

1
2
3
4
5
6
7
8
9
10
11
12 WHEREAS, AMC 12.35.010 provides for an exemption from and deferral of property taxes for real property
13 located in a deteriorating or deteriorated area whose boundaries have been determined by the municipality; and
14

15 WHEREAS, the abandoned structure known as the MacKay Building has long been recognized as a severe
16 blight on the downtown area, and the Municipality has previously recognized the importance of removal of this blight
17 by allocating funds for its demolition in the Capital Improvement Program; and
18

19 WHEREAS, a proposal for renovation of the Mackay Building has been presented to the Assembly, including
20 a detailed feasibility report, and this proposal appears to allow for the redevelopment of the property as quality
21 apartments; and
22

23 WHEREAS, without tax abatement and deferral for a total of 10 years, this redevelopment plan cannot
24 proceed; and
25

26 WHEREAS, abating and deferring taxes on the MacKay Building project appears to have the greatest
27 chance of renewing the area where the building stands at the least cost to Municipal taxpayers; and
28

29 WHEREAS, by designating the property as a deteriorated ^{area} ~~property~~, the Assembly will allow an application to
30 the Chief Fiscal Officer for tax abatement and deferral.
31

32 [WHEREAS, THE ANCHORAGE ASSEMBLY HAS DETERMINED THAT CERTAIN PROPERTY WITHIN
33 THE MUNICIPALITY SUFFERS FROM URBAN AND SHOULD BE DESIGNATED AS DETERIORATED
34 PROPERTY IN ORDER TO ENCOURAGE COMMUNITY REDEVELOPMENT BY PRIVATE ENTERPRISE.]
35

36 NOW, THEREFORE, the Anchorage Assembly ordains:

37 a area
38 Section 1: That the following property is hereby designated as deteriorated ~~property~~:

39 All property located between Cordova and Eagle Streets and 3rd and 4th Avenues.
40
41

42 Section 2: That this ordinance shall become effective immediately upon passage and approval by the
43 Assembly.
44

45 PASSED AND APPROVED by the Anchorage Assembly this 15th day of September, 1998.
46

47
48 
49 Chair

50 ATTEST:
51

52 
53 Municipal Clerk
54

MUNICIPALITY OF ANCHORAGE

ASSEMBLY INFORMATION MEMORANDUM

No. 106 -98

Meeting Date: September 1, 1998

From: Mayor

Subject: AO 98-135 Providing for Deteriorated Property Tax Exemptions and Deferrals and Companion Ordinances 98-134 and 98-136(S).

The following are defects in and unresolved issues raised by AO 98-135 and its companion ordinances 98-134 (withdrawal and sole source sale of HLB lands) and 98-136(S) (designation of deteriorated zone).

I. State Law. The Municipality is prohibited by State law from establishing and implementing any exemption from or deferral of property taxes unless specifically authorized by State statute. (AS 29.10.200 & 29.45.010)

A State Assessor Action. On Monday, August 31, 1998, the State Assessor formally advised the Municipality that the proposed ordinance 98-135 is contrary to present State law. The State Assessor has advised that passage of proposed ordinance 98-135 would most likely cause the State Assessor to require corrective action by the Municipality under AS 29.45.105. (See attached letter)

Attorney General's Office advised the Municipality this morning, September 1, 1998, that they concur with the State Assessor's advice.

B. Exemption. The proposed total exemption of all property taxes is not authorized by State law. Only a partial exemption is authorized by the present State statute. (AS 29.45.050(o); new per SCS HB 399(RLS), 1998 SLA ch. 70)

C. Deferral. The proposed deferral of property taxes for a five-year period consecutive to the five-year period of tax exemption is not authorized by present State law. Only a deferral of property taxes for the same five-year exemption period is permitted the present by State statute.

D Beginning of Exemption/Deferral Period. The proposal to begin the

exemption/deferral period **after** either (1) substantial completion of the rehabilitation, renovation, or replacement or (2) “beneficial occupancy” is not authorized by State law. The five-year exemption/deferral period may commence only “after *the day* substantial rehabilitation, renovation, or replacement. . . **begins**”.

E. Eligibility of Vacant Land. The proposed ordinance’s exemption and deferral of taxes for vacant land is not authorized by State law. Only substantial rehabilitation, renovation, or replacement **to a structure** may begin the period of exemption or deferral under the State statute.

II. Ordinance Not Effective. The proposed ordinance cannot take effect. Even if the controlling State statute is amended in the next Legislative session to conform to the proposed ordinance, the effective date of AO 98-135 cannot be any earlier than the effective date of such amendments to the controlling State statute.

III. Additional Legal Issues That Could Be Resolved At the Municipal Level:

A. Types of Eligible Property. The proposed ordinance does not itemize the types of deteriorated property eligible for an exemption and/or deferral. State law permits an exemption and/or deferral on “**all or some types** of deteriorated property.”

B. Amount of Exemption/Deferral. The proposed ordinance fails to delineate or provide guidelines for the amount of exemption or deferral thereby permitting the amount to be determined on a case by case basis. The absence of such guidelines presents the danger of unlawful, unequal treatment regarding the amount of exemptions/deferrals.

C. “Deteriorated” Property. The proposed ordinance fails to delineate what constitutes “deteriorated” or “deteriorating area”, permitting that determination to be made on a case by case basis without any guidelines. The absence of such guidelines presents the danger of unlawful, unequal treatment regarding what property is eligible.

D. “Substantial Rehabilitation”. The proposed ordinance fails to sufficiently define what constitutes “substantial rehabilitation, renovation, or replacement”. The lack of sufficient specificity does not provide predictable, reasonable, fair and lawfully equal treatment. “Rehabilitation” defined by the ordinance

appears to be broader than defined by HUD requirements.

- E. Municipal Code. The proposed exemption and deferral are misplaced in the Municipal Code provisions governing tax exemptions for “economic development property”, a separate and distinct exemption under State law with different State requirements and standards.

IV. Other Important Considerations Relating to the Ordinances:

- A. The proposed ordinance has no provisions protecting the public, such as bonding, for either:
- (1) Completion of the rehabilitation, renovation, or replacement;
 - (2) Ultimate payment of deferred taxes; or
 - (3) Continuing future maintenance of the rehabilitated property.
- B. The companion ordinance, proposed AO 98-136(S), designates as a “deteriorated zone”, a two block area between Cordova and Eagle Streets and 3rd and 4th Avenues. The proposal appears to anticipate tax exemption/deferral on all the property in that area as “deteriorated property”. However the proposed “deteriorated zone” includes:
- (1) A mix of both improved and unimproved, vacant property;
 - (2) Deteriorated property (the McKay Bldg.); and
 - (3) Property which might not be considered to be deteriorated in nature (the B&C Automotive Supply property).
- C. The other companion ordinance, AO 98-134, proposes withdrawal of Heritage Land Bank land (the “McKay Annex” and six lots) and directs a sole source sale of those lands to Marc Marlow.

In May, 1997 all the proposals for the purchase of the McKay Annex and six HLB lots were rejected because of a defect in the RFP. The former HLB director gave a clear, public indication that sale of the property would be through a corrected competitive bid/RFP process.


2. HLB lands are generally required to be disposed of by competitive process under the Municipal Code.

D. McKay Bldg. Enforcement Status:

- 1 The Board of Building Regulation Examiners & Appeals (Building
2 Board) upheld the 10/9/95 Code Enforcement Order *to*
3 *repair/rehabilitate* the McKay Bldg. The Building Board's decision
4 was then upheld by the Alaska Superior Court. The owner filed a notice
5 of appeal to the Alaska Supreme Court but has not perfected or pursued
6 the appeal.
7
8
9
- 10 2. Absent any owner efforts to repair, a second Code Enforcement Order
11 *to demolish* the McKay Bldg. was issued 4/8/98. On appeal to the
12 Building Board, the Board gave the owners six months from August 20,
13 1998 to submit to Public Works a complete set of rehabilitation design
14 plans with a structural analysis or the Board would uphold the
15 demolition order.
16

17 Attachment
18
19
20
21

22 Respectfully submitted:
23

24 
25

26 Rick Mystrom
27 Mayor
28
29
30
31
32
33
34
35
36
37
38
39
40
41

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

MUNICIPAL & REGIONAL ASSISTANCE DIVISION

☒ 333 W. 4TH AVENUE, SUITE 220
ANCHORAGE, ALASKA 99501-2341
PHONE: (907) 269-4500
FAX: (907) 269-4539

☐ P.O. BOX 348
BETHEL, ALASKA 99559-0348
PHONE: (907) 543-3475
FAX: (907) 543-4152

☐ P.O. BOX 350
KOTZEBUE, ALASKA 99752-0350
PHONE: (907) 442-3696
FAX: (907) 442-2402

☐ P.O. BOX 1068
NOME, ALASKA 99762-1068
PHONE: (907) 443-5457
FAX: (907) 443-2409

☐ P.O. BOX 112100
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4750
FAX: (907) 465-2948

☐ 209 FORTY MILE AVENUE
FAIRBANKS, ALASKA 99701-3110
PHONE: (907) 452-7126
FAX: (907) 451-7251

☐ P.O. BOX 790
DILLINGHAM, ALASKA 99576-0790
PHONE: (907) 842-5135
FAX: (907) 842-5140

August 27, 1998

Mr. Wayne Haerer Jr., Assessor
Municipality of Anchorage
P.O. Box 196650
Anchorage, AK 99519-6650

RECEIVED

AUG 31 1998

MUNICIPAL FORM

Dear Mr. Haerer:

You have asked under what circumstances might a letter of major error be given to a municipality if my office believed the municipality had acted contrary to state law in regards to property assessment issues. Specifically, you have asked if the proposed Anchorage ordinance no. 98-135 - Tax Exemption and Deferral for Deteriorated Property, might elicit such a letter.

The ordinance, as currently written, does appear to broaden the exemption authorized by HB 399 and as such, would be contrary to existing state law. The ordinance goes beyond the scope of the enabling legislation in two ways. First, it appears to exempt the property totally and second, it offers a five year exemption followed by a five year deferment of taxes. The language contained in HB 399 specifically states that the municipality may partially exempt deteriorated property, not offer a total exemption. The language is also clear in that the municipality may offer either an exemption or deferral or a combination of the two, but in no case may the exemption/deferral be longer than five years from the day after the rehabilitation of the property begins.

Should the Anchorage Assembly pass ordinance 98-135 as currently written, it most likely would subject the Municipality to a letter of major error from my office. The submission of a letter of major error is not something that I take lightly in exercising, and consequently, will confer with the State Attorney Generals office prior to issuance. However, it is the responsibility of this office to assure taxpayers that municipalities do comply with existing tax laws.

I would be most happy to meet with members of your legal department to discuss my concerns with this ordinance and to assist with language changes to assure compliance with existing law. I look forward to working with the Municipality so this matter may be resolved without having to issue a letter of major error. Please feel free to contact me if you have any further questions.

Sincerely,



Steve Van Sant
State Assessor