in the case of second class cities an audit or statement of annual income and expenditures;
- (3) tax assessment figures as requested;
- (4) reports relating to long-term debt as provided in AS 44.19.205.

(b) Compliance with the provisions of this section is a prerequisite to receipt of state shared-revenues under AS 43.18. The state shall withhold annual allocations under that chapter in the event of

noncompliance with.

Effect of amendment, substituted "

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Sec. 2 shall be council heard a rule and

MEMO

City of
Valdez, Alaska Box 307, 99686

To Mark Lewis

Date April 12, 1982

Subject Personel Leave vs. sick
and annual leave

From P.M. Shelv

I am respectfully submitting, for your consideration, a plan that would propose the change of sick and annual leave into personal leave.

This change would effect city personnel regulations 6.1 Annual Leave, 6.102 Computing Leave Accural, 6.2 Sick Leave

The City of Valdez now accures annual leave at the following rate:

1½ days per month for less than 2 years
1 ¾ days per month for 2 years but less than 5 years
2 days per month for 5 years but less than 10 years
2½ days per month for more than 10 years
Sick leave accures at the rate of 1½ days per month.

My proposal would ask that be changed to personal leave and accure at the following rate.

2 days for under 2 years
2½ days for 2 to 5 years of service
2½ days for 5 years but less than 10 years of service
3 ¼ 3 days for more than ten years of service

There are other things that are effected and need answers. However, I would propose that a committee of four or five people be appointed by you to spend time answering those questions and make recommendations to you. An example of other things is what to do with people who now have sick leave. One alternative would be to take 60% of the sick leave and put that into personal leave and surrender the rest. I believe that 4 or 5 people spending 1 day on this would resolve all the questions.

I am attaching the State plan for this proposal and the State Troopers plan. They are identical.

Thank you for your consideration and I would volunteer to serve on the committee if you felt that appropriate.

MEMO

City of
Valdez, Alaska Box 307, 99686

To PAT SHELY, G. ZOET,
MARTY RUTHERFORD, SHIRLEY
SCOTT, LEE SCHLITZ

From MARK LEWIS, City Manager

Date April 12, 1982
Subject Personal Leave

I have reviewed Mr. Shely's proposal to change the city's leave program and believe it has a significant amount of merit.

The plan, I believe, would eliminate the misuse of sick leave, while rewarding those employees with excellent attendance records and habits.

You are to meet and review the proposed leave plan, amend it if necessary and have a final report - including implementation plan - by April 14th.

ML:ss

HUGHES THORSNESS GANTZ
POWELL & BRUNDIN

ATTORNEYS AT LAW

200 CHENEGA STREET

P.O. BOX 787

VALDEZ, ALASKA 99686

TELEPHONE (907) 835-2988

JOHN C. HUGHES
OF COUNSEL

509 WEST THIRD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 274-7522
CABLE ADDRESS: DENALI
TELECOPIER: 274-7525
TELEX: 090-26367

3550 AIRPORT WAY, SUITE 265
FAIRBANKS, ALASKA 99701
TELEPHONE (907) 479-3161
CABLE ADDRESS: DENALI
TELECOPIER: 479-8478
TELEX: 090-36624

DAVID H. THORSNESS
RICHARD G. GANTZ
JAMES M. POWELL
BRIAN J. BRUNDIN
MARCUS R. CLAPP*
KENNETH P. JACOBUS
GARY W. GANTZ
JERRY E. MELCHER
JOE M. HUDDLESTON
SIGURD E. MURPHY
RICHARD D. THALER
CARL J. D. BAJMAN
FRED S. ARVIDSON
DENNIS M. BUMP*
MARY K. HUGHES
FRANK A. PFIFFNER
RALPH R. BEISTLINE*
GORDON J. TANS*
R. CRAIG HESSER
ROBERT L. MANLEY

JAMES M. GORSKI
TIMOTHY R. BYRNES
JAMES M. SEEDORF
RONALD E. NOEL*
PAUL J. ERICKSON
FREDERICK J. COSEN
MICHAEL L. NESSMEIER*
STEVEN S. VERVOOREN
MATTHEW K. PETERSON
JOSEPH R. D. LOESCHER
JAMES F. KLASSEN
KENNETH D. LONGEE*
KENNETH F. BRITAIN
DAVID H. MERSEREAU
CORY A. CARLSON
EARL M. SUTHERLAND
CRAIG A. CARLSON
W. RANDALL ENSMINGER*
JAMES E. RAMSEY
JOSEPH S. SLUSSER*

*FAIRBANKS OFFICE
*VALDEZ OFFICE

August 25, 1982

Mayor and City Council
City of Valdez
P.O. Box 307
Valdez, Alaska 99686

RE: Personnel Rule Changes
Our File No. 00925/0001

Dear Gentlemen:

At the August 20, 1982 Special Council Meeting I was requested to report on the effect of the personnel rule changes recently instituted by the former city manager. It is apparent that the changes were not made in accordance with State and local laws.

A question was raised at the council meeting regarding whether the \$2,000 limit on purchasing without council approval contained in Section 20-3 of the code applies to this situation. It does not. It only applies to contracts for the purchase of supplies, materials, equipment or contractual services. Contractual services is defined to mean "services performed for the city by persons not in the employment of the city." This limit, therefore, does not apply.

There have been several changes to the personnel regulations over the years. In 1977 a change was made in the schedule of paid holidays. In December 1981 a change was made to Section 6.103 regarding the accumulation and use of leave. And on April 14, 1982, the change in question was made which converted 60% of accumulated sick time to personal leave and eliminated entirely the categories of annual and sick leave, creating the personal leave category in their stead. None of these changes as far as I've been able to determine were brought before the council for its approval.

The City Code, as published, states that the City Manager has the power to make the rules and regulations relating to compensation and leave. Section 2.6 provides in part:

"The city manager shall have the power to make rules and regulations relating to hiring and discharge, working conditions, hours and terms of employment, retirement and insurance plans, classification, compensation, leave and the like of all the employees of the city....

These rules and regulations shall be on file and available for inspection in the office of the city clerk and shall also be available in booklet or pamphlet form entitled "City of Valdez - Personnel Regulations."

The above language was approved by the city council in Ordinance No. 7111. A second section of Ordinance No. 7111, however, provides that "Initial adoption of the personnel rules and future amendments thereto, shall be approved by resolution of the City Council." For some reason that section of the ordinance never made it into the code book after its adoption in 1971. Although there are arguments to the contrary, it is my opinion, after a brief amount of research on the question, that the section requiring council approval was duly enacted and is the law of Valdez even though it was not published in the code.

It can readily be seen, however, that if one were unaware of the unpublished portion of Ordinance No. 7111 and looked only to the code for an answer regarding the authority of the city manager to make such amendments to the regulations, that one would come to the conclusion that the city manager did have such authority. There is a substantial question whether adequate notice is provided to the city manager regarding his powers and duties under the circumstances.

The question of whether the code provides adequate notice to the city manager, however, does not directly affect the question of whether the changes in the personnel rule are valid. The answer to that question clearly seems to be that the ordinance requiring council approval of the changes was not followed and that the changes are therefore not effective. Only the council can make the changes effective.

There is also a state statute which renders the action of the city manager in approving the personnel rule changes ineffective. Alaska Statute 29.23.555 provides:

"Each home rule and general law municipality shall adopt a conflict-of-interests ordinance which, other provisions of this chapter notwithstanding, includes provision that an officer or employee shall disqualify himself from participating in any official action in which he has a substantial financial interest. If a home rule or general law municipality fails to adopt such a conflict-of-interests ordinance within 90 days from September 10, 1972, the conflict-of-interests provision of this section is automatically applicable to and binding upon that municipality."

The city council did not act to adopt a conflict-of-interests ordinance until 1978 at which time it adopted an ordinance currently codified as Section 2-77. That section does provide a rule relating to "an elected city official or member of an appointed commission, board or committee, "but with regard to city employees it provides only:

"The city council by ordinance shall adopt procedures dealing with conflict of interest on the part of city employees."

However, the city has not adopted such an ordinance, so the state conflict-of-interests statute cited above applies. In other words, state law requires "~~that an officer or employee shall disqualify himself from participating in any official action in which he has a substantial financial interest.~~" Therefore, even assuming that the Valdez City Code authorized the city manager to make personnel rule changes without council approval, the state conflict-of-interests statute would prevent the city manager from approving any change which would result in a substantial financial benefit to him.

It is my understanding based on discussions with present members of the city administrative staff that the personnel rule changes were initially suggested by a staff member and worked out in detail by a committee of staff members appointed by the city manager. It is further my understanding that the personnel rule changes are very much liked by the city staff, are substantially the same as the rules in effect for state employees, and in the opinion of the administration constitute sound management principles. If the council agrees, approving the changes effective April 14, 1982, would avoid undue hardship on all city employees who have since that time terminated and received payment for (and have probably spent) that portion of their sick leave which was converted into personal leave.

It is my recommendation that the city council take action to clarify the confusion caused by the manner in which Ordinance 7111 was codified by either repealing Section 2 of that ordinance (which would clearly give the city manager the power to make changes without council approval), or by amending the existing code section by adding language to clarify that changes in the rules are subject to council approval. It is also recommended that the city consider adoption of a conflict of interests ordinance relating to city officers and employees as it directed itself to do in Code section 2-77.

Very truly yours,

HUGHES, THORSNESS, GANTZ,
POWELL & BRUNDIN

By: 

Gordon J Tans

GJT/jam

Other duties imposed upon the city manager are those necessary to furnish complete executive direction of the administrative service of the city. He shall:

- (a) Prepare and recommend to council an annual budget.
- (b) Execute and enforce all ordinances, resolutions and motions of the city council and carry out all contracts entered into by the city.
- (c) Make such recommendations to the council as he may deem expedient or necessary and once a year present a detailed statement of what he has done during the year covered by the report.
- (d) Perform such other duties as may be assigned to him by council and other such duties as are set out in this Code.
- (e) Serve as ex officio member without vote of all city boards and commissions. (Ord. No. 6907.)

Sec. 2-5. Temporary appointment vacancy in office.

During the absence of the city manager, he shall appoint an acting city manager. Such appointment during an extended absence shall only be upon approval by city council. If the office of manager becomes vacant, council shall appoint without delay either a new manager or an acting manager to fill the office until a new manager is chosen. (Ord. No. 6907.)

Sec. 2-6. Regulation of personnel.

The city manager shall have the power to make rules and regulations relating to hiring and discharge, working conditions, hours and terms of employment, retirement and insurance plans, classification, compensation, leave and the like of all of the employees of the city; except, that no rule or regulation shall contravene the principles that the employment of city personnel shall be on the basis of merit and fitness and that there shall be no discrimination in any manner based on race, color, religion or national origin.

CITY OF VALDEZ, ALASKA

RESOLUTION NO. 8248

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ ADOPTING AMENDED PERSONNEL REGULATIONS AFFECTING ALL CITY EMPLOYEES.

WHEREAS, the City of Valdez has previously adopted City of Valdez Personnel Regulations, and

WHEREAS, certain changes to the Personnel Regulations have been recommended by the city staff to the city administration which has in turn recommended the changes to the city council, and

WHEREAS, a copy of the Personnel Rules incorporating the proposed changes is attached hereto, and

WHEREAS, it appears that the proposed changes are likely to be of benefit to both the City and to the employees of the City, and

WHEREAS, city administration has been acting under the proposed rules as if they had been in force beginning on May 1, 1982, and substantial hardship and inconvenience would result if the City were now required to reverse the actions taken beginning May 1, 1982, and

WHEREAS, no useful purpose would be accomplished by not approving the Personnel Rule changes effective as of May 1, 1982,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA:

Section 1. The City of Valdez Personnel Regulations are hereby amended to read in accordance with the copy of the City of Valdez Personnel Regulations attached hereto.

Section 2. The changes to the Personnel Regulations shall be effective as of May 1, 1982.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, this _____ day of September, 1982.

CITY OF VALDEZ, ALASKA

By: _____
STEPHEN A. McALPINE, Mayor

ATTEST:

CITY OF VALDEZ, ALASKA

ORDINANCE NO. 8216

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, AMENDING SECTION 2-6 OF THE VALDEZ CITY CODE TO PROVIDE FOR COUNCIL APPROVAL OF PERSONNEL REGULATIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, that:

Section 1. Section 2-6 of the Valdez City Code is hereby amended to read as follows:

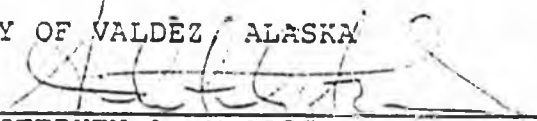
The city manager shall have the power, subject to council approval, to make or amend rules and regulations relating to hiring and discharge, working conditions, hours and terms of employment, retirement and insurance plans, classification, compensation, leave and the like of all of the employees of the city; except, that no rule or regulation shall contravene the principles that the employment of city personnel shall be on the basis of merit and fitness and that there shall be no discrimination in any manner based on race, color, religion or national origin.

These rules and regulations shall be on file and available for inspection in the office of the city clerk and shall also be available in booklet or pamphlet form entitled "City of Valdez--Personnel Regulations."

Section 2. This ordinance takes effect immediately upon passage and approval.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA this 20th day of September, 1982.


CITY OF VALDEZ, ALASKA

By: 
STEPHEN A. McALPINE, Mayor

ATTEST:


CITY CLERK

APPROVED AS TO FORM:
Hughes, Thorsness, Gantz,
Powell & Brundin
Attorneys for the City of Valdez

By: 
GORDON J. TANS

First Reading: September 7, 1982
Second Reading: September 20, 1982
Adoption: September 20, 1982
Ayes: 7
Noes: 0
Not Voting: 0

MEMO

City of
Valdez, Alaska Box 307, 99686

To Fred Hanson, Acting City Manager Date August 26, 1982
Subject Personal Leave Policy Information

From Pat Shely, Police Chief

Fred, this is information pertaining to the article in the August 25th paper regarding the City Leave Policy.

As early as 1980, Mark Lewis had asked that I and several others review the Personnel Rules, however, no changes were made at that time. In 1981, I requested one change to the existing Personnel Policy; changing sick leave to personal leave. Mark reviewed that request and took no action, but stated that if I could convince him that the City employees wanted it, he would reconsider.

I didn't get on it again until about February of 1982. I then asked Mark if he would appoint a committee from the City employees to review it. He appointed a committee of which I was a member. During the course of our meetings, Mark heard a rumor that some people believed that this whole thing was for his benefit and he told me the committee was disbanded and no Personal Leave Plan could be considered at that time. I spent about an hour of one day and an hour of the next day convincing Mark that this was a needed change. Mark decided to let the committee continue, but stated that if it was felt that this change was being made for his benefit it must not be considered until after his departure.

During the committee's deliberations, they used as examples the Valdez Highway Department and State Employees Personal Leave Plans.

We submitted our proposal to Mark for his approval. While doing so, I asked Mark if we had to go to Council for approval and he said no, that it stated in the City Code that he could make the change himself. The Committee also checked the City Code and could find nothing that stated we had to get Council's approval. I was not aware of Ordinance #7111 until after Mark left, and I believe Mark was not aware of it either.

There follows several items which I believe should be considered by the City Council while reviewing this plan. These were items considered by the review Committee while putting together their proposal:

1. The City was the only Valdez Governmental Agency without a Personal Leave Plan prior to this change.
2. The Council had stated and voted it wanted the Valdez Police Department to have the same pay and benefits as the Alaska State Troopers. I believe this was the direction set by the Council during the 1975 or 1976 Budget Sessions.
3. In the Police Department alone, the sick time loss has dropped by 80% since this plan was instated.
4. This ideas was originally presented to Mark long before he even thought of leaving and it was not his idea to begin with.

CEDRA

COMMISSIONER
CONFIRMATION
HEARINGS

FILE 3

Alaska State Legislature



Barbara Lacher, Chairman
Mac Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Cocksie
Jack McBride
Mike Sommerski

Room 104
State Capitol
Juneau, Alaska 99811
Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

March 14, 1983

Mr. Mark Lewis, Commissioner
Department of Community and
Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Commissioner Lewis:

Pursuant to AS 39.05.080, the House Committee on Community and Regional Affairs is in receipt of communications that request the Committee to conduct hearings pertaining to your confirmation as Commissioner, Department of Community and Regional Affairs.

This is to notify you that confirmation hearings will be scheduled to begin at 3:15 p.m. on March 21 in Room 205, Capitol and on March 22, in Room 126, Capitol. Additional hearings may be scheduled, if deemed necessary. The Committee respectfully requests your presence during the hearings.

Sincerely,

A handwritten signature in cursive script, appearing to read "Barbara Lacher".

Representative Barbara Lacher
Chairman, House Community and
Regional Affairs Committee

BL:pt

Applied in Alaska State-Operated Sch. Sys. v. Mueller, Sup. Ct. Op. No. 1157 (File No. 2138), 536 P.2d 99 (1975).

Cited in Walker v. Alaska State Mortgage Ass'n, Sup. Ct. Op. No. 353 (File No. 669), 416 P.2d 245 (1966); Alaska State Housing Auth. v. Dixon, Sup. Ct. Op. No. 793 (File No. 1529), 496 P.2d 69 (1972).

Am. Jur. 2d and ALR references. -- 63 Am. Jur. 2d, Public Officers and Employees, §§ 5, 38-81, 360-413.

Conclusiveness of governor's decision in removing or suspending officers, 52 ALR 7; 92 ALR 998.

Constitutionality of statute providing for direct appeal or other review of orders and rulings of governor, 66 ALR 586.

Prohibition as means of controlling action of governor, 115 ALR 14.

Legislative power to prescribe qualifications for or conditions of eligibility to constitutional office, 34 ALR2d 155.

Sec. 39.05.065. Qualifications of members of the Board of Education. (a) Each member of the Board of Education shall be a citizen of the United States and have been a resident of Alaska for at least three years.

(b) A member of the Board of Education may also be a member of a district school board. (§ 11 ch 96 SLA 1967; am § 19 ch 26 SLA 1930)

Revisor's note. -- "District" as used in subsection (b) of this section apparently means a district of the state public school system as set out in AS 14.12.010.

Cross reference. -- As to appointment

of members of Board of Education, see AS 14.07.085.

Effect of amendment. -- The 1980 amendment, added subsection (b).

Sec. 39.05.070. Purpose. It is the purpose of AS 39.05.070 -- 39.05.110 to--provide procedural uniformity in the exercise of appointive powers conferred by the legislature to eliminate, insofar as possible, recess or interim appointments except in the event of death, resignation, inability to act or other removal from office and the exercise, insofar as possible, of appointive powers only when the legislature is in session. (§ 1 ch 64 SLA 1955)

Section repugnant to tacit confirmation. -- The expressed intention of this section is repugnant to tacit

confirmation of appointments. Munson v. Territory of Alaska, 16 Alaska 580 (1956).

Sec. 39.05.080. Procedure for all appointments. Appointments shall be made in the following manner:

(1) The appointing authority shall, within 30 days of the convening of the legislature in regular session, present to the legislature for confirmation the names of the following persons: (A) persons appointed to a position or membership who have not previously been confirmed by the legislature or either house of it; (B) persons appointed by him subject to confirmation to fill an existing position or membership vacancy; (C) persons to be appointed subject to confirmation to fill a position or membership the term of which shall expire before July 2, following the session of the legislature. If an appointment is made after the deadline but while the legislature is in session, the appointing

authority shall, within five calendar days after the appointment is made, present to the legislature for confirmation the name of the person appointed. The deadline may be extended by the legislature by the approval of a concurrent resolution.

(2) When appointments are presented to the legislature for confirmation,

(A) the presiding officer of each house shall assign the name of each appointee to a standing committee of that house for a hearing, report and recommendation; standing committees of the two houses assigned the same person's name for consideration may meet jointly to consider the qualifications of the person appointed and may issue either a separate or a joint report and recommendation concerning that person; then

(B) the legislature shall, before the end of the session in which the appointments are presented, in joint session assembled, act on the appointments by confirming or declining to confirm by a majority vote of all of the members the appointments presented.

(3) When the legislature declines to confirm an appointment, the legislature shall notify the appointing authority of its action and a vacancy in the position or membership exists which the appointing authority shall fill by making a new appointment. The new appointment shall be presented for confirmation to the legislature within 20 calendar days following receipt by the appointing authority of the legislature's notification of its refusal to confirm the prior appointment. If the name of a person is submitted and is not confirmed, the appointing authority may not, upon resubmission of appointments, submit again the name of the person whose confirmation was refused for the same position or membership during the session of the legislature at which confirmation was refused. The person whose name is refused for appointment by the legislature may not thereafter be appointed to the position or membership during the interim between legislative sessions. Failure of the legislature to act to confirm or decline to confirm an appointment during the session in which the appointment was presented is tantamount to a declination of confirmation on the day the session adjourns.

(4) Pending confirmation or rejection of appointment by the legislature, persons appointed shall exercise the functions, and have the powers and be charged with the duties prescribed by law for the appointive positions or membership. (§ 4 ch 54 SLA 1955; am §§ 1—3 ch 1 SLA 1964; am § 1 ch 2 SLA 1967; am § 1 ch 65 SLA 1974; am § 2 ch 82 SLA 1975)

Legislative history of ch. 82, SLA 1975. — See *Bradnor v. Hammond*, Sup. Ct. Op. No. 1297 (File No. 2802), 553 P.2d 1 (1976).

Laws requiring bilateral appointments are mandatory. *Munson*

v. Territory of Alaska, 16 Alaska 580 (1956).

Paragraph (2) of this section imposes a direct mandate upon the legislature to act upon the nominations of the governor. *Munson v. Territory of Alaska*, 16 Alaska 580 (1956).

BIOGRAPHY

Mark E. Lewis

Born:

Place: Boston, Massachusetts

Year: June 27, 1951

Education:

Grade School - Marblehead, Massachusetts

High School - Shattuck School
Fairbault, Minnesota

Undergraduate - Washington State University
September 1971 - June 1974; Bachelor of Arts - Political
Science/Public Administration; course work emphasis in
community development; organization and government
administration

Graduate - Washington State University
February 1977 - January 1978; course work emphasis in
finance and accounting

Listings and Offices:

- President, Alaska City Managers Assoc., 1980/81
- Vice President, Alaska City Managers Assoc., 1979/80
- Board of Directors, Alaska City Managers Assoc., 1978/79
- "Who's Who" Among Students in American Universities and
Colleges, 1973/74

Military:

- Graduate of United States Army
Ranger School - 1972
Status: Army Reserves

Work Experience:

- City of Pullman
Pullman, Washington
1972 - 1974

Program Coordinator

Worked part-time while an undergraduate student as staff
assistant to a City Department Head

- City & Borough of Juneau
Juneau, Alaska
June 1974 - February 1977

City/Borough Administrative Assistant (Assistant to the City Manager)

The City of Juneau is a consolidated full-service "home-rule" city/borough government of the capital of the State of Alaska with a population of 22,000; net budget approximately \$40 million, including \$15 million capital budget. Responsibilities as the Assistant to the City Manager included: budget preparation and budget management assignments; direct responsibility for the City's insurance program and State and Federal grant programs. As staff assistant to the manager, I conducted management analysis and review of various City operations, supervised a wide variety of civic projects and aided in the development of staff policy on a broad spectrum of issues.

- City of Valdez
Valdez, Alaska
January 1978 - May 1978

Assistant City Manager

Managed day-to-day routine operations of the City, along with being directly responsible for financial operations. Did research; monitored, evaluated and directly supervised various programs; developed staff policy recommendations on a broad spectrum of issues.

- City of Valdez
Valdez, Alaska
May 1978 - July 1982

City Manager

The City of Valdez is a growing oil pipeline and port community - the terminus of the Trans-Alaska Pipeline and North America's largest oil port. The City is a full-service, "home-rule," local government encompassing 275 square miles, with a 1981 net operating budget of \$29 million and a capital budget of \$70 million. The Community has approximately 80 full-time City employees and a population of approximately 4,000 people.

The Community's goals, as defined and developed, are to expand and diversify the economy - building on the economic base of the pipeline terminal and utilizing the City's unusual tax base to rebuild and establish the community's long term assets while improving the quality of life for its citizens.

I, as City Manager, was able to make significant contributions to the City of Valdez while, at the same time, gaining a great wealth of management experience, especially in the fields of municipal finance and industrial development, as well as obtaining the experience of piloting major construction projects with significant environmental considerations through Federal and State permit process, on schedule and within budget.

Experience Summary

- Identified, developed and implemented comprehensive community goals with the City Council over a period of years.
- Planned and implemented a comprehensive capital improvement program which included: major port facilities, schools, roads, storm and sanitary sewers, parks, library, civic center, administration building and police and fire stations.
- Facilitated the economic development and diversification of the City.
- Developed the City as one of the major leaders in tax-exempt financing.
- Reconstructed and redirected the City's financial systems.
- Developed a capable staff who are able to follow through with the City's diversification programs.

Economic Development and Diversification

The City Administration established a sound working relationship with industry, which has been the basis for Valdez's economic development. The Administration's efforts included the development of the oil industry, port and marine industries, seafood industry, pipeline related industries, as well as small businesses.

Tax-Exempt Financing

The City of Valdez has become a leader in the field of tax-exempt financing. I was the key administrative official for the City of Valdez on the following financing:

- in the final issues of \$1.35 Billion in Marine Terminal Revenue Bonds;

- \$600 million developed to construct oil facilities in Valdez;
- \$48 million Port Redevelopment bond issue to construct a new "interior Alaska" container port at Valdez;
- \$10 million housing mortgage revenue bond (low interest 8 1/2%) which provided tax-exempt housing mortgage money for Valdez residents; and
- \$18 million school bond issue used to construct various school facilities

Capital Construction

Major new capital construction programs completed under my administration include the following:

- Library facilities - \$2.6 million
- Administration and Police buildings - \$3.0 million
- Three fire stations (2 rural and 1 central)
- City shop (heavy equipment, vehicle maintenance facility)
- Roads, storm and sanitary sewers, parks
- Airport reconstruction - \$7.0 million (including Navigational Aid System)
- Port facilities - \$48.0 million (cargo and container)
- Civic Center (includes theater and large convention center)

These construction projects were designed to build Valdez's infrastructure of community facilities while stimulating the economy in the midst of a temporary recession. During these years the tax millage rate was lowered from 8.9 mills to 6.3 mills.

Awards

Valdez-All America City, 1981-82 by the National League of Cities

Excellence in financial Reporting, 1982 by the Municipal Financial Officer's Association

JAN 4 1983

STATE OF ALASKA
ALASKA PUBLIC OFFICES COMMISSION

610 C Street, Suite 211
Anchorage, AK 99501-3598
(907) 276-4176

OR

APOC - JNO
Room 302, Gold Blk Bldg H.C.
130 Sewart Street
Mail: Pouch CO
Juneau, AK 99811-0222
(907) 465-4864

CONFLICT OF INTEREST STATEMENT FOR STATE PUBLIC OFFICIAL OR CANDIDATE

PART 1. GENERAL INFORMATION

REPORTING PERIOD: January 1, 1982 to December 31, 1982 *

REPORTING OFFICIAL: Name: Mark Lewis

Resident Address: 150 Third Street Mailing Address: Pouch B

City: Juneau State: AK Zip Code 99811 Home Phone: (907) 465-4700
Work Phone: (907) 465-4700

APPLICABLE OFFICE (Mark one or more, as appropriate, and complete blanks):

Legislative _____ (Senator or Representative) Judicial: _____ (title)

Executive Commissioner Community and Regional Affairs
(title of position) (name of department)

Board or Commission Alaska Housing Finance Corporation, Alaska Industrial Develop
and others declared by State Statute
(name of Board or Commission)

TERM OF OFFICE: Begin December 6, 1982 End -

If Candidate, Date Declaration of Candidacy or Nominating Petition Filed: _____

If Appointed or Hired, Effective Date of Appointment: December 7, 1982

MEMBERS OF FAMILY OF REPORTING OFFICIAL: (Please list names)

Spouse: N.A. Dependent Children: N.A.

Non-dependent Children Living with Reporting Official: N.A.

PART 2. CERTIFICATION

I, the undersigned, declare under oath and on penalty of perjury that the statements contained in this conflict of interest statement are, to the best of my knowledge, true, correct, and complete.

DATED: 1/3/83 SIGNED: [Signature]

SUBSCRIBED AND SWORN to before me this _____ day of _____, 19_____.

Notary Public: _____
My commission expires: _____

*The reporting period is the preceding calendar year for public officials and candidates; were an official to be appointed to a position subject to AS 39.50 in 1981 or were a candidate to file for office in 1981, the "current" COI Statement would cover calendar year 1980.

PART 3. SOURCES OF INCOME AND CAPITAL GAINS OVER \$100

NAME (of reporting official, spouse, etc.)

SOURCE OF INCOME (by name;
amounts need not be disclosed.)

1) Salary:

Mark Lewis

State of Alaska

Commissioner

Community and Regional Affairs

Office of the Commissioner

2) Rentals (include business name, if any):

(renters)

3) Dividends and Interest:

Mark Lewis

First National Bank of Anchorage

Foster & Marshall, Inc.

4) Self employment (business name):

(clients or customers or "retail")

N.A.

5) Other:

N.A.

(Continue on blank sheet if necessary)

**PART 4. BUSINESS INVOLVEMENT OR OWNERSHIP INTEREST AS A STOCKHOLDER,
OWNER, OFFICER, DIRECTOR, PARTNER, PROPRIETOR, OR EMPLOYEE**

NAME (reporting official, spouse, etc.)	NATURE OF INVOLVEMENT OR INTEREST	NAME AND ADDRESS OF BUSINESS
<u>Mark Lewis</u>	<u>Savings Account</u>	<u>First Nation Bank of Anch. Valdez, AK 99686</u>
	<u>Savings Account</u>	<u>Foster & Marshall, Inc. Juneau, AK 99801</u>

(Continue on blank sheet if necessary)

PART 5. REAL PROPERTY INTERESTS OWNED, INCLUDING OPTIONS TO BUY

NAME (of reporting official, spouse, etc.)	IDENTITY OF PROPERTY INCLUDING LOCATION AND CURRENT USE	NATURE OF INTEREST
<u>Mark Lewis</u>	<u>House - 324 Hanagita Valdez, AK 99686</u>	<u>Owner, current Rental</u>
	<u>Town house, Juneau Douglas Island</u>	<u>Purchasing house Mortgage TBA</u>

(Continue on blank sheet if necessary)

PART 6. BENEFICIAL INTEREST IN TRUSTS OR OTHER FIDUCIARY RELATION

NAME (reporting official, spouse, etc.)	TRUSTOR	PROPERTY	EXTENT OF INTEREST
<u>N. A.</u>			

(Continue on blank sheet if necessary)

**PART 7. LOANS, LOAN GUARANTEES OR OTHER FINANCIAL OBLIGATIONS
OF \$500 OR MORE**

NAME (reporting official, spouse, etc.)	IDENTITY OF MAKER OF LOAN, LOAN GUARANTOR, OR CREDITOR
Mark Lewis	Mortgage on Valdez house - self mtg. w/ FWBA
Mark Lewis	Car loan self-loan w/ FWBA

(Continue on blank sheet if necessary)

**PART 8. CONTRACTS AND OFFERS TO CONTRACT WITH THE STATE
OR AN INSTRUMENTALITY OF THE STATE**

NAME AND RELATIONSHIP (John Doe, reporting off.; Jan Doe, spouse)	STATE CONTRACTING DEPT. OR INSTRUMENTALITY	IDENTITY OF CONTRACT	INDICATE: BID, HELD, OFFERED
N.A.			

(Continue on blank sheet if necessary)

**PART 9. LEASES OR OFFERS TO LEASE MINERAL, TIMBER, OIL,
OR OTHER NATURAL RESOURCES**

NAME AND RELATIONSHIP (John Doe, reporting off.; Mary Doe, mother)	NATURE OF LEASE	IDENTITY OF LEASE	INDICATE: HELD OR OFFERED
N.A.			

(Continue on blank sheet if necessary)

JAN 3 1983

STATE OF ALASKA
ALASKA PUBLIC OFFICES COMMISSION

610 C Street, Suite 211
Anchorage, AK 99501-3598
(907) 276-4176

OR

APOC - JNO
PM H.C.
Room 302, Goldstein Bldg.
130 Sewart Street
Mail: Pouch CO
Juneau, AK 99811-0222
(907) 465-4064

CONFLICT OF INTEREST STATEMENT FOR STATE PUBLIC OFFICIAL OR CANDIDATE

PART 1. GENERAL INFORMATION

REPORTING PERIOD: January 1, 1981 to December 31, 1981 *

REPORTING OFFICIAL: Name: Mark Lewis

Resident Address: 2733 John Street Mailing Address: Pouch B

City: Juneau State: AK Zip Code _____ Home Phone: _____
Work Phone: (907) 465-4700

APPLICABLE OFFICE (Mark one or more, as appropriate, and complete blanks):

Legislative _____ (Senator or Representative) Judicial: _____ (title)

Executive Commissioner of the Department of Community and Regional Affairs
(title of position) (name of department)

Board or Commission Alaska Housing Finance Corporation and the Alaska Industrial
Development Association & others by State Statute
(name of Board or Commission)

TERM OF OFFICE: Begin December 6, 1982 End _____

If Candidate, Date Declaration of Candidacy or Nominating Petition Filed: _____

If Appointed or Hired, Effective Date of Appointment: December 6, 1982

MEMBERS OF FAMILY OF REPORTING OFFICIAL: (Please list names)

Spouse: N.A. Dependent Children: N.A.

Non-dependent Children Living with Reporting Official: N.A.

PART 2. CERTIFICATION

I, the undersigned, declare under oath and on penalty of perjury that the statements contained in this conflict of interest statement are, to the best of my knowledge, true, correct, and complete.

DATED: 1/3/83 SIGNED: Mark Lewis

SUBSCRIBED AND SWORN to before me this 3rd day of January, 1983

Notary Public: Wanda E. English
My commission expires: 4/16/83

*The reporting period is the preceding calendar year for public officials and candidates; were an official to be appointed to a position subject to AS 39.50 in 1981 or were a candidate to file for office in 1981, the "current" COI Statement would cover calendar year 1980.

PART 3. SOURCES OF INCOME AND CAPITAL GAINS OVER \$100

NAME (of reporting official, spouse, etc.)

SOURCE OF INCOME (by name; amounts need not be disclosed.)

1) Salary:

Mark Lewis
Mark Lewis
Mark Lewis

City of Valdez
University of Alaska
State of Alaska/CRA/Commissioner

2) Rentals (include business name, if any):

(renters)

3) Dividends and (interest):

Mark Lewis

First National Bank of Anch
Foster & Marshall, Inc

4) Self employment (business name):

N.A.

(clients or customers or "retail")

5) Other:

N.A.

(Continue on blank sheet if necessary)

**PART 4. BUSINESS INVOLVEMENT OR OWNERSHIP INTEREST AS A STOCKHOLDER,
OWNER, OFFICER, DIRECTOR, PARTNER, PROPRIETOR, OR EMPLOYEE**

NAME (reporting official, spouse, etc.)	NATURE OF INVOLVEMENT OR INTEREST	NAME AND ADDRESS OF BUSINESS
Mark Lewis	Savings Account	Valdex, AK 99686
		Foster and Marshall, Inc.

(Continue on blank sheet if necessary)

PART 5. REAL PROPERTY INTERESTS OWNED, INCLUDING OPTIONS TO BUY

NAME (of reporting official, spouse, etc.)	IDENTITY OF PROPERTY INCLUDING LOCATION AND CURRENT USE	NATURE OF INTEREST
Mark Lewis	House - 324 Hanagita	Owner -

(Continue on blank sheet if necessary)

PART 6. BENEFICIAL INTEREST IN TRUSTS OR OTHER FIDUCIARY RELATION

NAME (reporting official, spouse, etc.)	TRUSTOR	PROPERTY	EXTENT OF INTEREST
N.A.			

(Continue on blank sheet if necessary)

**PART 7. LOANS, LOAN GUARANTEES OR OTHER FINANCIAL OBLIGATIONS
OF \$500 OR MORE**

NAME (reporting official,
spouse, etc.)

IDENTITY OF MAKER OF LOAN, LOAN GUARANTOR, OR CREDITOR

Mark Lewis	Car loan self-loan w/FWBA

(Continue on blank sheet if necessary)

**PART 8. CONTRACTS AND OFFERS TO CONTRACT WITH THE STATE
OR AN INSTRUMENTALITY OF THE STATE**

NAME AND RELATIONSHIP
(John Doe, reporting
off.; Jan Doe, spouse)

STATE CONTRACTING DEPT.
OR INSTRUMENTALITY

IDENTITY OF
CONTRACT

INDICATE: BID,
HELD, OFFERED

N.A.			

(Continue on blank sheet if necessary)

**PART 9. LEASES OR OFFERS TO LEASE MINERAL, TIMBER, OIL,
OR OTHER NATURAL RESOURCES**

NAME AND RELATIONSHIP
(John Doe, reporting
off.; Mary Doe, mother)

NATURE OF
LEASE

IDENTITY OF LEASE

INDICATE:
HELD OR OFFERED

N.A.			

(Continue on blank sheet if necessary)

City of Valdez

RECEIVED

JAN 27 1983

POLICE DEPARTMENT
January, 24, 1983 DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS



Governor Bill Sheffield
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

I am writing this letter because I feel that it is important that other views be known. I have never used the news media or other public sources to air my personal opinions. However, recently after reading several stories in the Anchorage Daily News I find myself compelled to ask for a few minutes of your time.

I will not answer each point that has been made by the Anchorage Daily News as I feel this is a blatant attempt by them not only to discredit Mr. Lewis but also a cheap way to sell newspapers.

I have worked closely with Mr. Lewis and was very pleased with his appointment to the state cabinet post. I feel this appointment and others that you have made are a clear sign that we will not only have honesty in our state government but that we will have progressive government rather than business as usual.

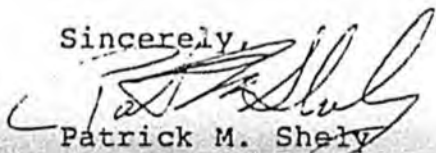
In the time Mr Lewis spent as City Manager with the City of Valdez I found his integrity and honesty to be of the highest level. I would not hesitate to work for or with Mr. Lewis on any matters.

To allow blatant attempts by the Anchorage Daily News and others who appear to have personal grudges against Mr. Lewis to remove Mr. Lewis from office would be a serious miscarriage of justice.

I also feel that this type of political mudslinging would damage our political process if allowed to have any credibility.

Thank you for your time. Please be assured of my support and cooperation.

Sincerely,


Patrick M. Shely
Chief of Police

cc: Mark Lewis



CO—MAN SERVICES

BOX 234

DILLINGHAM, ALASKA 99576

February 24, 1983

The Honorable
Representative Barbara Lacher
Pouch V
Juneau, Alaska 99811

Dear Rep. Lacher:

I have recently met with the Department of Community and Regional Affairs Commissioner and wish to convey to you my favorable impression of him. Mr. Lewis strikes me as a person who is sensitive to municipal problems of communities of all sizes in our state.

It is my hope that you will look favorably on his confirmation. Although I have heard of certain allegations in reference to Mr. Lewis, I am not personally aware of anything substantial against him to cause me to speak against his confirmation.

With this in mind, I am in support of Mr. Lewis as Commissioner of Community and Regional Affairs and I sincerely urge you to vote in favor of his confirmation.

Thank you for your consideration.

Sincerely,

Nels A. Anderson Jr.
Nels A. Anderson, Jr.

NAA:bjb

Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
CHAIRMAN RESOURCES COMMITTEE

4016 EVERGREEN
FAIRBANKS, ALASKA 99701
907-479-3550



Senate

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
OFFICE 907-465-3763
RESOURCES COMMITTEE
907-465-3834
HOME 907-789-9182

March 7, 1983

Mr. Nels A. Anderson, Jr.
Co-Man Services
Box 234
Dillingham, Alaska 99576

Dear Nels:

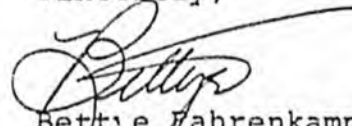
Thank you for your letter supporting Mark Lewis. I've had the opportunity to work with Mark and I find him to be not only very dedicated, but bright and aggressively motivated. I tend to feel as you do, I'm very impressed.

Nels, as you know, there are no assurances. But, I intend to do all that I can to see this fine young man confirmed. It's just too bad you're not here to cast your official vote. We sure do miss you in the chamber and in the lounge.

I sincerely hope all is well with you professionally and personally. Next time you are in town, don't be such a stranger.

Warm personal regards.

Sincerely,


Bettye Fahrenkamp
Alaska State Senator

BF/ab

LETTERS FROM THE PEOPLE



people' is your space to comment on nearly any topic, considerations of good taste and libel. The shorter the it can be published; in any case the best guideline is . Prose only, please; no poems or verse. All letters should include a daytime phone number so we can Address letters to The Daily News, Pouch 6616,

fact that there is a wild and untamed land is here is not much of an sympathy with actly it is.

hat Alaska is cold stereotype attitude that you have not facts of Alaskan nation has. If you everybody in Alaska around this "cold, l, as your attitude one who does.

he best fishing and in the world, and like to come to this er reason that they e so, is for the jobs, n the Transalaska years ago, and they

Robert Armstrong

Support your local jazz musician

I would like to comment about the fledgling jazz opportunities in Anchorage, Alaska. I am an Alaskan since 1967 and have played in various "in town" settings as an entertainer. It seems in the late 70s (disco era), local musicians were given their walking papers by local club owners in favor of "out of towners." Do Alaskans really think "in town" acts can't be quality?

I went to a local "jam session" last Sunday at the Tiki Cove. It seems the house band members (which are composed mostly of non-longtime Alaskan residents) seem to get all of the jazz jobs that come about. They seem to entertain themselves and could not let local musicians play alone as a group for even one song.

The purpose of "jam sessions" are to let everyone express themselves musically. People have to be able to crawl before we walk.

In the late '50s and early 60s, the "Oasis" club was a frequent stopover spot for many

our forests, and turn our lakes and streams into garbage dumps — all this in only a few years — we'd better hurry, 'cause there isn't much time left.

All that aside, Jerry, you still haven't answered my main question: how much do the oil companies write off when they find a dry hole? And why bother drilling when they know nothing is there? I say, let us put our money and intelligence to better use!

— Dave Carlson

A response from Valdez

The recent letter congratulating your reporters on spotlighting Valdez' profligate ways was not amusing to Valdezeans, nor was it accurate. As with anything that is spotlighted, much of what is really there languishes in the dark.

While we recognize that telling stories on Valdez has become great sport of late, your letter writer's gross exaggeration demands correction. The great "Big Mac Importation" was not quite as exciting a story as it apparently translated by a pilot passing on an amplified anecdote.

Political fund-raisers necessitate unique items to spur contributors and as auction coordinator, I fixed on Big Macs. While taken for granted by Anchorageites, we in the hinterlands have Big Mac Attacks that necessarily involve 350-mile ventures upcountry to satisfy. The order for 50 Big Macs was placed and arrangements were made to have them picked up and delivered to Valdez Airlines on their last evening run into Valdez so the burgers would be "fresh" for the big event. A last-minute snag in pick-up arrangements developed, however, and as zero hour approached, I prevailed upon a Valdez Airlines employee to run and get them for us and get them to the plane.

Unfortunately the run took a bit longer than anticipated and because Valdez Airlines was kind enough to accommodate my plea for help, the plane was delayed in its departure time awaiting delivery. That plane was by no means chartered; it was on a regularly scheduled flight and the accommodations were in time and energy expended by employees who responded to customer requests. We have come to expect that kind of good service by Valdez Airlines and we very much appreciate it.

It should also be pointed out that Messrs. McAlpine and Lewis steered Valdez through years of unparalleled prosperity and activity; during those years an investment plan was developed, a master plan was implemented and the community bonded and put in place new schools, a dock complex, a civic center, a senior citizens center, a softball complex, a hatchery, a new city hall, and a new library; and it increased its network of roads and water and sewer systems. It spruced up its parks and green areas, added flowers and trees and increased the overall quality of life in Valdez immeasurably.

We in Valdez are not blind to the fact that some mistakes were made along the way, but we wish the naysayers and predictors of doom would not be blind to the fact that we have accomplished an enormous amount in a very short period of time and we are well on the road to diversifying Valdez's economy. We are very much alive and well here in Valdez, and we are looking forward to a continuing bright future.

— Judy Londo

Thanks for coverage on Brothers

Alaska State Legislature



Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szymanski

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

CONFIRMATION HEARINGS

AGENDA

WEDNESDAY JUNE 1, 1983

3:15 P.M.

ROOM 205 CAPITOL

1. CALL TO ORDER
2. ROLL CALL
3. INTRODUCTION ---CHAIRMAN
4. INVITATION TO COMMISSIONER DESIGNEE MARK LEWIS FOR STATEMENT ON BACKGROUND AND QUALIFICATIONS.
5. INVITATION FOR VALDEZ TESTIMONY BY TELECONFERENCE
6. WITNESSES:
LT. GOVERNOR STEPHEN McALPINE
REPRESENTATIVE BETTE CATO
FORMER VALDEZ MAYOR BILL WALKER
VALDEZ POLICE CHIEF PAT SHELY
7. COMMITTEE DIALOGUE WITH MARK LEWIS
 - A. SUBJECTS REGARDING VALDEZ ACTIVITIES
 1. GRAIN TERMINAL
 2. FISH PROCESSING PLANT

NOTE: AGENDA ITEMS NOT COMPLETED SHALL BE CARRIED FORWARD TO THE NEXT MEETING. COMMITTEE DISCUSSIONS MAY INCLUDE SUBJECTS NOT LISTED ABOVE.

Alaska State Legislature

Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szyzanski



Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

MEMORANDUM

TO: Committee on Community and Regional Affairs
FROM: Staff
SUBJECT: Confirmation Hearings
DATE: March 18, 1983

The following comments were prepared as a result of a discussion during which legal advice was requested for the question: "What is the role of the Committee in conducting confirmation hearings?"

The question which the individual committee members must resolve in their own minds is: "Do you believe the nominee would properly fulfill the duties of the Commissioner?"

The decision is essentially a political process as opposed to a legal process. There is no requirement to apply the rule of "burden of proof;" a more appropriate description is a "burden of persuasion."

During the process, the determination of an act or acts being technically illegal is "mildly interesting" and in large part irrelevant from the perspective of the Committee. The question of impropriety is more important in the decision making process.

The rationale for the previous statement is that the commitment of an illegal act(s), even if substantially proven, may or may not be indicative of a person's qualifications to perform assigned duties and, the Committee is not in a position to prosecute for illegal acts.

On the other hand, the Committee is charged with making a judgement, based on all reasonably available information, whether or not the actions of the individual convince the Committee that the nominee will, or will not, properly fulfill the role of Commissioner.



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Senator Gilman
Member
Senate Community & Regional
Affairs Committee

DATE: 18 March 1983

FROM: McKie Campbell *McK*
Professional Assistant
Senate Community & Regional
Affairs Committee

SUBJ: 1981 Valdez
Property Tax
Values

In January of this year the Anchorage Daily News published a series of articles concerning Mark Lewis's tenure as City Manager of Valdez. Several of the articles contained the allegation that Mr. Lewis had illegally changed the tax rolls of Valdez by lowering the value of most non-oil or gas related property by 15 percent.

Based on these articles, the Department of Revenue instigated a review to determine if Mr. Lewis's actions were improper or illegal.

According to the DOR report and attached opinion by the Department of Law, Mr. Lewis's actions were not illegal and the state does not have grounds to pursue action for lost state revenues caused by the alteration of the tax roll.

I have reviewed this report thoroughly and endorse the report is accurate in its conclusion. Both the report and the newspaper articles agree that Richard Randell, the appraiser hired by Valdez under contract to act as the city assessor, certified the reduced figure as true and correct for 1982. The report states that Randell had also certified the reduced figures as true and correct for 1981. Newspaper accounts had quoted Randell as denying that he certified the reduced figures in 1981.

I contacted Mr. Randell to resolve this contradiction. Randell said that in early March, 1981, he submitted the

roll of assessed property values to the Valdez City administration. On March 23, 1981, Randell discussed the figures with Lewis. Randell states that during that conversation he acknowledged that another appraiser might come in with different figures but held that the figures he had submitted were his best estimate of full and true value. Randell followed this conversation up with a March 31, 1981 letter to Lewis which DOR has included in their report as Exhibit F. Sometime in the middle or end of March, Lewis caused the values of most non-oil or gas related properties in the city to be reduced 15 percent.

In late March 1981, the tax notices were mailed to property owners at the reduced values. Twenty appeals were filed and Randell participated on the Board of Equalization hearings on these appeals in June 1981. Randell was aware at this time that the values had been reduced and he did not protest.

In late August 1981, Randell was reminded by the city that he had not submitted a formal letter certifying the tax roll as true and correct. On September 1, 1981, Randell wrote a letter to Lewis (Revenue Exhibit A) certifying the tax roll for 1981 as true and correct. Randell said that in his own mind he was certifying his original figures as true and correct, but he acknowledges that given his knowledge that the values had been reduced and the fact that he worked with the reduced figures at the Board of Equalization without protest, it was a reasonable assumption on the part of the city to believe he was certifying the reduced figures.

After examination of the sequence of events, I believe it could reasonably be held that Randell did certify the lower figures. This concurs with the report by DOR and the opinion by the Department of Law and supports the contention that the reduction of property values as handled and administered by Mark Lewis was legal.

Alaska State Legislature

Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szymanski



Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

M E M O R A N D U M

TO: Committee on Community and Regional Affairs

FROM: Staff

SUBJECT: Confirmation Hearings

DATE: March 18, 1983

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On the other hand, the Committee is charged with making a judgement, based on all reasonably available information, whether or not the actions of the individual convince the Committee that the nominee will, or will not, properly fulfill the role of Commissioner.

FEB 28 1983

RECEIVED
JAN 4 1983

STATE OF ALASKA

APOC-ANCH ALASKA PUBLIC OFFICES COMMISSION

APOC - JNO.

610 C Street, Suite 211 ^{2/23/83}
Anchorage, AK 99501-3598
(907) 276-4176

OR

Room 302, Gold Bluffs Bldg. H.C.
130 Sewart Street
Mail: Pouch CO
Juneau, AK 99811-0222
(907) 465-4864

CONFLICT OF INTEREST STATEMENT FOR STATE PUBLIC OFFICIAL OR CANDIDATE

PART 1. GENERAL INFORMATION

REPORTING PERIOD: January 1, 1982 to December 31, 1982 *

REPORTING OFFICIAL: Name: Mark Lewis

Resident Address: 150 Third Street Mailing Address: Pouch B

City: Juneau State: AK Zip Code 99811 Home Phone: (907) 465-4700
Work Phone: _____

APPLICABLE OFFICE (Mark one or more, as appropriate, and complete blanks):

Legislative _____ (Senator or Representative) Judicial: _____ (title)

Executive Commissioner Community and Regional Affairs
(title of position) (name of department)

Board or Commission Alaska Housing Finance Corporation, Alaska Industrial Development
and others declared by State Statute
(name of Board or Commission)

TERM OF OFFICE: Begin December 6, 1982 End _____

If Candidate, Date Declaration of Candidacy or Nominating Petition Filed: _____

If Appointed or Hired, Effective Date of Appointment: December 7, 1982

MEMBERS OF FAMILY OF REPORTING OFFICIAL: (Please list names)

Spouse: N.A. Dependent Children: N.A.

Non-dependent Children Living with Reporting Official: N.A.

PART 2. CERTIFICATION

I, the undersigned, declare under oath and on penalty of perjury that the statements contained in this conflict of interest statement are, to the best of my knowledge, true, correct, and complete.

DATED: 1/3/83 SIGNED: Mark Lewis

SUBSCRIBED AND SWORN to before me this 24th day of February, 19 83

Notary Public: Kimberly Dyer
My commission expires: 11/2/86

*The reporting period is the preceding calendar year for public officials and candidates; were an official to be appointed to a position subject to AS 39.50 in 1981 or were a candidate to file for office in 1981, the "current" COI Statement would cover calendar year 1980.

PART 3. SOURCES OF INCOME AND CAPITAL GAINS OVER \$100

NAME (of reporting official, spouse, etc.)

SOURCE OF INCOME (by name; amounts need not be disclosed.)

1) Salary:

Mark Lewis

Commissioner

State of Alaska

Community and Regional Affairs

Office of the Commissioner

2) Rentals (include business name, if any):

(renters)

3) Dividends and Interest:

Mark Lewis

First National Bank of Anchorage

Foster & Marshall, Inc.

4) Self employment (business name):

(clients or customers or "retail")

N.A.

5) Other:

N.A.

(Continue on blank sheet if necessary)

PART 4. BUSINESS INVOLVEMENT OR OWNERSHIP INTEREST AS A STOCKHOLDER, OWNER, OFFICER, DIRECTOR, PARTNER, PROPRIETOR, OR EMPLOYEE

NAME (reporting official, spouse, etc.)	NATURE OF INVOLVEMENT OR INTEREST	NAME AND ADDRESS OF BUSINESS
<u>Mark Lewis</u>	<u>Savings Account</u>	<u>First Nation Bank of Anch. Valdez, AK 99686</u>
	<u>Savings Account</u>	<u>Foster & Marshall, Inc. Juneau, AK 99801</u>

(Continue on blank sheet if necessary)

PART 5. REAL PROPERTY INTERESTS OWNED, INCLUDING OPTIONS TO BUY

NAME (of reporting official, spouse, etc.)	IDENTITY OF PROPERTY INCLUDING LOCATION AND CURRENT USE	NATURE OF INTEREST
<u>Mark Lewis</u>	<u>House - 324 Hanagita Valdez, AK 99686</u>	<u>Owner, current Rental</u>
	<u>Town house, Juneau Douglas Island</u>	<u>Purchasing house Mortgage TBA</u>

(Continue on blank sheet if necessary)

PART 6. BENEFICIAL INTEREST IN TRUSTS OR OTHER FIDUCIARY RELATION

NAME (reporting official, spouse, etc.)	TRUSTOR	PROPERTY	EXTENT OF INTEREST
<u>N.A.</u>			

(Continue on blank sheet if necessary)

**PART 7. LOANS, LOAN GUARANTEES OR OTHER FINANCIAL OBLIGATIONS
OF \$500 OR MORE**

NAME (reporting official, spouse, etc.)	IDENTITY OF MAKER OF LOAN, LOAN GUARANTOR, OR CREDITOR
Mark Lewis	Mortgage on Valdez house - self mtg. w/ FWBA
Mark Lewis	Car loan self-loan w/ FWBA

(Continue on blank sheet if necessary)

**PART 8. CONTRACTS AND OFFERS TO CONTRACT WITH THE STATE
OR AN INSTRUMENTALITY OF THE STATE**

NAME AND RELATIONSHIP (John Doe, reporting off.; Jan Doe, spouse)	STATE CONTRACTING DEPT. OR INSTRUMENTALITY	IDENTITY OF CONTRACT	INDICATE: BID, HELD, OFFERED
N.A.			

(Continue on blank sheet if necessary)

**PART 9. LEASES OR OFFERS TO LEASE MINERAL, TIMBER, OIL,
OR OTHER NATURAL RESOURCES**

NAME AND RELATIONSHIP (John Doe, reporting off.; Mary Doe, mother)	NATURE OF LEASE	IDENTITY OF LEASE	INDICATE: HELD OR OFFERED
N.A.			

(Continue on blank sheet if necessary)



Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-~~1208~~

DEPARTMENT OF ASSESSMENT

4801

March 22, 1983

MAR 26 1983

House of Representatives
Barbara Lacher, Chairman
Community and Regional Affairs Committee

Dear Representative Lacher:

This is in response to your request for me to review the packet you sent me regarding reduced assessments in Valdez for 1981 and 1982.

The packet seemed to address the legal implications of reducing the assessments and, therefore, contained very little information as to whether or not the reduction of assessments could be substantiated.

After reviewing the packet, as presented, it is my personal and professional opinion that the reduction of assessments in Valdez was not substantiated by any supporting data and the method used could be considered, by professional assessors, as improper and unethical. My opinion is based upon the following observations:

1. Property appraisal is not an exact science but an opinion of value based on facts. Mr. Randell indicated in his letter that it was his opinion that his values represented 100% market value. I believe that a small amount of research will show that these value estimates were based upon facts which Mr. Randell obtained through his market analysis.
2. The valuations were reduced "because he (Mr. Lewis) believed that local economic conditions were depressed to the extent that the market probably would not support the values used by Mr. Randell." Nowhere in the packet can I find any information to support what Mr. Lewis believed. If this strategy were used by other assessors in the State, we might all raise our assessments by 10% - 20% because we believed we were low. This could not happen because our Boards of Equalization require us to show supporting data for our value estimates.
3. Mr. Randell's statement, it is not uncommon for appraisers to differ as much as 15% to 20% in valuation, is a correct statement. However, it should be noted that both appraisers values would be based upon supporting data. The interpretation of this data usually is the reason for a difference of opinions.

MAR 26 1983

Barbara Lacher
Page Two
March 22, 1983

4. The statutes mandate that the assessor assess property at its full and true value, not attempt to assess at a level comparable with other municipalities.

As I stated earlier, the appraisal of real estate is not an exact science but an opinion of value based on facts or supporting data. If Mr. Lewis believed that the assessments were high, a sales ratio study should have been conducted. A sales ratio study may have shown that the assessments were high and adjustments were warranted. This would have been the proper method for an assessor to follow rather than an arbitrary percentage reduction. I would like to point out that this may have been done, however, I did not see it in the packet you sent me. If this were in fact done, then I would state that the actions taken were both ethical and proper. For your information, I have enclosed a copy of the IAAO Code of Ethics which most assessing offices use.

As to your question regarding the tax dollar amounts as reported by Gerald Heier with the Department of Revenue, I believe the figures obtained are correct with respect to the information he received.

I hope I have answered your questions and would like to point out that the opinions expressed in this letter are my personal opinions and not necessarily those of my employer.

Respectfully,



Steve Van Sant
Director of Assessments
and Land Management

CR

MAR 26 1963

Code of Ethics

The functions of the assessing officer and other members of IAAO are professionals in character. This Code of Ethics is a set of dynamic principles guiding the members' conduct. Each member of IAAO agrees that he will:

1. Cooperate fully with other members in all matters affecting his official duties.
2. Conduct his activities in a manner that will reflect credit upon himself, other members and the IAAO.
3. Cooperate with the IAAO and its officers in all matters, including, but not limited to the investigation, censure, discipline or expulsion of members who by their conduct prejudice their professional status or the reputation of the IAAO.
4. Protect the professional reputation of other members of IAAO who subscribe to and abide by this Code of Ethics.
5. Treat as confidential all information concerning persons or their property obtained in his official capacity, except for lawfully authorized uses. It is proper for members employed by different jurisdictions to exchange factual information concerning persons or their property to aid either or both in the assessment of property legally subject to taxation.
6. Perform his assessment duties in a manner consistent with statutory requirements without advocacy for accommodation or any particular interests, being factual, objective, unbiased and honest in his conclusion.
7. Maintain, at all times, a courteous and respectful attitude in his relations with taxpayers, public officials and the public generally, and to compel a similar attitude on the part of his subordinates.
8. Give full faith and allegiance to his oath of office, apply the law of his jurisdiction to all taxpayers alike, and obey all applicable laws and regulations.
9. Conform in all respects to this Code of Ethics, The Standards of Professional Conduct and the Constitution of the IAAO as the same may be amended from time to time.

Standards of Professional Conduct

In relations with assessing officers, an IAAO member will:

Cooperate within the legal and ethical boundaries of his office or profession with other members who request his cooperation in performing the functions of their offices or profession.

Treat information obtained in his professional capacity as confidential unless use of that information is authorized by law. It is proper for members employed by different jurisdictions to exchange factual information concerning property to aid either or both in the assessment of property legally subject to taxation.

Protect the professional reputation of other members who subscribe to and abide by these Standards of Professional Conduct.

Give full credit to the originator of any material he uses in his writings or speeches.

Conduct his activities in a manner that will reflect credit upon himself, other members, and the IAAO.

Cooperate with the officers of the IAAO in all matters, including but not limited to the investigation, censure, discipline, or expulsion of members whose conduct casts a shadow on their professional status or the reputation of the IAAO.

In relations with public officials, an IAAO member:

Has a duty to cooperate with public officials to improve the efficiency and economy of public administration.

Will always maintain an attitude of respect and cooperation toward public officials and governmental agencies to whom the law has assigned official duties relating to the work of the IAAO member.

In relations with the public and taxpayers, an IAAO member will:

Maintain at all times a courteous and respectful attitude in his relations with taxpayers, taxing officials, and the public

generally, and will compel a similar attitude on the part of his subordinates.

Give full faith and allegiance to his oath of office.

Apply the law of his jurisdiction equitably.

Perform his duties in a manner consistent with statutory requirements without advocacy for accommodation of any particular interests; he will be factual, objective, unbiased, and honest in his conclusion.

Appraisal standards to be complied with by IAAO members:

Any appraisal by an IAAO member shall conform to the highest professional assessment/appraisal standards.

Any value estimate made for assessment purposes by an IAAO member shall be an estimate of true market value as defined by the courts having jurisdiction, regardless of the assessment percentage to be used, except when the law of his jurisdiction requires or the assessment practice in his jurisdiction permits special valuation techniques.

Any value estimate made by an IAAO member shall be a true opinion of value in accordance with generally accepted appraisal practices, except when the law of his jurisdiction requires or the assessment practice in his jurisdiction permits special valuation techniques.

Any fee appraisal assignment accepted by an IAAO member shall be one in which he has no unrevealed personal interest or bias, and one which he is competent to complete without placing his personal integrity or the assessing/appraisal profession in jeopardy.

It shall be unethical for a member of IAAO to accept an engagement for which the amount of his compensation is contingent upon reporting a predetermined value or upon the amount of the value estimate; or upon reporting a predetermined opinion, conclusion, or recommendation; or upon the amount of a tax reduction obtained by a client whose services are used; or upon any result, value, or subsequent transaction.

June 1st, 1983

Confirmation Hearings

Mark Lewis -

Former Mayor Bill Walker - 1979-80. Lynn Crystal, Art Reinger, ^{MacAlpine} Chuck McPhee, Mac MacDonald
List of ~~ICIP's~~ in Valdez by Lewis. John Jagger, Ken Peavehouse
Rep. Betty Cobo - Endorses Lewis as Commissioner.

Valdez Teleconference

Ray Pittman

Dealings professional, honest, etc.

Lt. Gov. MacAlpine - Sick Leave #

Endorses Lewis as Commissioner. Cited Renewable accomplish-
ments, Tourism, Port, Fisheries.

Fred Hanson - Civic Center

Endorses Lewis.

Shirley Scott - City Clerk

Endorses Lewis.

Pat Sheehy - Chief Police City of Valdez

Endorses Lewis.

Jerry ~~Boat~~ Boat - Port Director

Endorses Lewis.

Barney Mayring

Endorses Lewis.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 17, 1983

House of Representatives
Barbara Lacher, Chairman
Community & Regional Affairs Committee

Senate
Frank Ferguson, Chairman
Community & Regional Affairs Committee

Review of potential State claim against
the City of Valdez for recovery of taxes
paid under AS 43.56

In conjunction with the Department of Law, we have completed an investigation of allegations that Mark Lewis, the former City Manager of Valdez, improperly reduced assessments on local property in 1981 and 1982, thereby increasing the overall millage rate in the local tax on the petroleum properties in concomitantly reducing taxes paid to the State, and have concluded from the facts that Mr. Lewis did not act improperly or illegally. Therefore, the State should not pursue any claim against the City of Valdez for recovery of additional taxes under AS 43.56 and we view the matter as closed.

A copy of the Department of Revenue's report dated March 14, 1983 and a copy of the Department of Law's legal opinion dated March 16, 1983 are attached. The following is a brief summary of those findings.

AS 43.56.010(a) imposes a state tax of 20 mills on oil and gas property. Under AS 43.56.010(b) and AS 29.53.045 a municipality may levy a tax on petroleum properties within its jurisdiction at the rate applicable to other property tax by the municipality. The tax paid to a municipality under this subsection is then credited under AS 43.56.010(d) against the state tax due.

In 1981 and 1982, the City of Valdez hired on contract an appraiser to assess property in the city for purposes of taxation. The contractual provisions required the appraiser to perform the statutory duties of an assessor. Under state law (AS 29.53.060(a)) and the Valdez city code (25-4 (2)) the city is required to assess property at its true and full value. Both define "full and true value" in a manner which clearly allows for a determination upon which reasonable minds can differ. In addition, real estate appraising is not an exact science and does not allow for "full and true value" determinations to be precise and often appraisers differ by as much as 20 percent on valuations.

House of Representatives
Barbara Lacher, Chairman
Community & Regional Affairs Committee

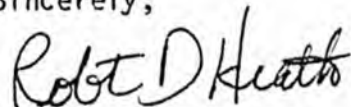
Senate
Frank Ferguson, Chairman
Community & Regional Affairs Committee

The City of Valdez's contracted assessor made his real property valuations as being 100% of fair market value, however, Mr. Lewis believed the assessor's assessments were high in light of the local economic conditions and after consultation with the assessor lowered the assessments by 15%. The assessor certified the reduced assessments as true and correct for 1981 and 1982.

The Department of Revenue investigation shows that all the real property assessments ratios for the municipalities which contain petroleum property are less than 100% of valuation. The ratios for Valdez in 1981 and 1982 are 89.6% and 93.8% respectively. When comparing the Valdez assessment ratios with the assessments ratios of other municipalities having oil and gas properties which ranged from 70.0 to 93.8, it is clear that the City of Valdez appraisals were in fact high and will not support a finding of any improper or illegal action.

In conclusion, the facts do not substantiate that Mr. Lewis acted improperly or that his actions resulted in the City of Valdez making any illegal real property assessment determinations under AS 29.53.060(a) and therefore, we conclude that the State did not lose any revenue under AS 43.56.010(d) and the matter is closed.

Sincerely,



Robert D. Heath
Commissioner of Revenue

RDH:NS:mc

Attachments

MEMORANDUM

State of Alaska

TO: Honorable Robert D. Heath
Commissioner
Department of Revenue

DATE: March 16, 1983

FILE NO: 366-493-83

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Review of potential
state claim against
City of Valdez for
recovery of taxes
paid under AS 43.56

By: Diane T. Colvin
Assistant Attorney General

You asked us to review a situation involving assessment and levy of taxes by the city of Valdez under AS 43.56, relating to oil and gas property taxes. Allegations have been made that the former City Manager of Valdez, Mark Lewis, improperly reduced assessments on local property in 1981 and 1982, thereby increasing the overall millage rate and the local tax on petroleum properties and concomitantly reducing taxes paid to the state. You have asked us to determine if his actions were improper, and, if found improper, to further determine whether the state has a claim against the city for recovery of excess taxes paid to the city on petroleum properties. We conclude, based upon your investigation and the facts submitted to us, that there is no clear proof that the assessments were improperly reduced and that, therefore, the chances of the state recovering on a claim against the city are poor.

The tax in question is the oil and gas property tax levied under AS 43.56.010. AS 43.56.010(a) imposes a state tax of 20 mills on oil and gas property as defined by AS 43.56.210(6). Under AS 43.56.010(b) and AS 29.53.045 a municipality may levy a tax on petroleum properties within its jurisdiction at the rate applicable to other property taxed by the municipality. The tax paid to a municipality under this subsection is then credited under AS 43.56.010(d) against the state tax due.

The actions in question here involved assessments made in 1981 and 1982 on local property in the city of Valdez. State law and city ordinances require the city to assess property at its full and true value. (AS 29.53.060(a) and Valdez City Code 25-4(a)). Both define "full and true value" as follows:

. . . the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a

RECEIVED
ALASKA DEPARTMENT OF REVENUE

MAR 16 1983

OFFICE OF THE COMMISSIONER

willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

It is evident from the definition itself that full and true value is a determination on which reasonable minds can differ. The factors involved -- prevailing market conditions, a willing seller, a willing buyer, prevailing general price levels -- cannot be ascertained with precision or complete accuracy.

In 1981 and 1982 the city hired on contract an appraiser to assess property in the city for purposes of taxation. The contract refers to the individual hired as appraiser; however, it is evident from the contract provisions that the appraiser was to perform the statutory duties of assessor (e.g., . . . "make a final report to the City in the manner required by law", Exhibit C of your report, clause 1(c).) In addition, the facts show that the appraiser hired, Richard G. Randell, acted as tax assessor for those two years. By letter of September 1, 1981, he certified the tax roll for the year 1981 as true and correct. (Exhibit A). By letter of March 1, 1982, he made the same certification for the year 1982. (Exhibit B).

The allegation made against Mark Lewis is that he acted improperly and without authorization by reducing the assessments made by Mr. Randell by 15%. It appears that this action was taken before issuance of the notices of assessment and any subsequent action by the Board of Equalization and prior to certification of the tax rolls. According to your report, he took this action because he believed Mr. Randell's assessments were high in consideration of local economic conditions. Mr. Lewis and Mr. Randell discussed this matter on March 23, 1981, and in a letter dated March 31, 1981 (Exhibit F), Mr. Randell defended his valuations as being 100% of fair market value. In the same letter, he pointed out that real estate appraisal is an inexact science, and that appraisers often differ by as much as 15 to 20 percent on valuations.

Subsequent to this letter, but long before final certification of the assessment roll, the assessments were lowered by Mark Lewis. This was done in consultation with Mr. Randell, as discussed above, and evidently with his acquiescence, since there is no indication in the facts that he refused to submit the new assessments to the city council or to certify the tax rolls, despite the fact that he may have disagreed in principle with them.

In light of this, I do not believe the facts show that

Honorable Robert D. Heath
Commissioner
Department of Revenue

March 16, 1983
Page 3

Mr. Lewis acted improperly. The general rule in regard to the making of assessments is that the officer or board authorized to make an assessment is usually specified by law and the assessment, to be valid, should be made by the one so designated. See, McQuillen Mun Corp (3rd Ed) § 44.102. In this case, it does not appear that this rule was violated. Although the changes were actually made by Mr. Lewis, not the assessor, they were done after consultation with the assessor. While the assessor may have disagreed with the reduced valuation, he certified the assessments as changed to the city council.

While one can argue that this situation involves an unauthorized delegation of authority to make an assessment, that argument is a weak one. In accordance with rules relating to public officers, the acts of a de facto assessor generally are recognized to be valid. Id. In addition, exact conformity with all the statutory procedures for assessment is not necessarily a condition precedent to a valid tax. Substantial compliance with statutory requirements is sufficient, unless the requirements are classified as mandatory. City of Yakutat v. Ryman, ___ P.2d ___ (Opinion No. 2581), November 5, 1982. It does not appear that any requirements deviated from here were mandatory, so strict compliance is not at issue. Thus, it is unlikely that a court would invalidate the tax levied. While the procedures used may have been irregular, they are by no means clearly improper or in violation of AS 29.53.010 -- .180, Municipal Property Tax, or Valdez City Code §§ 25-1 -- 25-15, Assessment, Levy and Collection of Taxes.

In addition, the memorandum of March 9, 1983 from Jerry Heier included in your report shows that all the real property assessment ratios for the municipalities that contain petroleum property are at less than 100% of valuation. The ratios for Valdez in 1981 and 1982 are 89.6 percent and 93.8 percent. When compared to the average ratio for each of these years (85.2 and 84.5) and the ratios for other municipalities with oil and gas properties (ranging from 70.0 to 93.8), it appears that the original appraisals of Randell were in fact high. This fact, combined with the legal principles discussed above, would make it difficult to show improper or arbitrary action.

It is also important to note that if an assessor uses any proper method of assessment uniformly throughout the taxing district, the mere fact that a different method of assessment may result in a different valuation is not grounds for invalidating the tax. Winegardner v. Greater Anchorage Area Borough, 534 P.2d 541, 548 (Alaska 1975). A municipality has discretion to appraise by whatever recognized method of valuation it chooses, so

Honorable Robert D. Heath
Commissioner
Department of Revenue

March 16, 1983
Page 4

long as there is no fraud or clear adoption of a fundamentally wrong principle of valuation. Twentieth Century Investment Company v. City of Juneau, 359 P.2d 783 (Alaska 1961); Hoblitt v. Greater Anchorage Area Borough, 473 P.2d 630 (Alaska 1970). There is no evidence that either factor was present in this case.

Because it is not clear that Mr. Lewis acted improperly, I cannot recommend that the state pursue a claim against the city for recovery of the excess taxes charged. It would, in my opinion, be difficult for the state to prove that the method of assessment was improper or that there was not substantial compliance with prescribed procedures. It would be particularly difficult to prevail on these issues in light of the fact that the assessment ratio for each year in question is reasonable when compared to the ratios for other municipalities affected by oil and gas property assessments.

We hope this information is useful to you. If you have further questions, please do not hesitate to contact us.

NCG:DTC:eja

Alaska Department of Revenue

Valdez Property Tax Problem

Report by Petroleum Revenue Division

Dated: March 14, 1983

Table of Contents

Memo from Fred Boetsch to Joseph Donohue regarding Valdez property tax problem, dated March 9, 1983.

Memo from Jerry Heier to Joseph Donohue entitled "Overview of Local Assessment Practices," dated March 9, 1983.

Memo from Jerry Heier to Joseph Donohue regarding Valdez oil and gas property taxation dated February 9, 1983.

- Exhibit A - September 1, 1981 letter from Richard G. Randell to Mark Lewis, City Manager of Valdez, on 1981 tax assessments.
- Exhibit B - March 1, 1982 letter from Richard Randell on Valdez real estate appraisals for assessment purposes.
- Exhibit C - Contract for Professional Appraisal Services between City of Valdez and Rich Randell Appraisal Company.
- Exhibit D - Portions of the City of Valdez charter.
- Exhibit E - City of Valdez Code.
- Exhibit F - March 31, 1981 letter from Richard Randell to Mark Lewis regarding real estate values for properties located in the City of Valdez.
- Exhibit G - March 9, 1983 letter from Patrick McKay, Attorney at Law, to Mark Lewis.

MEMORANDUM


State of Alaska

TO: Joe Donohue
Deputy Commissioner
Department of Revenue

DATE: March 9, 1983

FILE NO.

TELEPHONE NO:

FROM: Fred Boetsch 
Director
Petroleum Revenue Division
Department of Revenue

SUBJECT: Valdez Property Tax
Problem

ALLEGATIONS BY ANCHORAGE DAILY NEWS

The Anchorage Daily News, in a series of stories, charged that the City of Valdez had received about \$ 190,000 in property tax revenues on state assessed petroleum properties in an improper way. The stories indicated that the locally assessed property had been reduced in 1981 and 1982 by the City Manager, Mark Lewis, by 15% without following proper procedures. As a result of the lower assessment for local property, the overall millage rate was higher than it otherwise would have been. This caused the local tax on petroleum property to also be higher with the result that the net tax paid to the state was reduced. See the memo from Jerry Heier and me dated February 9, 1983 titled "Valdez oil and gas property taxation" for the calculations and details of how this worked.

THE FACTS

The City of Valdez hired the Rich Randall Appraisal Company to appraise local property for 1981 and 1982. Although the correspondence and the contract entered into on December 15, 1981 (for the 1982 and 1983 years) uses the term "appraiser", Mr. Randall actually certified the rolls for 1981 and 1982 as the city "assessor". In addition, the terms of the request for proposal, the correspondence, and the contract (Exhibit C), seem to indicate that the appraiser was to do all of the work ordinarily done by the assessor under the Municipal Code (Title 29, Alaska Statutes) and the local ordinances (See Exhibit E). Although no reference was made to having Mr. Randall certify the rolls as "assessor", he in fact did so in letters to Mark Lewis dated September 1, 1981 for the 1981 tax roll (Exhibit A) and to Tom Gilson dated March 1, 1982 for the 1982 tax roll (Exhibit B).

Mark Lewis, in his capacity as City Manager, and as the person who, acting in that capacity, hired Mr. Randall, then proceeded to lower Mr. Randall's assessments by 15%. He did this because he believed that local economic conditions were depressed to the extent that the market probably would not support the values used by Mr. Randall. Mr. Lewis and Mr. Randall apparently discussed this topic on March 23, 1981 and Mr. Randall subsequently defended his valuations in a letter to Mr. Lewis dated March 31, 1981 (Exhibit F). In that letter, Mr. Randall also indicated that appraisers could differ in their valuations of the same piece of property by as much as 15% to 20% and that, "Therefore, it would be reasonable to apply a percentage of increase or decrease to the values I arrived at for

assessment purposes." Mr. Lewis, did, in fact, lower those assessments by 15%.

It should be noted at this point that there is substantial support for Mr. Randall's views about the variability of assessments on property. A study by Jerry Heier (see his memo to you dated February 22, 1983 attached) comparing the ratios for several Alaska municipalities as done by the State Assessor and the various practices different communities use for the year to year assessment process indicate that there is, indeed, a wide variation, not only in the values, but in the assessment process itself.

LEGAL QUESTIONS

There are really two legal questions involved here:

- 1) Did Mark Lewis act improperly when he lowered the local assessments?
- 2) Can the state recover the excess taxes charged on petroleum properties as a result of his action?

The first question is a difficult one to resolve. According to the Municipal Code and the City Ordinances of the City of Valdez, only the assessor has the authority to certify the assessment role and any changes made to the role must be made by the assessor (as a result of error or omission) or by the city council sitting as the board of equalization as recorded by the city clerk (Exhibit E, Secs. 25-4, 25-4.1, 25-6, 25-7, 25-7.1, and 25-8). It is apparent from the facts that Rich Randall acted as assessor within the meaning of this requirement. However, he was hired by, and worked under the authority of Mark Lewis, City Manager. The question is, did Lewis have the actual authority to function as assessor which he then delegated to Randall? If that is the case, then one could argue that he lowered the assessments in accordance with his authority and both questions are resolved.

If, on the other hand, only Rich Randall, by virtue of the authority given to him under the agreements he had with the City of Valdez, could make the changes that were made, then Mark Lewis failed to follow the procedures required under the local ordinances and acted improperly in changing the role.

As to the second question, it is possibly a question that could be applied to all municipalities which contain petroleum property and which assess local property at less than full and true value. Again, referring to the memo dated February 22, 1983 by Jerry Heier, it appears that all such municipalities are at less than 100%. In fact, it is further interesting to note that the City of Valdez had ratios of 89.60% in 1981 and 93.84% in 1982 which indicates that Rich Randall's original appraisals were high. Valdez is also higher than the average for all municipalities.

Even so, if the first question is answered in the affirmative and Mark Lewis did act improperly, does that impropriety give the state a cause of

action against the City of Valdez to recover the excess taxes collected on petroleum property? There is nothing in Title 43 that would give the state such authority.

CONCLUSION

Both legal questions should be referred to the Department of Law for a legal opinion and recommendations as to further action, if any. I should point out that if the state does seek to recoup the money from the City of Valdez, then Valdez would more than likely have to raise its current mill rate in order to pay us. Since that would be born primarily by petroleum property, our net would be only about \$ 12,000. It is possible, however, that the Attorney General could find a way to make this assessment either retroactive to local property owners at the time of the 1981 and 1982 assessments or order a special assessment on current locally owned property only.

This memo and the attachments should be forwarded to the Attorney General for his advice on how or whether to proceed.

MEMORANDUM

State of Alaska

TO: Joe Donohue
Deputy Commissioner
Department of Revenue

DATE: March 9, 1983

FILE NO:

TELEPHONE NO:

FROM: Jerry Heier *JH*
Petroleum Property Assessor
Petroleum Revenue Division
Department of Revenue

SUBJECT: Overview of Local
Assessment Practices

Through: Fred Boetsch *FB*
Director

I have obtained the 1982 real property local assessment ratios for 1982 from the Department of Community and Regional Affairs that apply to the municipalities primarily affected by oil and gas property assessments.

The 1981 and 1982 ratios are as follows:

	<u>1981</u>	<u>1982</u>
Anchorage	87.24	82.05
Fairbanks-North Star	93.11	87.03
Kenai Peninsula	90.39	79.93
Matanuska-Susitna	80.84	88.18
North Slope Borough	70.00	76.00
Valdez	89.60	93.84
Average Ratio	85.20	84.51

The methodology used for determining real property assessment ratios and its uses and limitations are explained in "Alaska Taxable" furnished by the Department of Community and Regional Affairs, Division of Local Government Assistance.

While a 100% ratio is the ultimate goal for an assessor's office it is very rarely attainable. Property valuation can best be described as an art and not an exact science. It is very unlikely that any two appraisers will appraise a specific property at the exact same value. Too many variables are involved in the appraisal function. A difference of 10 to 15 percent is not uncommon.

The ideal situation is for a municipality to revalue, or at least recheck the value of each property annually. On the practical side this is rarely possible due to time and budget restraints. Smaller taxing jurisdictions may be able to accomplish this on a contract basis, rather than with an in-house appraisal and assessment staff.

I have contacted several of the municipalities involved with oil and gas properties to determine the time schedule used for an entire valuation of the locally assessed properties.

In 1980 the Municipality of Anchorage began an annual revaluation cycle. This is being accomplished through the utilization of a computer assisted valuation system along with an in-house field appraisal section. Approximately 20 percent of the Municipality is physically appraised by the field staff. This would include difficult to appraise, special purpose properties and areas where there have been erratic and/or rapid value changes. The remaining 80 percent of the municipality is revalued utilizing computer analysis and extension.

The Fairbanks-North Star Borough is on a three year reappraisal cycle with staff appraisers. One-third of the Borough is physically inspected and revalued each year.

The Kenai Peninsula Borough is on a two year reappraisal cycle with one-half of the Borough being physically inspected and revalued each year.

The Matanuska-Susitna Borough has just gone on an annual revaluation basis. During the last two years the land values were readjusted annually and the buildings every two years.

The North Slope Borough uses both an in-house staff and a contract appraisal firm. Industrial and commercial properties are revalued annually and residential properties are revalued every two years.

The Municipality of Valdez uses a contract appraisal firm on an annual review and revaluation basis.

During inflationary market conditions a municipality that is on a two or three year revaluation cycle will always be on the low side of a 100% ratio. Computer assisted valuation is relatively new in the state and I am not able to comment on its reliability or accuracy.

The ultimate proof of an appraisal is only evident after a sale of the property itself and assessments are not made on hindsight but only on the basis of a best estimate of current market conditions.

With due consideration given to the fact that a 100% ratio is rarely obtainable under the best of conditions and that most of the municipalities revalue on a cycle basis it is understandable that local assessment ratios will be below the ideal, 100% assessment ratio.

To my knowledge the statutes do not provide any means of forcing a municipality to achieve and maintain a relatively reasonable high ratio. Even statutory provisions would have to provide for a reasonable range to allow for local budget and time constraints.

The question of ultimate authority for an across the board reduction or increase for a portion or even all of an assessment roll, by any class of city or borough would be referred to the Department of Law. From a practical point of view it would appear that the real property assessment ratios for the municipalities reviewed were fairly consistent and fell within a reasonable range. The average rate for 1981 was 85.20 percent and range from a low of 70 percent to a high of 93.11 percent. For 1982 the

spread is even narrower, with an average ratio of 84.51 percent with a low of 76 percent and a high of 93.84 percent.

For reasons already mentioned it is not unreasonable for the average ratio to be below 100 percent and the spread or range or ratios also appears to be within tolerable limits.

GDH:il

MEMORANDUM

State of Alaska

TO: Joseph K. Donohue
Deputy Commissioner

DATE: February 9, 1983

FILE NO:

TELEPHONE NO:

Through ^{FROM:} Fred Boetsch, Director *FB*
Petroleum Revenue Division

SUBJECT: Valdez oil and gas
property taxation

From: Gerald D. Heier *GDH*
Petroleum Property Assessor

I have checked into the Valdez oil and gas property tax situation and was informed by Terry Early, the State Assessor with the Department of Community and Regional Affairs that the 1981 locally taxed assessed value for Valdez was \$87,412,330 and that the 1982 value was \$91,811,450. These would be the 85% numbers derived from the 100% appraised values.

The original appraised values can be calculated as follows:

$$1981 = 87,412,330 \div .85 = 102,838,035$$

$$1982 = 91,811,450 \div .85 = 108,013,470$$

The differences in local taxes paid on state assessed oil and gas properties and 85% or 100% locally assessed properties can be calculated as follows:

	<u>1981</u>	<u>1982</u>
Locally Assessed, actual	87,412,330	91,811,450
State Assessed	+ 1,619,140,000	+ 1,575,389,000
Total Value	<u>1,706,552,330</u>	<u>1,667,200,450</u>
Actual local mill levy	x .006364	x .0069009
Taxes collected	<u>10,860,499</u>	<u>11,505,183</u>
Locally assessed, adjusted	102,838,035	108,013,470
State Assessed	+ 1,619,140,000	+ 1,575,389,000
Total adjusted value	<u>1,721,978,035</u>	<u>1,683,402,470</u>

An adjusted mill rate can now be determined as follows:

Taxes collected -- Total adjusted value equals adjusted mill levy.

	<u>1981</u>		<u>1982</u>	
	10,860,499	=	11,505,183	=
	<u>1,721,978,035</u>	= .006307	<u>1,683,402,470</u>	= .0068345

The difference between the actual local mill levy times the state assessed property value yields the additional local tax imposed on state assessed properties.

	<u>1981</u>	<u>1982</u>
Actual mill levy	.006364	.0069009
Adjusted mill levy	- .006307	- .0068345
	<u>.000057</u>	<u>.0000664</u>
State Assessed Property	1 619,140,000	1,575,389,000
	<u>.000057</u>	<u>.0000664</u>
	92,290.98	104,605.83

The above scenario assumes that the information obtained from Terry Early is the actual assessed values used by Valdez for tax purposes and that the assessed value was actually 85% of the original appraised value as determined by their contract appraisers.

I have discussed the Valdez situation with Dave LeBlond of the Attorney General's office here in Anchorage and he mentioned several points of concern.

Valdez is a Home Rule City and may or may not operate under the same rules and regulations as an organized borough. It should be assumed that the city manager has the authority to reduce the appraised values and establish the local assessment roll as he thought best. His opinion of value for the city properties may be different than the contract appraisers. It is not unusual for "appraised" values and "assessed" values to differ by 10% to 15%. Any formal investigation would be time consuming, probably involving subpoenas and interrogatories. It would be difficult to prove that anyone acted in bad faith or conspired to cheat the state.

Enclosed is a copy of "Alaska Taxable" - 1981, please refer to Table III "Local Assessment Vs. Full Value" on pages 20 and 21. Valdez has a real property assessment ratio of 89.6; North Slope Borough, 70.00; Mat-Su, 80.84; Kenai Peninsula, 90.39; Fairbanks North Star, 93.11 and Anchorage 87.24. This would seem to indicate that the assessment ratio for Valdez for 1981 did fit the general pattern of ratios determined for other oil and gas related property boroughs.

RECEIVED

MAR 01 1983

September 1, 1981

RE: City of Valdez
Tax Assessments
Petroleum Tax and District Tax Year 1981

City Manager
City of Valdez
P O Box 307
Valdez, Alaska 99686

ATTENTION: MARK LEWIS

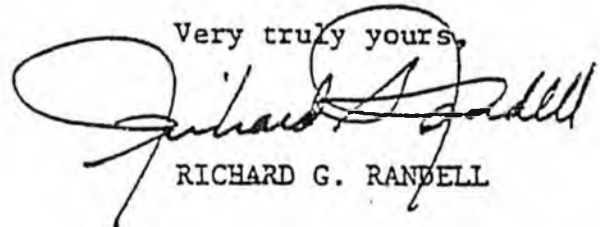
Dear Mr. Lewis:

I hereby certify, as the Tax Assessor for the City of Valdez, that the tax roll for the year 1981 is true and correct. And that any and all appeals have been answered and rectified.

If you have any questions do not hesitate to contact me.

quest

Very truly yours,



RICHARD G. RANDELL

RGR/km

file

Rich Randell Appraisal Co.
P.O. Box 747
Valdez, Alaska 99686

March 1, 1982

City of Valdez
P.O. Box 307
Valdez, Alaska 99686

Attn: Mr. Tom Gilson/Finance Director

Re: Real Estate Appraisals
for Assessment Purposes
Valdez, Alaska

Dear Tom:

I hereby certify, as the tax assessor, that the appraisals for tax purposes are completed and the tax roll for the year 1982 is true and correct as submitted. However, in the event that any appeals to this tax roll and/or the appraised values prove correct, the tax roll will be amended.

This year we were asked to value certain city owned lands and these values follow.

<u>Legal Description</u>	<u>Area.</u>	<u>Estimated Value as of 1/1/82</u>
Lot 25, Block 1 Mineral Creek	18,863 sq.ft.	\$56,600-
Lot 1, Block 20 Mineral Creek	8,800 sq.ft.	30,800-
Lot 2, Block 20 Mineral Creek	8,800 sq.ft.	30,800-
Lot 3, Block 20 Mineral Creek	8,800 sq.ft.	30,800-
Lot 4, Block 20 Mineral Creek	8,800 sq.ft.	30,800-
Lot 5, Block 20 Mineral Creek	8,856 sq.ft.	31,000-
Lot 20, Block 22 Mineral Creek	8,787 sq.ft.	30,800-
Lot 21 Block 22 Mineral Creek	8,273 sq.ft.	29,000-
Lot 2, Block 23 Mineral Creek	20,370 sq.ft.	61,100-
Lot 3, Block 23 Mineral Creek	1.997 Acres	174,000-
Lot 2, Block 25 Mineral Creek	20,160 sq.ft.	70,600-
Lot 11, Block 27 Mineral Creek	20,160 sq.ft.	70,600-
Lot 7, Block 28 Mineral Creek	10,000 sq.ft.	40,000-
Lot 2, Block 29 Mineral Creek	14,643 sq.ft.	58,600-
Lot 9, Block 31 Mineral Creek	14,897 sq.ft.	59,600-
Lot 15, Block 34 Mineral Creek	7,500 sq.ft.	22,500-
Lot 16, Block 34 Mineral Creek	7,500 sq.ft.	22,500-
Lot 17, Block 34 Mineral Creek	7,500 sq.ft.	22,500-
Lot 18, Block 34 Mineral Creek	7,500 sq.ft.	22,500-
Lot 13, Block 35 Mineral Creek	4,416 sq.ft.	13,200-
Lot 14, Block 35 Mineral Creek	4,249 sq.ft.	12,700-
Lot 23, Block 35 Mineral Creek	6,500 sq.ft.	19,500-
Lot 24, Block 35 Mineral Creek	7,500 sq.ft.	22,500-
Lot 12, Block 36 Mineral Creek	1.016 Acres	44,300-
Lot 7, Block 37 Mineral Creek	7,774 sq.ft.	23,300-

<u>Legal Description</u>	<u>Area</u>	<u>Estimated Value as of 1/1/82</u>
Lot 1, Block 40 Harbor	6,500 sq.ft.	19,500-
Lot 2, Block 40 Harbor	6,500 sq.ft.	19,500-
Lot 3, Block 40 Harbor	6,500 sq.ft.	19,500-
Lot 4, Block 40 Harbor	6,500 sq.ft.	19,500-
Lot 12, Block 40 Harbor	6,048 sq.ft.	24,200-
TR.C., Block 49 Harbor	17,977 sq.ft.	44,900-
TR.D., Block 49 Harbor	12,362 sq.ft.	30,900-
Ptn. Block 8 Black Gold #1	23,168 sq.ft.	57,900-
TR.F. USS 495 Port Valdez	17,165 sq.ft.	47,200-
USS 455	125 Acres	625,000-
USS 439	470.628 Acres	1,647,000-
Lot 11, Block 35 Min. Creek	5,625 sq.ft.	16,900-
Lot 12, Block 35 Min. Creek	4,875 sq.ft.	14,600-
Lot 22, Block 35 Min. Creek	5,500 sq.ft.	16,500-
Lot 31, Block 33 Min. Creek	7,500 sq.ft.	22,500-
Block 5, Block 20, Add. #2 Mineral Creek	3.81 Acres	415,000-
Block 6, Block 20, Add. #2 Mineral Creek	2.92 Acres	318,000-
Tr.B, Block 20, Add #2 Mineral Creek	46,000 sq.ft.	138,000-
Lot 11, Block 1 Min. Cr. Hts.	9,073 sq.ft.	31,800-
Lot 39, Block 1 Min. Cr. Hts.	10,154 sq.ft.	35,500-
ASLS 79-117(W. Min. Cr.) Tr. A.	406.46 Acres	488,000-
ASLS 79-117(Harbor) Tr.B. (Island "A")	25.63 Acres	89,700-
ASLS 79-116(Industrial Tract) TR.A.	1,657.7 Acres	1,326,000-
ASLS 79-116 TR.B.	1,488.42 Acres	1,191,000-
ASLS 79-116 TR.C.	188.67 Acres	283,000-
ASLS 79-116 TR.D.	106.81 Acres	171,000-
ASLS 79-115 TR.E.	21.66 Acres	75,800-
ASLS 79-116 TR.F.	364.21 Acres	437,000-
ASLS 79-116 TR.G.	34.56 Acres	121,000-

These values are opinions based on factors found in the Valdez real estate market while doing our assessment work. However, many of these parcels are so large and/or so untypical that no comparable sales data was available and therefore are extremely rough estimates.

Also, many of the property cards need to be updated, and in order to accomplish this, we must personally inspect each of the properties in question. The accomplishment of this will take time as it is difficult to find owners at home during day-time hours and many do not want to be bothered in the evening.

We have been, and are making, telephone calls to try and set up appointments. Those that cannot be reached by telephone will have to be canvassed.

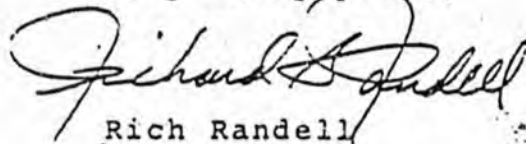
We are also planning to take new photographs of all improved properties during the late spring and summer of 1982. We propose to have the majority of the property cards completed and have new photographs with them by December 15, 1982 and if not, we recommend that the payment of \$8,400 due us on that date be held back until this requirement is met.

One other subject I would like to discuss with you is the appraisal of mobile homes as real property. Anything that is permanently affixed to the land is real property; mobile homes are personal property. There is no way to accurately keep abreast of ownership changes in the mobile home market as there is no requirement to file any sort of deed, like in a real property transaction. Also, mobile home owners move their units from one court to another without any notification to the city. The city then expends a large amount of effort, as well as money, in locating the correct owner and/or unit.

I would recommend that any mobile home that is not set up on a full (permanent style) foundation be considered personal property and removed from the real property tax roll.

If you have any questions regarding any part of this letter please contact me.

Very truly yours,



Richard S. Randell

Rich Randell

RR/mmp

CONTRACT FOR PROFESSIONAL APPRAISAL SERVICES

THIS AGREEMENT, made and entered into this 15th day of December, 1981, by and between the CITY OF VALDEZ, a municipal corporation organized under the laws of the State of Alaska, hereinafter referred to as the "City," and Rich Randall Appraisal Company, hereinafter referred to as the "Appraisers".

WITNESSETH:

1. The Appraiser shall:

- (a) Appraise, in accordance with standard Alaska tax practice, all taxable real property located within the existing limits of the City at true value, furnishing all necessary cards, photographs and forms required for such appraisal, for tax year 1982 and 1983.
- (b) Appraise, in accordance with standard Alaska tax practice, all City, State, and Federal property located within the existing limits of the City at true value, furnishing all necessary property cards with photographs and information on acreage and dimensions as well as a description of any improvements, for tax year 1982 and 1983.
- (c) Furnish all necessary equipment and labor, other than legal and/or location descriptions and ownership records of those parcels to be appraised, in connection with the appraisal required in the preceding paragraphs, and make a final report to the City in the manner required by law.
- (d) Investigate, evaluate and report to the City the merits of all written complaints received by the City and forwarded to the appraisers after evaluation notices have been mailed and prior to Board of Equalization hearings. The City shall determine which complaints are to be forwarded to the Appraiser for further investigation and evaluation.
- (e) Attend hearings of the Board of Equalization at such times as required by law.

(f) Complete, prior to March 1, of each year, all obligations to be performed on the part of the Appraiser with the exception of investigation of complaints and attendance at the Board of Equalization hearings.

2. The City shall:

(a) In consideration of the performance of the obligations undertaken under paragraph 1, Sections (a), (b), (c) and (f), by the Appraiser, pay to the Appraiser the sum of twenty-five thousand two hundred dollars (\$25,200) for the 1982 tax year and the sum of twenty-five thousand (\$25,000) for the 1983 tax year. Eight thousand four hundred dollars (\$8,400) shall be paid not later than December 15th of each year with the remainder to be paid within thirty days of delivery to the City of the tax roll and satisfaction of all contract requirements for that year.

(b) In consideration of the obligations undertaken by the Appraiser under Paragraph 1, Sections (d) and (e) herein pay to the Appraiser amount of FIFTY DOLLARS (\$50.00) per hour for the time spent performing these services, except that no additional fee shall be paid for appeals caused by Appraiser negligence, such as appraising non-existent property or misidentifying property.

(c) Provide the Appraiser, prior to commencement of field work in Valdez, with legal or location descriptions, ownership records, owners' addresses, and the existing property cards with photographs from the previous tax year. The property cards and city records shall be returned to the City as soon as possible after use by the Appraiser.

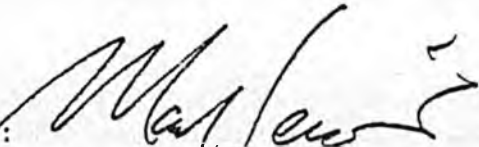
(d) Provide the Appraiser with copies of existing City maps, plats and zoning maps covering the properties to be appraised.

3. The parties agree that the Appraiser shall have no responsibility for the appraisal of either the Pipeline-oriented property which has been appraised by the State or any property, the location and description of which, the City has not provided to the Appraiser.

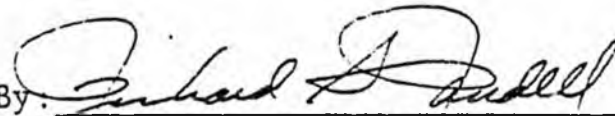
4. The parties agree that all existing property cards and tax records, as well as those cards and records which may be created by the Appraiser while performing this contract, are and shall remain the property of the City.


IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

CITY OF VALDEZ, ALASKA

By: 
Mark Lewis, City Manager


Rich Randall Appraisal Company

By: 
Richard G. Randell

By: 
Ralph Ellinger

APPROVED AS TO FORM:

HUGHES, THORSNESS, GANTZ,
POWELL & BRUNDIN, Attorneys
for the City of Valdez

By: 
Kenneth P. Jacobus

(g) The council has the power to:

(1) Delegate the power to invest the fund to the city manager or other city official, and require reports relating to the investment as it prescribes;

(2) Hire other persons as necessary to assist the council in the exercise of its powers; and

(3) Take whatever other actions are reasonably necessary in furtherance of the purpose of this section. (7-19-77.)

Chapter VII. Taxation.

Sec. 7.1. Taxation by ordinance.

The council shall provide in the Code for the annual assessment, levy and collection of city taxes. Council may provide for differential taxation based upon differences in kind or level of services provided within service areas established by ordinance.

Sec. 7.2. Exemptions.

The power of taxation shall never be surrendered. No exemptions from taxation shall be allowed, except such as are expressly provided by law. Private leaseholds, contracts or interests in land or property owned or held by the United States, the state or its political subdivisions, shall be taxable to the extent of the interests.

Sec. 7.3. Assessment day.

The taxable status of property shall be determined as of the first day of January, or such other date as may subsequently be required by law, which shall be the assessment day. Values on the assessment roll shall be determined according to the facts existing on the assessment day for the year for which the assessment roll is made, and no change of the status of any property after that day shall be considered by the council when acting as a board of equalization. Standards of appraisal shall be followed by the council when established as a board of equalization.

Standards of appraisal shall be followed by the council when established by law.

Sec. 7.4. Security for taxes on real property.

The city shall have a first lien upon all real property against which taxes are assessed for the taxes and any collection charges, penalties and interest which may accumulate thereto, which lien shall continue until the taxes are paid.

Sec. 7.5. Protection of city's real property tax liens.

The city may protect its lien for taxes upon real property by sale at tax sale, or by purchasing the real property at any tax sale or other public sale, or by direct negotiation with the owner. Any such procedure shall be deemed to be for a public purpose. When the city has acquired an interest in real property to protect a tax lien thereon, the owner of any interest in such real property may redeem the same by paying the delinquent city taxes and all accrued charges, penalties and interest thereon. After the city has held any tax delinquent real property for one year, it may hold the same for public use or sell it at public auction to the highest bidder.

Sec. 7.6. Security for taxes on personal property.

City taxes on personal property shall be a debt to the city from the persons to whom they are assessed. If any person to whom such taxes are assessed fails or refuses to pay the taxes, or if the collecting officer reasonably believes that any person will not pay such taxes, the taxes and accrued charges, penalties and interest may be collected by a personal action in the name of the city against the person to whom assessed in a court of competent jurisdiction, or by distraint and sale of any personal property of the person assessed. Neither of the remedies herein given shall be exclusive of the other at any time.

Chapter VIIA. Service Areas.

Sec. 7A.1. Purpose.

Service areas may be established to provide services not provided on an area-wide basis or to provide a higher level of service than that provided on an area-wide basis.

Sec. 7A.2. Establishment.

(a) The council by ordinance may establish, alter, consolidate or abolish service areas. The council by ordinance may add or eliminate services to a service area. The ordinance shall contain the following:

- (1) Boundaries and area to be included;
- (2) Service to be provided or be eliminated; and
- (3) Other provisions the council includes.

(b) If a petition of protest is filed with the council before the effective date of the ordinance adopted under this section, the ordinance shall be submitted to the qualified voters residing in the service area or proposed service area and if ratified shall take effect upon certification of the election. The petition shall contain signatures of at least ten percent or 100 of the qualified voters residing in the service area or proposed service area, whichever is the lesser. Each new service or each service to be eliminated shall be placed separately on the ballot and shall require ratification by a majority of the qualified voters voting on the question. There shall be no election under this subsection to eliminate a service to be provided on an area-wide basis.

Taxation

CHAPTER 25.

TAXATION.¹Article I. Assessment, Levy and Collection of Taxes.Division 1. Generally.

- § 25-1. Property subject to taxation generally.
- § 25-2. Exemption of personal property from taxation; mobile homes classified as real property.
- § 25-2.1. Exemptions required by state law.
- § 25-2.2. Additional exemptions.
- § 25-3. Determination of annual levy, due dates, etc.; limitation on amount of levy.

Division 2. Assessments.

- § 25-4. Assessment procedure generally; preparation of assessment roll.
- § 25-4.1. Reevaluation.
- § 25-5. Contents of assessment roll.
- § 25-6. Notices of assessment to be given; corrections in assessment roll by assessor.
- § 25-7. Appeals to board of equalization.
- § 25-7.1. Hearing.
- § 25-8. Completion of assessment roll; records of board of equalization; certification of assessment roll.
- § 25-9. Appeals to superior court.
- § 25-10. Supplementary assessment rolls.
- § 25-11. Delivery of assessment roll to city council; validity of assessment rolls.

Division 3. Levy and Collection.

- § 25-12. Determination of tax rate and delinquent date; tax statements; penalties for delinquent payment.
- § 25-12.1. Deadlines for rate of levy determinations and tax statement mailing.
- § 25-13. Delinquent tax roll; foreclosure lists; payment of taxes prior to sale; giving of notices.
- § 25-14. Foreclosure and sale of real property for delinquent taxes; redemption.
- § 25-15. Foreclosure on personal property.

Article II. Sales Tax.

§§ 25-16 to 25-33. Repealed.

1. As to finance generally, see ch. 9 of this Code.

Valdez City Code

§§ 25-34 to 25-99. (Blank.)

Article III. Special Assessments.

- § 25-100. Authorized improvements.
- § 25-100.1. General limitations.
- § 25-101. Property to be assessed.
- § 25-102. Property owner.
- § 25-103. Amount to be assessed.
- § 25-104. Costs of improvement.
- § 25-105. Council initiated improvement districts--Authorized.
- § 25-106. Same--Procedures for creation.
- § 25-107. Same--Objections and hearings.
- § 25-108. Petition initiated improvement districts--Authorized.
- § 25-109. Same--Public hearings and notice thereof.
- § 25-110. Same--Maximum assessment.
- § 25-111. Computation of assessments.
- § 25-112. Levy of assessments; notice of hearing on objections.
- § 25-113. Hearing on objections; signing of assessment roll.
- § 25-114. Notice to owner of assessment.
- § 25-115. Assessments to be lien on property.
- § 25-116. Assessments to be binding.
- § 25-117. Appeal.
- § 25-118. Reassessment--To be made where original assessment invalidated.
- § 25-119. Same--Valid notwithstanding irregularities.
- § 25-120. Foreclosure of liens for unpaid assessments.

Article IV. Municipal Service Areas.

- § 25-121. Created.
- § 25-122. Boundaries designated.
- § 25-123. Differential tax levied.

Article V. Tax on Pipeline Property.

- § 25-124. Levied on "taxable property."
 § 25-125. Levied on "construction equipment."

Article VI. Hotel-Motel Room Tax.

- § 25-126. Definitions.
 § 25-127. Levied; responsibility for payment; collection.
 § 25-128. Certificate of registration.
 § 25-129. Receipts--Segregation.
 § 25-130. Same--Transmittal; due date; penalty. .
 § 25-131. Returns to be confidential.
 § 25-132. Records--Maintenance and inspection.
 § 25-133. Same--Investigation by city.
 § 25-134. Suits for collection.
 § 25-135. Prohibited acts.
 § 25-136. Civil penalties for violations.
 § 25-137. Use of funds generated; creation of advisory board.

Article I. Assessment, Levy and Collection
of Taxes.

Division 1. Generally.

Sec. 25-1. Property subject to taxation generally.

All property not expressly exempt by the city, or exempted from taxation by the city under federal or state constitutional provisions, shall be subject to annual taxation at its full and true value based upon the actual value of the property assessed. (Ord. No. 6803, § 1.)

Sec. 25-2. Exemption of personal property from taxation;
mobile homes classified as real property.

(a) Effective January 1, 1968, all personal property located within or owned by residents of the city shall be exempt from the Valdez personal property tax. This exemption includes, but is not limited to, household furniture and effects, intangibles, inventories and goods in process, and boats and vessels of all types.

(b) For the purposes of this chapter, real property includes, among other things, trailers and mobile homes, and lean-tos and similar structures attached or contiguous thereto. The words "trailers and mobile homes" include all forms of housing adaptable to being moved by a power connected thereto, and which are or can be used for residential, business, commercial or office purposes. Provided, however, that those trailers which are (1) used for camping or recreational purposes only, or (2) not affixed to the site and not con-

nected with utilities, shall be considered to be personal property and exempt from taxation. A trailer or mobile home is conclusively presumed to be affixed to the land and real property for the purposes of taxation when it has remained at a fixed site for more than ninety days. When the ownership of a trailer or mobile home and attachments and appurtenances is different from the land upon which it rests, the city may, in its discretion, assess and tax the ownerships separately. (Ord. No. 6803, § 2.)

Sec. 25-2.1. Exemptions required by state law.

(a) The following property is exempt from general taxation:

(1) Municipal, state or federally owned property; except, that private leaseholds, contracts or other interest in the property shall be taxable to the extent of those interests.

(2) Household furniture of the head of a family or a householder not exceeding five hundred dollars in value.

(3) Property used exclusively for nonprofit religious, charitable, cemetery, hospital or educational purposes. "Property used exclusively for religious purposes" includes the following property owned by a religious organization:

a. The residence of the pastor, priest, rabbi, minister or religious order of a recognized religious organization;

b. A structure, its furniture and its fixtures used solely for public worship, charitable purposes, religious education or a nonprofit hospital;

c. Lots supporting and adjacent to a structure or residence mentioned in subparagraphs a. or b. of this subsection which are necessary to convenient use; and

d. Lots required by local ordinance for parking near a structure defined in subparagraph b. of this subsection.

(4) Property of a nonbusiness organization composed entirely of persons with ninety days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of the auxiliary of such organization.

(5) Money on deposit.

(6) After January 1, 1973, the real property owned and occupied as a permanent place of abode by a resident sixty-five years of age or over is exempt from taxation of the assessed value of the real property. Only one exemption may be granted with respect to the same property and, if two or more per-

sons are eligible for an exemption with respect to the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under Alaska Statutes, sections 44.62.560--44.62.570.

(b) Property described in subsection (a) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable or hospital groups or by educational groups for classroom space.

(c) No exemption may be granted except upon written application for the exemption on a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assess-

ment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section. (Ord. No. 7538, § 1.)

Sec. 25-2.2. Additional exemptions.

Thirty percent of the assessed value, up to a maximum of ten thousand dollars, of a principal residence owned and occupied by the taxpayer is exempt from taxation. (Ord. No. 7611, § 1.)

Sec. 25-3. Determination of annual levy, due dates, etc.; limitation on amount of levy.

The rate of levy of tax, the date of equalization of the tax and the date when taxes shall become delinquent shall be fixed by resolution of the city council, and the levy for school and municipal purposes shall be separately made and fixed, but the aggregate thereof shall not exceed three per cent of the assessed value of the property assessed. (Ord. No. 218, § 1.)

Division 2. Assessments.

Sec. 25-4. Assessment procedure generally; preparation of assessment roll.

(a) All taxable property shall be assessed at its true and full value and all assessments shall be uniform and equal and based upon the actual value of the property assessed. The "full and true value" is the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

(b) The city assessor shall annually assess and list on a tax roll all real property in the name of the person by whom it is owned on the first day of January. If no owner or claimant to the property can be discovered, the property shall be assessed to the unknown owner.

(c) The assessor shall complete the listings for the annual assessment roll of all real property within the city before March 1, or other such date as may be established by the city council each year. The listing of all taxable property may be made upon permanent separate ledger cards which will be the combined assessment roll and tax ledger. Real property shall be assessed to the owner of record as shown in the records of the recorder of the district; provided, that any other person having an interest in the property may be listed on the assessment records with the owner. The person in whose name any property is listed as owner thereof shall be conclusively presumed to be the legal owner of record. If the owner of land is unknown, such land may be assessed to an "Unknown Owner" or "Unknown Owners." No assessment shall be invalidated by a mistake, omission or error in the name of the owner of the real property assessed, if the property is correctly described.

(d) The assessor may list real property located in any subdivision by lot and block or tract description, and unsubdivided property according to the land office section and township survey description, or by giving the boundaries thereof, or by reference to the book and page of the records of the recorder where the description may be found or by designation of tax lot number, referring to a public record kept by the assessor of descriptions of real property, or in such other manner as to cause the description to be capable of being made certain. Initial letters, abbreviations, fractions and exponents to designate the township, range, section or part of a section, or the number of any lot or block or part thereof, or any distance, course, bearing or direction, may be employed in any such description of real property.

(e) The assessor personally, or by any designated assistant, shall, after identifying themselves, have the right to enter upon and inspect the premises of any person at reasonable times for the purpose of making an examination, valuation, or assessment of real property. He shall have access to and may examine all property records involved, and any person shall, upon request, furnish to the assessor or his assistant every facility and assistance for the purposes of such examination, valuation or assessment. (Ord. No. 6803, § 3; Ord. No. 7539, § 1.)

Sec. 25-4.1. Reevaluation.

A systematic reevaluation of taxable real and personal property undertaken by the assessor, whether of specific areas in which real property is located or of specific classes of real or personal property to be assessed, shall be made only in accordance with a resolution or other act of the city council directing a systematic reevaluation of all taxable property within the city over the shortest period of time practicable, as determined by the city council and fixed in the resolution or other act of the council. (Ord. No. 7539, § 2.)

Sec. 25-5. Contents of assessment roll.

The assessor shall prepare an annual assessment roll, in duplicate, upon which he shall enter the following particulars:

- (a) The names and last known addresses of all persons with property liable to assessment and taxation.
- (b) A description of all taxable property.
- (c) The assessed value, quantity or amount of such property.
- (d) The arrears of taxes, if any, owed by any person. (Ord. No. 218, § 4.)

Sec. 25-6. Notices of assessment to be given; corrections in assessment roll by assessor.

(a) The assessor shall give to every person named in the assessment roll a notice of assessment, showing the assessed value of his property, at least

thirty days before the equalization hearings. On the back of each assessment notice shall be printed a brief summary, for the information of the taxpayer, of the dates when the taxes are payable, delinquent and subject to interest and penalty, dates when the board will sit for equalization purposes and any other particulars specified by the city council. The assessment notice shall be directed to the person to whom it is to be given, and shall be sufficiently given if it is mailed by first class mail addressed to, or is delivered at, his address as last known to the assessor; or if the address is not known to the assessor, the notice may be addressed to the post office nearest to the place where the property is situated. The date on which the notice is mailed, or if delivered by a city official or employee then on the date of such delivery, shall be deemed to be the date on which the notice is given.

(b) When valuation notices have been mailed, the assessor shall cause notice that the assessment rolls have been completed to be published in a newspaper of general circulation once each week for two successive weeks. In the event no newspaper of general circulation is published in the city, the assessor shall cause such notices to be posted at two public places for a period of two weeks. Such notice shall also state when and where the equalization hearings shall be held, and that an appeal may be taken to the board of equalization upon the filing of notice, in writing, with the board specifying the grounds for the appeal.

(c) The assessor may correct any error or supply any omission made or arising in the preparation of the assessment roll at any time before the sitting of the board of equalization. It shall be the duty of every person receiving a notice of assessment to advise the assessor of any error or omission he may have observed in the assessment of his property, in order that the assessor may correct the same.

If errors found in the preparation of the assessment roll are adjusted, the assessor shall mail a corrected notice allowing thirty days for appeal to the board. (Ord. No. 218, § 5; Ord. No. 7539, §§ 3, 4.)

Sec. 25-7. Appeals to board of equalization.

(a) Any person who receives notice or whose name appears on the assessment roll may appear to the board of equalization with respect to any alleged error in the valuation, overcharge, omission or neglect of the assessor not adjusted to the taxpayer's satisfaction. Whenever it appears to the board that there are overcharges or errors or invalidities in the assessment roll, or in any of the proceedings leading up to or subsequent to the preparation of the roll, and there is no appeal before the board by which the same may be dealt with, or where the name of any person is ordered by the board to be entered on the assessment roll, by way of addition or substitution, for the purpose of assessment, the board shall cause notice of assessment to be mailed by the assessor to that person or his agent giving him at least thirty days from the date of such mailing within which to appeal to the board against the assessment.

(b) Notice of appeal, in writing, specifying the grounds for the appeal, shall be filed with the board of equalization within thirty days after the date on which the assessor's notice of assessment was given to the person appealing. Such notice shall contain a certification that a true copy thereof was mailed or delivered to the assessor. If notice of appeal is not given within that period, the right of appeal shall cease as to any matter within the jurisdiction of the board, unless it is shown to the satisfaction of the board that the taxpayer was unable to appeal within the time so limited. A copy of the notice of appeal shall be sent to the assessor as above indicated.

(c) Upon receipt of the notice of appeal, the assessor shall make a record of the same in such form as the city council may direct, which record shall contain all the information shown on the assessment roll in respect of the subject matter of the appeal, and the assessor shall place the same before the board of equalization from time to time as may be required by the board. The board shall cause a notice of the sitting at which the appeal is to be heard to be mailed by the assessor to the person by whom the notice of appeal was given, and to every other person in respect of whom the appeal is taken, to their respective addresses last known to the assessor.

(d) The city may appeal an assessment to the board of equalization in the same manner as a taxpayer. Within five days after receipt of the appeal, the assessor shall notify the person whose property assessment is being appealed by the city. (Ord. No. 218, § 6; Ord. No. 7539, § 5.)

Sec. 25-7.1. Hearing.

(a) If an appellant fails to appear, the board of equalization may proceed with the hearing in his absence.

(b) The appellant bears the burden of proof.

(c) The only grounds for adjustment is proof of unequal, excessive or improper valuation based on facts which are stated in a valid written appeal timely filed or proved at the hearing.

(d) The board shall certify its actions to the assessor within seven days.

(e) The assessor shall enter the changes and certify the final assessment roll by June 1.

(f) An appellant may appeal to the superior court for, and is entitled to, trial de novo of the board's action. Either party to the appeal may demand a jury trial. (Ord. No. 7539, § 6.)

Sec. 25-8. Completion of assessment roll; records of board of equalization; certification of assessment roll.⁹

(a) The assessor shall enter the changes, so certified upon his records, and no assessed valuations shall thereafter be changed. After the hearings held by the board of equalization are concluded, the assessor shall complete the annual assessment roll, at a time to be determined by the city council, which shall be based on values as of January 1 immediately preceding, and he shall certify the same. Such supplementary assessment rolls shall be prepared and certified as may be expedient or necessary.

(b) The city clerk shall be ex officio clerk of the board of equalization and shall record in the minutes of the meeting all proceedings before the board and the names of all persons protesting assessments. All changes, revisions, corrections and orders relating to claims or adjustments and all final decisions shall be recorded in a record to be kept by the city clerk and to be known as the appeal record. Within three days following the final hearings of the board, the city clerk shall transmit to the assessor all corrections, revisions or changes authorized and approved by the board and shall certify that the changes so reported are as approved by the board of equalization.

(c) All taxes to be levied or collected, except as otherwise provided, shall be calculated, levied and collected upon the assessed values entered in the assessment roll and certified by the assessor as correct, subject to the taxpayer's right of appeal and to the corrections and amendments made in the rolls pursuant to this article. (Ord. No. 218, § 7.)

Sec. 25-9. Appeals to superior court.¹

Any person feeling aggrieved by any order of the board of equalization shall have the right of appeal on a de novo basis to the superior court; provided, that the person has first taken his appeal to the board of equalization. (Ord. No. 218, § 8.)

Sec. 25-10. Supplementary assessment rolls.²

All the duties imposed upon the assessor and the city clerk with respect to the annual assessment roll and all the provisions of this article relating to assessment rolls shall, as far as applicable, apply to supplementary assessment rolls. The delinquent date when taxes shall become delinquent, as determined by the city council, shall also apply to property listed on the supplementary assessment rolls. (Ord. No. 218, § 9.)

9. For similar state law. see A. S., §§ 29.10.432, 29.10.435, 29.10.429, 29.10.438.

1. For similar state law, see A. S., § 29.10.426.

2. For similar state law. see A. S., § 29.10.441.

sec. 25-11. Delivery of assessment roll to city council; validity of assessment rolls.³

(a) When the final assessment records have been completed by the assessor as provided in this division, the assessor shall deliver to the city council a statement of the total assessed valuation of all real property within the city.

(b) Every assessment roll as completed and certified by the assessor, and as corrected and amended by him from time to time in conformity with this article and the decisions of the board of equalization, shall, except insofar as the same may be further amended as a result of an appeal to the court, as provided by this article, be valid and binding on all persons, notwithstanding any defect, error, omission or invalidity existing in the assessment roll or any part thereof, and notwithstanding any proceedings pertaining thereto. (Ord. No. 6803, § 4.)

Division 3. Levy and Collection.⁴

Sec. 25-12. Determination of tax rate and delinquent date; tax statements; penalties for delinquent payment.⁵

The city council shall thereupon, by resolution, fix the rate of tax levy and designate the number of mills upon each dollar of assessed real and personal property that shall be levied, and shall levy such tax in accordance therewith and shall determine the date when taxes shall become delinquent. If the total tax assessed to any owner is less than one dollar, then the administration may delete such tax obligation from the tax roll.

The assessor shall then prepare and mail tax statements to the persons listed as the owners on the tax rolls. If the total tax assessed against the taxpayer is in excess of ten dollars, the taxpayer shall be given the right to pay such taxes in two installments. If the first half tax is not paid when due, the entire tax becomes delinquent and penalty and interest accrue as provided in this article. If the first half is paid when due, the second half of such taxes shall be payable on the date fixed by the city council for such second half, and if not paid shall be delinquent after such date.

A penalty not to exceed eight per cent shall be added to all taxes delinquent until the due date fixed for the payment of the second half, and interest at the rate of eight per cent a year shall be charged on the whole of the unpaid taxes, not including the

3. For similar state law, see A. S. , §§ 29.10.444, 29.10. - 447.

4. For state law authorizing city to enforce tax liens by foreclosure and sale, see A. S. , § 29.10.456.

5. For similar state law, see A. S. , §§ 29.10.447, 29.10. - 450, 29.10.453.

penalty, from the due date until paid in full. After the due date for the payment of the second half, a total penalty of ten per cent shall be added to all delinquent taxes, and interest at the rate of eight per cent per annum shall accrue as provided in this section upon all unpaid taxes, not including the penalty, from the due date until paid in full. (Ord. No. 218, § 11; Ord. No. 6521, § 1.)

Sec. 25-12.1. Deadlines for rate of levy determinations and tax statement mailing.

The city council shall annually determine the rate of levy before June 15. By July 1, the city shall mail tax statements setting out the levy, dates when taxes are payable and delinquent, and penalties and interest. (Ord. No. 7539, § 7.)

Sec. 25-13. Delinquent tax roll; foreclosure lists; payment of taxes prior to sale; giving of notices.

(a) The city clerk shall, within such time as the city council may direct, after such taxes have become delinquent and due, make up a roll in duplicate of all real property then subject to foreclosure. Such roll shall show therein the names of the persons appearing in the latest tax roll as the respective owners of the tax delinquent properties, a description of each such property as it appears on the latest tax roll, the years for which taxes are delinquent, the amount of delinquent taxes for each year and penalty and interest thereon, and thereon shall be endorsed under the hand of the city clerk and the corporate seal, a certificate to the effect that such roll is a true and correct roll of the delinquent taxes of the city for the years there shown. Such roll so made up shall be known as the foreclosure list of the city for the year in which the same is made up, the original of which shall be filed with the city clerk and remain open to inspection of the public. After the completion of the foreclosure list, the city clerk shall cause to be published in a newspaper of general circulation in the city, to be designated by the city council, or posted, a notice under the hand of the city clerk setting forth that the foreclosure list of real property for the year, naming it, has been completed and is open for public inspection at the office of the city clerk and that on a certain day not less than thirty days after publication or posting of such notice, the foreclosure list will be presented to the superior court for judgment and order of sale.

(b) On the day designated in the publication, a certified copy of the foreclosure list, together with a petition for judgment, shall be presented to the superior court. Notice of such foreclosure proceeding shall be given by four weekly publications of the foreclosure list in a newspaper to be designated by the city council. The first such publication shall commence on the day of the filing of the list and petition, and it shall not be necessary to mail a copy of any notice to the owner or to any other person interested in the property. If no newspaper is published, the city council may, in lieu of publication in a newspaper, cause the thirty days notice that the foreclosure list will be presented to the superior court for judgment and order of sale, and also the foreclosure

list filed with the court, to be posted at the front door of the post office and in three other conspicuous public places in the city. The posting of the foreclosure list shall be sufficient service on each person interested in any of the properties; provided, that when the foreclosure list is not published in a newspaper but notice thereof is given by posting, the city clerk shall, within ten days after such posting, mail to each person to whom a tract is assessed, at his last known address, a notice describing the tract and the amount due as stated on the foreclosure list. All persons owning or claiming to own, or having or claiming to have, any interest in any property included in the foreclosure list are charged with notice of such proceeding and of all steps thereunder.

(c) During the time of the publication or posting of the foreclosure list and up to the time of sale, any person may make payment on any piece or tract set forth therein, together with the penalty and interest, and proportionate share of the costs of publication and foreclosure; and the city clerk shall make proper notation of such payment on both the original delinquent tax roll and foreclosure list. On receipt of the delinquent tax payments as to a particular property any time one week prior to the filing of the foreclosure list and petition, the city clerk shall remove the property from both the list and the petition.

(d) A mortgagee or other holder of a recorded lien on real property may file with the city clerk a written request that notice of any foreclosure list including such real property be given to such mortgagee or other lien holder. The request shall contain the name and address of the person filing it, the description of the property and the name of the owner or reputed owner thereof, and the date of expiration of the mortgage or lien. Notice need not be given after the expiration of the mortgage or lien, unless a further request therefor is filed. If the mortgagee or lien holder furnishes a duplicate form of request for the notice, the city clerk shall certify thereon to the filing and return the duplicate to the person making the request. Whenever any property described in the request for notice is included in a foreclosure list, the city clerk shall send by registered mail, written notice thereof to the mortgagee or other lien holder. At the time of mailing the notice, the city clerk shall note that fact in ink in the latest tax roll. The notation in the tax roll is prima facie evidence that the notice was mailed. Where the same mortgagee or lien holder has filed requests for notices on two or more properties included in a foreclosure list, one notice may be issued covering all such properties. (Ord. No. 218, § 12.)

Sec. 25-14. Foreclosure and sale of real property for delinquent taxes: redemption.

(a) One general proceeding shall be brought on the part of the city to foreclose the tax liens against each of the properties included in the foreclosure list. Foreclosure proceedings shall be in accordance with state law. A certified copy of the judgment of the district court shall constitute a certificate of sale to the city of the several properties described in the judgment and decree.

(b) All real property sold to the city pursuant to law shall be held by the city for the period of one year from and after date of the judgment and decree of