



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

CLERK'S OFFICE

No. AM 672-93

APPROVED

Date: 6-1-93

Meeting Date: June 1, 1993

Election Certificate

1 **From:** Election Contest Review Committee

2
3 **Subject:** Election Contest Regarding Totem Limited Road Service Area

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6 The committee appointed by Assembly Chair Mark Begich to review the
7 election contest filed regarding the Totem Limited Road Service Area
8 met at 12:00 noon on May 27, 1993. All three members, Jim Crawford,
9 Jane Angvik and Bill Faulkner, were present.

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11 The committee heard testimony from Carol Dickinson on behalf of the
12 complainants challenging the election. The committee also took
13 evidence from Jim Turner of Public Works, Richard Miller, JoAnn
14 Jensen, and Ruby Veldkamp.

15
16 The committee determined that the contest was based upon AMC
17 28.100.010.A alleging "malconduct, fraud or corruption on the part of
18 an election official sufficient to change the result of the election."
19 Based upon the testimony of Ms. Dickinson on behalf of the
20 complainants, the committee determined that the specific allegations
21 related to malconduct rather than fraud or corruption on the part of
22 election officials.

23
24 In evaluating in whether malconduct has occurred, the committee was
25 advised by counsel of the Alaska Supreme Court's previous
26 interpretation of the term malconduct as:

27
28 A significant deviation from statutorily or constitutionally
29 prescribed norms which introduces a bias into the vote. If
30 no bias can be shown, even significant deviations from the
31 norm will not amount to malconduct unless a knowing non-
32 compliance with the law or a reckless indifference to norms
33 established by law is demonstrated . . . Having established
34 the existence of malconduct, the plaintiff in an election
35 contest must also show that the malconduct was sufficient to
36 change the election results.

37
38 The committee received evidence concerning what might occur if a new
39 election were held, and limited evidence concerning the fairness of
40 procedures used for establishing limited road service areas. A
41 majority of the committee found evidence on these issues to be
42 irrelevant to the election contest.

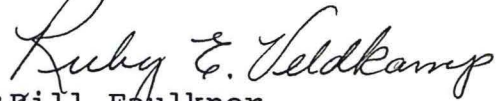
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44 The committee received evidence that four individuals who should have
45 received the "Z" ballot for the Totem Limited Road Service Area did
46 not receive that ballot. The committee heard evidence that failure of
47 the individuals to receive a ballot was likely the result of incorrect
48 identification of the residence of the particular voter on a precinct
49 map.
50

1 The committee concluded that, in view of the 32 votes in favor and 19
2 votes opposed to the creation of the limited road service area these
3 four ballots, if cast, would not have been sufficient to change the
4 results of the election. Therefore, the committee recommends denial
5 of the election contest and certification of the election regarding
6 creation of the Totem Limited Road Service Area. This recommendation
7 is a majority recommendation from which committee member Jane Angvik
8 dissents.

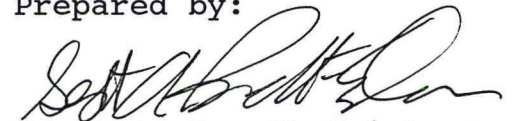
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10 Approval of this Assembly Memorandum will deny the election contest
11 and certify the results of the election for creation of the Totem
12 Limited Road Service Area.

13 Respectfully submitted by:

Prepared by:

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15 

16 Bill Faulkner
17 Review Committee Chair



18 Scott A. Brandt-Erichsen
19 Assistant Municipal Attorney

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