

Alaska State Legislature ISSI AUDIT Representative Mike Davismonagenes NOTIFIE MOICH DOTES Interim Office: RECEIVED Juneau, Alaska 99811 PO. Box 81435 PLANS Department of Law (907) 465-4930/4941 Fairbanks, Alasin 9978 MATES DEC -8 1986 NECCTIATIONS 7<sub>1</sub>8<sub>1</sub>9<sub>1</sub>10<sub>1</sub>11<sub>1</sub>12<sub>1</sub>2<sub>1</sub>3<sub>1</sub>4<sub>1</sub>5<sub>1</sub>6 RETURN TO: November 28, 1986 FILE

Mr. Ron Lorensen
Acting Attorney General
Dept. of Law
PO Box K
Juneau, AK 99811

Dear Acting Attorney General Lorensen:

Representative Davis has requested that your office draft an opinion regarding the width of the state right-of-way along the Old Fairbanks-Nenana Highway.

The land in question was patented to the Borough by DNR in 1969. The patent reserved a 100 'right-of-way on each side of the center line of the Fairbanks-Nenana Highway. This width was based on PLO 2665 dated October 16, 1951. PLO 2665 had been amended on September 15, 1956 to include the Fairbanks-Nenana Highway as a public highway with a 300' right-of-way. However, this amendment was apparently overlooked in 1969 when the land was conveyed to the Borough.

In July of 1969, title passed from the Borough to property owners in the new Ester Heights Subdivision. This title was also subject to the 200' right-of-way for the Fairbanks-Nenana Highway. The effect of this error is that DOT/PF has a 300' right-of-way on property that contains a title reservation of only 200'. This needs to be resolved to allow the owners to sell or subdivide their property.

On September 10. 1986, the Division of Land and Water Management requested that DOT/FF issue a Commissioner's Deed of Vacation reducing the right-of-way from 300' to 200' through the Ester Heights Subdivision, and transferring the vacated land to the adjacent property owners. DOT/FF denied the request in October of 1986.

Rep. Davis would like an opinion on whether the State relinquished the additional 100' of right-of-way when it transferred title to the Borough, or retains the full 300'. What responsibility do the State, Borough, surveyor, and property owners respectively bear for the patent conflict? Finally, do the property owners have any right to compensation, and if so, from whom?

Enclosed are materials and correspondence related to this issue. Please contact our office if you have any questions.

Sincerely,

Catherine A. Reardon

staff