

# **E . NEW BUSINESS**

- 2. Ordinance 2025-02: 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.**

# Kenai Peninsula Borough

## Planning Department – Land Management Division

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### MEMORANDUM

**TO:** Peter Ribbens, Assembly President  
Members, KPB Assembly

**THRU:** Peter A. Micciche, Mayor  
Robert Ruffner, Planning Director *RR*

**FROM:** Aaron Hughes, Land Management Officer *AH*

**DATE:** January 9, 2025

**RE:** Ordinance 2025-\_\_\_\_, 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 (Mayor)

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In 1970, the Kenai Peninsula Borough (KPB) generated a tax bill in error for property owned by the United States Department of the Interior and under lease by a private entity (the Parcel). Believing the Parcel to be in private ownership, KPB applied for a tax foreclosure clerk's deed in 1972. After the clerk's deed was granted in 1975, KPB sold the Parcel at a tax foreclosure land sale in 1977. A deed was issued to the purchasers of the Parcel as a result of that land sale (the 1977 Tax Foreclosure Deed).

In 1984, the State of Alaska received patent to the Parcel from the United States Department of the Interior. KPB selected the Parcel as part of KPB's municipal entitlement selection. In order to expedite the resolution of the title cloud created by the 1977 Tax Foreclosure Deed, KPB requested that the State of Alaska consider the Parcel as a priority for conveyance in 1985. KPB was awarded management authority of the Parcel in 2015.

The Land Management Division applied for patent to the Parcel in 2023. As part of the final title review process, the State of Alaska Division of Mining, Land, and Water Conveyance Section has requested that KPB agree to convey its interest in the Parcel to the current property owner as a condition of the patent being issued. Approval of the Ordinance will satisfy that request. The recording of the patent from the State of Alaska and subsequent recording of a quitclaim deed from KPB to the current property owner will resolve the title cloud and perfect title to the Parcel on behalf of the current property owner.

Your consideration is appreciated.

Introduced by: Mayor  
Date: 01/21/2025  
Hearing: 02/04/2025  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
ORDINANCE 2025-**

**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 \_\_\_\_\_;

**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 \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025.**

\_\_\_\_\_  
Peter Ribbens, Assembly President

ATTEST:

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Michele Turner, CMC, Borough Clerk



# KENAI PENINSULA BOROUGH Land Management

Parcel No.: 01714006







# KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669  
PHONE 262-4441

DON GILMAN  
MAYOR

September 21, 1977

Fred Sturman and Mac Chesney  
P. O. Box 513  
Soldotna, AK 99669

Dear Messrs. Sturman and Chesney:

It gives us great pleasure to enclose the original of that recorded TAX FORECLOSURE DEED #K77-6.

Please call on us for any assistance concerning the point in question.

Sincerely,

Carolyn Nugent  
Land Management Agent  
Assessing Department

CN:lrh

Enclosure

PS Form 3811, Mar. 1976

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

Show to whom and date delivered..... 15¢

Show to whom, date, & address of delivery.. 35¢

RESTRICTED DELIVERY.  
Show to whom and date delivered..... 65¢

RESTRICTED DELIVERY.  
Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:  
Fred Sturman & Mac Chesney  
P. O. Box 513  
Soldotna, AK 99669

3. ARTICLE DESCRIPTION:  
REGISTERED NO. | CERTIFIED NO. | INSURED NO.  
| | 05658 |

(Always obtain signature of addressee or agent)

I have received the article described above.  
SIGNATURE  Addressee  Authorized agent

4. DATE OF DELIVERY: 9-23 POSTMARK: SEP 23 1977

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:  
017-190-0600  
173-041-1412

CLERK'S INITIALS

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TAX FORECLOSURE DEED  
#K77-6

The GRANTOR, KENAI PENINSULA BOROUGH, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and sufficient consideration, does hereby convey to the GRANTEES, FRED STURMAN AND MAC CHESNEY, whose address is Box 513, Soldotna, Alaska 99669, all of its right, title and interest in the tax foreclosed parcel of real property, more particularly described as follows:

Government Lot 21, within Section 14,  
Township 6 North, Range 12 West, Seward  
Meridian, in the Kenai Recording District,  
Third Judicial District, State of Alaska;

also identified as Kenai Peninsula Borough  
Tax Parcel No. 017-140-0600.

TO HAVE AND TO HOLD without warranty or representation of any kind, and subject to any and all restrictions of record, zoning ordinances, and any and all plat requirements and covenants, and including government patents and oil and mineral reservations, if any, and the conditions of this deed.

This conveyance is made by the Grantor to the Grantees, on the condition that the premises shall not be subdivided or sold for subdivision or otherwise sold, alienated, or disposed of in whole or in part, until and on the further condition that each and every payment will be made on a certain promissory note which has been given as a part of the consideration for the conveyance of this tax foreclosure deed by the Grantor to the Grantees, and on the further condition that Grantees assume and agree to pay all future real property taxes assessed against the parcel conveyed as

ANDREW R. SARISKY  
BOROUGH ATTORNEY  
KENAI PENINSULA BOROUGH  
BOX 450  
SOLDOTNA, AK. 99669  
262-4441

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Kenai Recording District

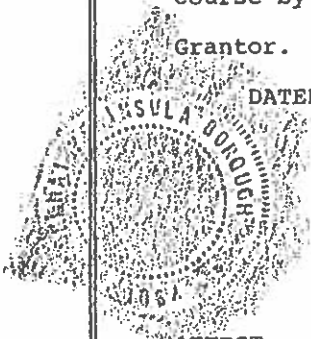
they become due and payable.

The Grantor reserves a reversionary interest on condition broken, and in the event that any or all of these conditions be broken by the Grantees, the right, title and interest under this conveyance shall immediately revert to and revest the interest under this deed in the Grantor without any further proceedings in a court of law, subject only to the filing with the appropriate district recorder of an instrument entitled "Reverter of Reversionary Interest on Condition Broken", without further or any recourse by the Grantees, or any claim whatsoever against the Grantor.

DATED: August 19, 1977

KENAI PENINSULA BOROUGH

By: Donald E. Gilman  
Donald E. Gilman, Mayor



ATTEST:

Francis R. Brymer  
Borough Clerk

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

Andrew R. Sarisky  
Andrew R. Sarisky  
Borough Attorney

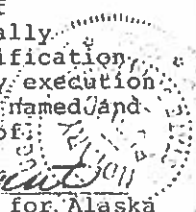
STATE OF ALASKA            )  
                                      )    ss.  
THIRD JUDICIAL DISTRICT    )

THIS IS TO CERTIFY that on this 19th day of August, 1977, DONALD E. GILMAN, being personally known to me or having produced evidence of identification appeared before me and acknowledged the voluntary execution of the foregoing instrument for the municipality named and in the capacity indicated in the execution thereof.

ANDREW R. SARISKY  
BOROUGH ATTORNEY  
K. PENINSULA BOROUGH  
304 300  
KENAI, ALASKA 99609  
262-4441

77-000413

Carolyn Nugent  
Notary Public in and for Alaska  
My Commission Expires: 11-4-79



REC'D  
AUG 22 10 48 AM '77

KRB



# KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669  
PHONE 262-4441

STAN THOMPSON  
MAYOR

October 9, 1985

Arlan DeYong  
Municipal Entitlements  
State of Alaska - DNR  
Division of Land & Water Management  
3601 C Street  
Pouch 7-005  
Anchorage, Ak 99510-7005

RE: Municipal Selection Priorities

Dear Arlan:

On September 12, 1985, Tom Hawkins sent a letter to the KPB regarding our request for priority conveyance of the Granite Point selections together with seven (7) other selections of lesser priority.

We have looked at these seven (7) other priorities and found that some are of greater importance than others. The selections which have been made for future school facilities or expansion of existing facilities are of the greatest importance. These are:

1. Municipal Selection ADL 55732  
T5N, R9W, S.M.  
Sec. 19: E1/2NW1/4 80 acres
2. .810 Application ADL 220460  
T5N, R10W, S.M.  
Sec. 30: SE1/4SW1/4 40 acres
3. .810 Application ADL 220818  
T3N, R11W, S.M.  
Sec. 31: W1/2 Lot 4 & Lot 15 31.25 acres

An application of equal importance, although not related to a school project is:

4. Municipal Selection ADL 220458  
T6N, R12W, S.M.  
Sec. 14: Lot 21 2.5 acres

Arlan DeYong  
RE: Priorities/Selections  
October 9, 1985  
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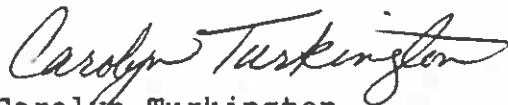
It is necessary that the KPB receive patent to the above Lot 21 in order to clear up a title problem which was created when the KPB believed the parcel to be in private ownership, foreclosed on it for delinquent taxes, sold it at a tax foreclosure sale and issued a deed to the purchaser.

The remaining three selections are the lowest in priority.

5. .810 Application ADL 220459  
T1N, R1W, S.M.  
Sec. 22: SW1/4SE1/4, SE1/4SW1/4 80 acres
6. Municipal Selection ADL 220785  
T7N, R11W, S.M.  
Sec. 30: Lots 8, 9 & 10 73.95 acres
7. .810 Application ADL 206472  
T10N, R1W, S.M.  
Sec. 33: Uplands of SE1/4 80 acres (m/1)

Please contact me if you have any questions.

Sincerely,



Carolyn Turkington  
Land Management Officer