

TOWNSITE PROGRAM

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TOWNSITES

I. TYPES OF TOWNSITES IN AK

A. Presidential Townsites

- 1) Established on government's motion with PLO to establish withdrawal for townsite purposes.
- 2) Public Sale of lots - patents issued by BLM
- 3) Trustee - acts as Superintendent of Sales
- 4) Examples - Tok, East Addition to Kodiak

B. Railroad Townsites

- 1) Selected by Alaska Railroad
- 2) Townsite Reserve by PLO
- 3) Public Sale of lots - patents issued by BLM
- 4) Trustee - Superintendent of Sales
- 5) Examples - Anchorage, Talkeetna, Nenana, Portage & Seward

C. Trustee Townsites (Handouts #1&2)

- 1) Section 11, March 3, 1891 (Regs 2564-2565, Handout #3))
- 2) May 25, 1926 - Alaska Native Townsite Act - Restricted Deeds
- 3) February 26, 1948 - Unrestricted Deeds

II. TOWNSITE PROCESS (Handout #4)

A. Petition

- 1) Segregation Date - date petition accepted, serialized, noted to records
- 2) Size - less than 100 residents (not over 160 acres)
 - 100 to 200 residents (not over 320 acres)
 - more than 200 residents (not over 640 acres)

B. Feasibility Field Exam (reject if not suitable)

- 1) Permanent settlement
- 2) More than seasonal basis
- 3) Topography - planning and layout possible
- 4) Population stable
- 5) Not accommodated under other types of entry

C. Plan of Survey

- 1) Division into lots, blocks, tracts, municipal reserves, tracts for expansion
- 2) Preliminary ownership determination

D. Village Approval of Plan

E. Request for Survey to Cadastral

F. Survey Executed, Plat Approved

G. Plats and Application to Enter Filed in Village for 30 Days

- 1) Proof of Posting
- 2) Continuous Proof of Posting

H. Application to Enter and Final Proof (filed with BLM)

I. Adjudicate Any Conflicts and Issue Patent to Trustee

III. TRUSTEE'S PROCESS FOR DISPOSITION OF LAND AND PROCEEDS

A. Notice of Lot Awards (Handout #5)

B. Eligibility Criteria for Townsite Deeds

- 1) Improve and occupy before survey plat approval date
- 2) Improve and occupy before FLPMA if survey is approved after FLPMA date

C. Adjudicate Applications

- 1) Convey - Trustee Deeds - Non-natives and entities - assessment fees (Handout #6)
 - Restricted Deeds - Native individuals only (Handout #7)
 - Unrestricted Deeds - Native individuals only with BIA approval (Handout #7)
- 2) Conflicting Applications - Trustee Decision with Appeal Rights to the Interior Board of Land Appeals (IBLA)

D. Rights of Way and Permits

- 1) Public Utilities
- 2) Uses of temporary nature
- 3) Only valid until land conveyed

E. Public Sales

- F. Sales to Federal and State Entities
- G. Remaining Vacant Lands Transferred to Municipalities
- H. Townsite Funds Transferred to Municipalities
- I. Audit of Townsite Account and Closure Report for DSD

IV. HISTORICAL BACKGROUND (Handout #8)

A. Saxman Opinions

- 1) 1959 - Public auction inconsistent with ANTA
- 2) 1960 - Could not dispose of vacant lots to municipality, vacant lots must be retained for occupation by native individuals
- 3) Trustee continued to allow settlement on unsubdivided tracts by both natives and non-natives

B. Klawock vs. Gustafson

- 1) 1974 - City of Klawock appealed a Trustee's Decision to issue deeds to non-natives occupying townsite lots. The District Court overturned the Saxman Opinions and allowed conveyance of vacant lots to municipalities rather than hold for native individuals.

C. Aleknagik Natives vs. Gustafson

- 1) 1977 - Aleknagik, Nondalton and Ekwok claimed unoccupied townsite land was withdrawn by the Alaska Native Claims Settlement Act (ANCSA) and therefore selectable by the village corporation. The suit challenged a 1972 Memorandum by the Secretary of Interior which stated that townsite applications on file before passage of ANCSA constituted a valid existing right. On March 19, 1985, the District Court upheld the Secretary of Interior stating that the filing of the petition segregated the land and therefore the lands were not available for selection by village corporations. The Court of Appeals affirmed the District Court Decision on December 19, 1986.
- 2) Intervenors in the Aleknagik case, Port Graham and English Bay, contended that unoccupied townsite lands should be transferred to the traditional village councils in those communities because there is no municipality in either village. On July 17, 1987, the District Court ordered the Trustee to convey the residual lands to the village councils. The order was affirmed by the Ninth Circuit Court of Appeals on September 22, 1989. (Handout #9)

V. TOWNSITE FILES

A. Accounts File

B. Deed File

1) Duplicate Copy of Deed

2) Original Application

C. General Correspondence File

D. Historical File

E. Lot and Block File

1) Triplicate Copy of Deed

2) Copy of Application

3) Related Correspondence

F. Maps File

1) Field Plat

2) Status Plat

G. Pending File

H. Permit Files

I. Tract Book

1) List of Grantees by lot, block and tract

2) Type of deed, when issued and to whom delivered

TOWNSITE PROGRAM

Legal Authority:

Act of March 3, 1891	-	Extended townsite laws to Alaska
Act of May 25, 1926	-	Allowed native individuals to receive restricted deeds to townsite lots
Act of February 26, 1948	-	Allowed native individuals to receive unrestricted deeds

Description of Program:

Communities within Alaska filed petitions with the federal government to establish townsites for the purpose of obtaining title to the land they occupied. The petition requested the government to survey the area into lots, blocks and tracts for future expansion and to appoint a Trustee to act on behalf of the community. After approval of the survey plat, the Trustee applies to the BLM for patent to the townsite. The Trustee's claim is adjudicated against all other claims and if no conflicts exist, a patent is issued. A Notice of Lot Awards is then posted in the village for 30 days to notify the residents that the Trustee will visit the village to take applications for deeds to the lots. Native individuals may apply for either restricted or unrestricted deeds and do not pay the survey assessment cost. Unrestricted native deeds may be issued only upon approval of the Bureau of Indian Affairs. Non-native individuals and all others must apply for Trustee Deeds and pay the cost of survey. The applications are adjudicated by the Trustee and deeds are issued based on occupancy and improvement of the lots prior to the date of survey plat approval or October 21, 1976 which ever date comes earlier. Conflicts are resolved by Trustee Decisions issued with the right of appeal to IBLA.

Settlement on unsubdivided tracts of land was precluded after October 21, 1976, when the Federal Land Policy and Management Act repealed the townsite laws. All claims established before that date must be surveyed by the Bureau of Land Management. After all lots have been awarded to valid claimants, the remaining land is deeded to the incorporated municipality and the townsite is closed.

The townsite program was virtually in suspension from 1977 to 1985 when the U.S. District Court in Alaska decided the question as to whether incorporated cities or the ANCSA corporations were entitled to unoccupied lands. The court decided in favor of the incorporated municipalities.

Until recently, the Trustee retained title to residual lands in unincorporated communities. On September 22, 1989, the Ninth Circuit Court affirmed a lower court decision that directed conveyance of these residual lands to village councils.

The goal of the program is to close all townsites by the end of fiscal year 1993.

Gamble v. Sault Ste. Marie, 10 L.D. 375 (1890)

The proceedings under the Act of 9/26/1850, whereby a cemetery was designated as a lot reserved for a public purpose on the approved plat of survey, constitute a statutory dedication to the village of Sault Ste. Marie of the tract set apart for cemetery purposes, thus passing title from the U.S. and, upon incorporation of the village, resting it in the municipal authorities. By such a statutory dedication, the Government parted with the title to the tract and control thereof.