

BRENA, BELL & CLARKSON, P.C.

ROBIN O. BRENA, OWNER
JESSE C. BELL, OF COUNSEL
KEVIN G. CLARKSON, OF COUNSEL
DAVID W. WENSEL, OF COUNSEL
ANTHONY S. GUERRIERO, OF COUNSEL
PAULA T. VRANA, OF COUNSEL

ATTORNEYS AT LAW

RECEIVED
2004 DEC 7 PM 3:10
310-K STREET, SUITE 601
ANCHORAGE, AK 99501
TELEPHONE: (907) 258-2000
FACSIMILE: (907) 258-2001
WEBSITE: BRENALAW.COM
EMAIL: RBRENA@BRENALAW.COM
KPB
CLERK'S OFFICE

December 7, 2004

By Mail and Email

Honorable Dale Bagley, Kenai Peninsula Borough Mayor

Kenai Peninsula Borough Assembly:

- Gary Superman, President
- Ron Long, Vice President
- Dan Chay
- Pete Sprague
- Grace Merkes
- Paul Fischer
- Chris Moss
- Milli Martin

144 N. Binkley Street
Soldotna, AK 99669

Re: PROPOSED ORDINANCE 2004-19-22
Our File No: 10-155

Dear Mayor Bagley and Members of the Kenai Peninsula Borough Assembly:

This firm has been retained by Tesoro Alaska Company ("Tesoro") to represent it with regard to all matters relating to the valuation of its refinery by the Kenai Peninsula Borough ("KPB"). Tesoro would like to find a way to have its refinery valued consistently and fairly by the KPB. Toward this end, Tesoro shares the following concerns and recommendations regarding the KPB's request for proposals for appraisal services for the January 1, 2005, ad valorem valuation of the Tesoro refinery ("RFP"):

1. **Discriminatory Taxation.** Tesoro deserves to be treated the same as other taxpayers. Through the RFP, the KPB has singled out Tesoro and its refinery for a tax appraisal that is unique from every other taxpayer in the Borough. The KPB has not established this appraisal process for any other taxpayer in the Borough. Tesoro does not agree that the KPB should single-out Tesoro's refinery in the RFP for additional, burdensome, and discriminatory tax treatment.
2. **Taxpayer Provided Appraisal.** Tesoro is willing to provide a complete and proper appraisal of its refinery to the KPB for its review. Such an appraisal would be done by a highly qualified, independent appraiser with substantial knowledge of the refining industry and Tesoro's refinery, as well as substantial experience in refinery appraisals. Retaining a qualified, independent appraiser to review Tesoro's appraisal, rather than to create a new appraisal, should avoid the need for the expenditure of \$80,000 for a second appraisal of Tesoro's refinery.

3. **Suggested Modifications to the RFP.** If the KPB intends to go forward with the RFP, Tesoro recommends the RFP be modified in the following ways to ensure the integrity and quality of the appraisal:

a. **Minimum Qualifications for Bidder.** The RFP should specify the minimum qualifications for the bidder. Tesoro's refinery is a highly specialized industrial property and familiarity with both the appraisal process and the refining industry is necessary to conduct a proper appraisal. Tesoro believes the minimum qualifications necessary for a bidder should be an MAI or ASA certification with significant knowledge of the refining industry and experience in appraising refineries.

Tesoro believes that much of the recent conflict over the proper valuation of its refinery is due to the lack of proper qualifications and experience of the appraisers retained by the Assessor. Much of the appraisal work for the Assessor has been done by uncertified people that have never taken an appraisal course. The certified appraiser that was involved for the Assessor had never appraised any property for a buyer, a seller, a bank, or an insurance company. In effect, he had never done an appraisal used in the real marketplace. He was also unfamiliar with the refining industry and with refineries and had never done an appraisal of any other refinery.

b. **Standards for the Appraisal.** The RFP should specify that the appraisal meets the Uniform Standard of Professional Appraisal Practice (USPAP). As currently written, the RFP only requires the appraisal to comply with Standard 6 of USPAP. Standard 6 contains lessor appraisal standards that are employed when doing mass appraisals. The RFP is not for a mass appraisal, but is for the appraisal of a specific industrial property which is unique in the Borough. As such, the USPAP standards applicable to the appraisal of an individual property should be used for any appraisal.

Should you have any questions or comments regarding the subject matter of this letter or our offer to provide a complete appraisal of Tesoro's property, please feel free to contact me. Your due consideration of the foregoing is appreciated.

Very truly yours,

BRENA, BELL & CLARKSON, P.C.

By Robin O. Brena
Robin O. Brena

ROB/mrl

cc: John C. Moore
Linda S. Murphy, Borough Clerk (by Fax and Email)