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| Introduced by: | Mayor |
| Date: | 01/21/25 |
| Hearing: | 02/04/25 |
| Action: | Enacted |
| Vote: | 9 Yes, 0 No, 0 Absent |

**KENAI PENINSULA BOROUGH
ORDINANCE 2025-02**

**AN ORDINANCE AUTHORIZING THE DISPOSAL OF REAL
PROPERTY LOCATED IN KENAI NECESSARY TO RESOLVE TITLE
MATTERS RELATED TO THE ERRONEOUS RECORDING OF A 1977
TAX FORECLOSURE DEED**

WHEREAS, the Kenai Peninsula Borough (KPB), a second-class borough, is authorized to conduct tax foreclosure proceedings pursuant to AS 29.45.290 et seq. to dispose of real property deeded to KPB for delinquent payment of taxes; and

WHEREAS, in 1970 a KPB tax bill was generated in error for a parcel of real property under ownership of the United States Department of the Interior and encumbered by a leasehold interest, and which is the Parcel particularly described in Section 1 below; and

WHEREAS, the 1970 tax delinquency was not resolved by the lessee resulting in a delinquent tax foreclosure action against the Parcel; and

WHEREAS, KPB applied for and was awarded a clerk's tax foreclosure deed as a result of that tax foreclosure action identified as Civil Case No. 72-5056 in the Superior Court for the State of Alaska, Third Judicial District on October 23, 1975, and recorded as document 1975-004602-0, Kenai Recording District; and

WHEREAS, the Parcel was sold by KPB at a tax foreclosure land sale on April 23, 1977, for \$740.00 to Fred Sturman and Mac Chesney, and financed by KPB for a ten-year term; and

WHEREAS, a tax foreclosure deed was issued to Fred Sturman and Mac Chesney (the 1977 Tax Foreclosure Deed) as a result of that sale; and

WHEREAS, on January 12, 1984, Mac Chesney conveyed his interest in the Parcel to Fred Sturman by quitclaim deed recorded as document 1984-000385, Kenai Recording District; and

WHEREAS, on June 1, 1984, the State of Alaska received patent to the Parcel from the United States Department of the Interior; and

WHEREAS, on July 16, 1984, KPB selected the Parcel as part of its municipal entitlement selection from the State of Alaska under ADL 220458; and

WHEREAS, on February 14, 1985, KPB released the seller financing originally obtained by Fred Sturman and Mac Chesney as part of their 1977 tax foreclosure land sale purchase; and

WHEREAS, on October 9, 1985, KPB submitted a request to the State of Alaska Department of Natural Resources, Division of Mining, Land, and Water to consider the municipal entitlement selection for the Parcel a priority necessary to resolve the title cloud created by the 1977 Tax Foreclosure Deed; and

WHEREAS, on January 23, 2015, the State of Alaska issued a final finding and decision document to KPB approving the selection of the Parcel under ADL 2220458; and

WHEREAS, on September 16, 2021, a personal representative's deed was recorded as document No. 2021-010329-0, Kenai Recording District, conveying interest from the Estate of Fred Sturman, as grantor, to Mary A. Sturman, as grantee; and

WHEREAS, as a condition of KPB receiving its municipal entitlement conveyance to the Parcel, and in order to resolve the clouded title created by the 1977 Tax Foreclosure Deed, a subsequent conveyance from KPB as grantor, to Mary A. Sturman, or her successors and/or assigns, as grantee is necessary; and

WHEREAS, the KPB Planning Commission, at its regular meeting of January 27, 2025, recommended approval by unanimous consent;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That pursuant to KPB 17.10.100, the Assembly finds the disposal of the following described 1.9-acre parcel, is in KPB's best interest as it serves to resolve a title cloud created by the 1977 Tax Foreclosure Deed:

GOVERNMENT LOT 21, WITHIN SECTION 14, TOWNSHIP 6 NORTH, RANGE 12 WEST, SEWARD MERIDIAN, KENAI RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA. (PARCEL NO. 01714006) (the Parcel).

SECTION 2. That resolution of the title cloud will satisfy the initial intent of KPB's municipal selection and any remaining requirements from the State of Alaska DNR necessary to issue patent to the KPB, perfecting title to the Parcel initially conveyed in error.

SECTION 3. That the assembly makes an exception to KPB 17.10.080 requiring classification prior to disposal. This exception is based on the following findings of fact pursuant to KPB 17.10.230:

1. "That special circumstances or conditions exist":

a. KPB 17.10.080(A) states, classification of property is for review, plan implementation and management purposes. The classification system designates the most appropriate uses for land and thereby guides KPB management of such lands and implementation action to provide for the identified uses. This ordinance serves to set the management plan and future intent of the identified property.

b. Conveyance of the Parcel will resolve the title cloud resulting from the 1977 Tax Foreclosure Deed, and classification of the Parcel is therefore unnecessary to designate the most appropriate use for the Parcel at this point.

2. “That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this chapter”:

The preservation of a substantial property right is applicable to this case. Exception to classification, which has no impact on land uses upon disposal, provides the most practical and cost-effective manner to resolve the title cloud.

3. “That the granting of the exception will not be detrimental to the public or injurious to other property in the area”:

The title cloud created by that 1977 Tax Foreclosure Deed is specific to the Parcel. Resolution of the title cloud will benefit the Parcel by providing a clear chain of title increasing the Parcel’s future utility and value, which will potentially provide indirect benefit to other property in the area.

SECTION 4. The Assembly makes an exception to KPB 17.10.100. This exception is based on the following findings of fact pursuant to KPB 17.10.230:

1. “That special circumstances or conditions exist”:

The purpose of KPB 17.10.100 (Methods of Disposition) is to identify means for a public opportunity to purchase or lease KPB land. The disposal of the Parcel is for the sole purpose of resolving a cloud on title created by the erroneous recording of the 1977 Tax Foreclosure Deed.

2. “That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this chapter”:

This exception will serve to preserve and improve a substantial private property right through the resolution of a title cloud.

3. “That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area”:

The title cloud created by that 1977 Tax Foreclosure Deed is specific to the Parcel. Resolution of the title cloud will benefit the Parcel by providing a clear

chain of title increasing the Parcel's future utility and value, which will potentially provide indirect benefit to other property in the area.

SECTION 5. The assembly makes an exception to KPB 17.10.110 (notice of disposition). This exception is based on the following findings of fact pursuant to KPB 17.10.230:

1. "Special circumstances or conditions exist":

The purpose of KPB 17.10.110 advertising requirement is to notify the public of an opportunity to purchase or lease KPB land. Advertising this conveyance to the general public will not serve a useful purpose, as the disposal is only being authorized to cure a title defect.

2. "That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this chapter":

For this proposed disposal, the notice requirement is impractical, and compliance is not in the best interests of the KPB. Notice will only serve to cause unnecessary delay, expense, and potential confusion in this case which is specific and necessary for the purposes of resolving a cloud on title.

3. "That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area":

The proposed disposition is advertised by publication of the ordinance as required in KPB code and on KPB's web page. Notice of the proposed disposition is also published by the Planning Commission agenda, and a public hearing is held at the Planning Commission level. Additional notice is not necessary to comply with the intent of KPB 17.10 nor to protect the public welfare.

SECTION 6. The Mayor is authorized to sign any documents necessary to effectuate this ordinance within 180 days of Assembly approval.

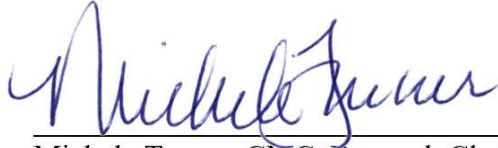
SECTION 7. That this ordinance shall be effective immediately.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF FEBRUARY, 2025.

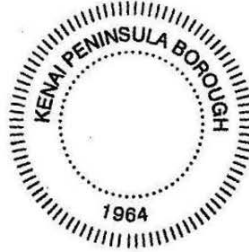


Peter Ribbens, Assembly President

ATTEST:



Michele Turner, CMC, Borough Clerk



Yes: Baisden, Cox, Cooper, Dunne, Ecklund, Johnson, Morton, Tunseth, Ribbens

No: None

Absent: None