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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FOURTH JUDICIAL DISTRICT

STATE OF ALASKA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
KEVIN C. KEENER; SHERRILL L. )  
KEENER; HAROLD R. OGDEN; )  
GARNET OGDEN; GOLDEN VALLEY )  
ELECTRIC ASSN; CITY OF )  
FAIRBANKS; TRANSAMERICA )  
TITLE INSURANCE CO.; )  
FAIRBANKS NORTH STAR BOROUGH; )  
4,365 sq. ft., more or less; )  
and also all other persons )  
or parties unknown claiming )  
right, title, estate, lien, )  
or interest in the real )  
estate described in the )  
complaint in this action, )  
 )  
Defendants. )

Project No. RS-M-0608(2)/63192  
Parcel Nos. 1, E-1, X-1  
No. 4FA-89-1854 Civil

AFFIDAVIT OF JOHN F. BENNETT

STATE OF ALASKA )  
 ) ss:  
FOURTH JUDICIAL DISTRICT )

John F. Bennett, being first duly sworn upon oath,  
deposes and says:

1. I am an engineering supervisor employed by the  
Department of Transportation and Public Facilities, Northern  
Region, Right-of-Way section.

2. As part of the planning for this project I  
researched the extent of the existing right-of-way in the manner  
described in the attached letter to Michael Price dated May 26,  
1989. (Exhibit A). My conclusion was that the width of the

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STATE OF ALASKA

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Fairbanks, Alaska 99701  
100 Cushman, Suite 400  
Fairbanks, Alaska 99701  
Phone: (907) 452-1568

1  
2 right-of-way was 50 feet from the centerline of Davis road into  
3 many of the properties including Parcels 1 and 2 (the Keener and  
4 Bowers properties).

5 3. The Bowers and the Keeners have contended that the  
6 state previously represented that the width of Davis Road was  
7 only 33 feet. They have based this contention on the fact that  
8 the plats depicting acquisitions for the University Avenue South  
9 project, where it intersects with Davis Road showed only an  
10 easement 33 feet either side of centerline and possibly on a  
11 preliminary depiction of the Davis road project which contained  
12 similar information. No other support for that contention has  
13 been produced.

14 4. The University Avenue plat was based on a report  
15 from Alaska Title Guarantee performed for DOT&PF showing that  
16 right-of-way to be 33 feet either side of centerline. (Exhibit  
17 B). It appears that report may well have been in error. The  
18 1988 right of way plans for Davis road were the first official  
19 set of plans depicting the width of Davis road. Those plans show  
20 the road to be 50 feet from the centerline into parcels 1 and 2  
21 based on my research. A preliminary depiction used for  
22 University Avenue South project did show the width to be 33 feet  
23 from centerline. This depiction was also based on a report from  
24 Alaska Title Guarantee.

25 5. I have not found any evidence in state records which  
26 would suggest that state personnel made any deliberate decision  
to abandon a portion of the right-of-way. Prior depictions of

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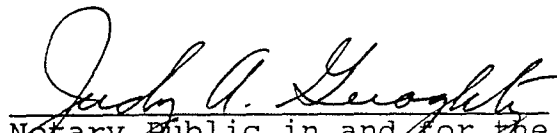
the right-of-way are inconsistent. Some show it as 100 feet wide while show it as 66 feet.

6. I have been unable to find any evidence that any state personnel represented directly to the Keeners or the Bowers that the width of the road was only 33 feet.

The old University Avenue South plat was done by DOT.

  
\_\_\_\_\_  
John F. Bennett

SUBSCRIBED AND SWORN to before me this 8<sup>th</sup> day of December, 1989.

  
Notary Public in and for the  
State of Alaska  
My Commission Expires: 9/15/93

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 1989 a copy of the foregoing is being mailed to the following attorneys or parties of record:  
William R. Satterberg, Jr., Esq., 709 Fourth Ave., Fbks, AK 99701

\_\_\_\_\_  
Judy A. Geraghty Date

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