

MEMORANDUM

State of Alaska

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TO: Jack T. Bodine
Asst. Right of Way Director
Department of Highways

DATE September 6, 1968

FROM: G. Kent Edwards
Attorney General

SUBJECT: ADL Authority
Your File 23-2900

Robert E. Price *R.E.P.*
Assistant Attorney General

This is in response to your memo of July 23 in which asked the opinion of this office on the following questions:

- "1. Is the ADL subject to borough platting ordinances when granting Interagency Land Management Transfers or other grants of land within a borough?"
- "2. Does the ADL have authority to reserve from borough selection, lands on which gravel deposits have been found?"

ANSWER 1.

The Division of Lands is not subject to borough platting ordinances when granting Interagency Land Management Transfers.

The authority for borough platting ordinances is contained in AS 07.15.340.

The cases generally hold that a plat is a subdivision of land into lots, streets and alleys, marked upon the earth, and represented on paper. See McQuillin on Municipal Corporations, Vol. 11 § 33.23.

An interagency land transfer by the State is not a plat under that definition. It is a simple change of departmental management of land and does not constitute a dedication.

Furthermore, under the doctrine of legislative supremacy, the State need not comply with the platting requirements of a local government if there had been a plat under a different set of facts. Supervisors of County v. Village of Rainbow Gardens, 153 N.E.2d 16 (Ill. 1958).

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Right of Way Division

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ANSWER 2.

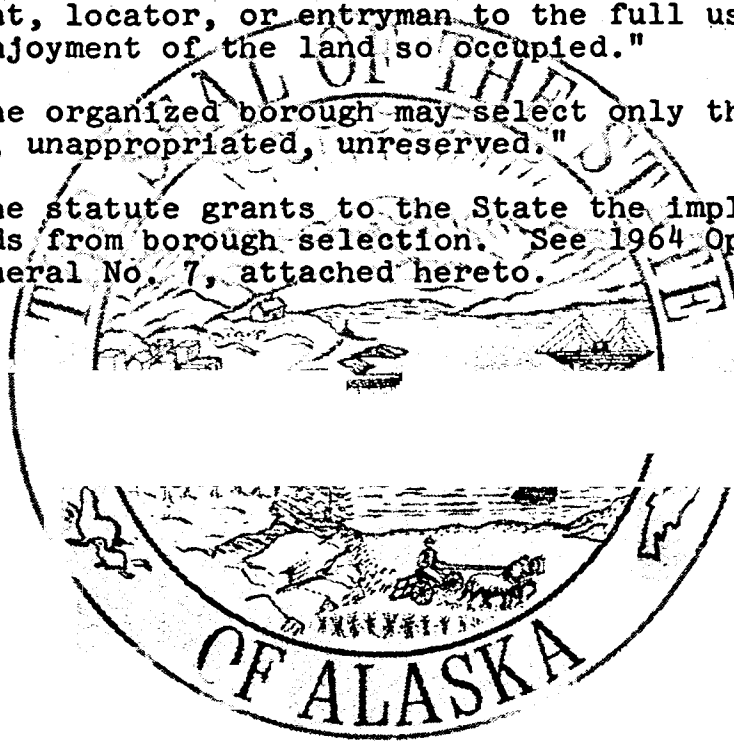
The Division of Lands does have the authority to reserve from borough selection lands on which gravel deposits have been found.

AS 07.10.150 provides:

"An organized borough may select 10 per cent of the vacant, unappropriated, unreserved state lands located in its boundaries within five years after the date of availability of state lands in the borough. Nothing in this section affects any valid existing claim, location, or entry under the laws of the state or the United States, whether for homestead, mineral, right-of-way, or other purpose, or affects the rights of any owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied."

The organized borough may select only those lands which are "vacant, unappropriated, unreserved."

The statute grants to the State the implied power to reserve lands from borough selection. See 1964 Opinion of the Attorney General No. 7, attached hereto.



GKE/REP/er

Att.