

Introduced by: Mayor  
Date: 07/08/08  
Hearing: 08/05/08  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2008-18**

**AN ORDINANCE AUTHORIZING THE NEGOTIATED SALE AT OTHER THAN FAIR MARKET VALUE OF LOT 3 BLOCK 3 J BOOTH RECREATIONAL SUBDIVISION, ACCORDING TO PLAT NO. 1966-643, HOMER RECORDING DISTRICT, SEWARD MERIDIAN, ALASKA CONTAINING 0.26 ACRES TO DEMIAN T. SAGERSER**

- WHEREAS,** The Kenai Peninsula Borough obtained through tax foreclosure proceedings the 0.26-acre Lot 3 Block 3 J Booth Recreational Subdivision (KPB Tax Parcel No. 159-250-14) in the Stariski Creek area and retained the parcel by Ordinance 2002-25; and
- WHEREAS,** the Land Trust Fund paid \$446.64 to the Borough General Fund for unpaid taxes, penalties, and interest upon enactment of Ordinance 2002-25; and
- WHEREAS,** the amount attributable to foreclosure costs, plus estimated taxes and interest, without exemption, since the time of foreclosure is \$783.60; and
- WHEREAS,** the record owner at time of foreclosure lives in extreme financial hardship, was unable to pay annual taxes and failed to utilize available borough tax exemptions; and
- WHEREAS,** due to special circumstances the prior owner did not understand the ramifications of the foreclosure and subsequent borough retention of the property; and
- WHEREAS,** the prior owner has been trespassing on this property since the foreclosure, made nominal improvements and relies on it as his primary residence; and
- WHEREAS,** due to special circumstances that exist, it is in the borough's best interest to allow the prior owner to repurchase said property for the amount attributable to estimated taxes, penalties, and interest; and
- WHEREAS,** the KPB Planning Commission at its regularly scheduled meeting of July 21, 2008 recommended enactment by unanimous consent.

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** That the Assembly finds that selling Lot 3 Block 3 J Booth Recreational Subdivision, Homer Recording District, S.M., Alaska, containing 0.26 acres more or less to Demian T. Sagerser, pursuant to KPB 17.10.100 (I) is in the best interest of the borough as it allows the borough to recover the costs of foreclosure and allows the prior owner to retain his primary residence.

**SECTION 2.** That the above described property was retained for public purpose under Ordinance 2002-25, such public purpose being: the property is less than 40,000 sq ft in size and thus marginally fit for typical residential development. The prior owner's ability to inhabit the lot as his primary residence despite its small size negates the public need for retention in this case.

**SECTION 3.** Based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100 (I) to sell the land described in Section 1 above to Demian T. Sagerser for \$800.00, the estimated amount attributable to taxes, penalties, and interest. The term of the sale is cash.

**SECTION 4.** That the Assembly additionally makes an exception to KPB 17.10.090 requiring classification prior to disposal. This exception is based on the following findings of facts pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist.
  - A. KPB 17.10.080(A) states, classification of property is for review, plan implementation and management purposes. The classification system designates the most appropriate uses for land and thereby guides borough management of such lands and implementation actions to provide for the identified uses. Classification immediately prior to disposal of tax foreclosed land to the original owner does not accomplish these purposes.
  - B. The land use will remain unchanged.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this chapter.
  - A. This ordinance authorizes subject land to be sold to the last record owner of tax foreclosed property on a non-competitive basis pursuant to KPB 17.10.100(I). Classification will be redundant and not serve a useful purpose based on the findings of No. 1 above.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.
  - A. A residential land use currently exists on the property.

**SECTION 5.** That the Assembly additionally makes an exception to KPB 17.10.110 requiring notice of a disposition of land. This exception is based on the following findings of facts pursuant to KPB 17.10.230:


1. Special circumstances or conditions exist.
  - A. This ordinance authorizes subject land to be repurchased by the last record owner on a non-competitive basis pursuant to KPB 17.10.100(I).
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this chapter.
  - A. The purpose of the KPB 17.10.110 advertising requirement is to notify the public of an opportunity to purchase or lease KPB land and advertising this sole source sale to the last record owner will not serve a useful purpose.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.
  - A. The last record owner currently occupies the property as his primary residence.

**SECTION 6.** The mayor is authorized to sign any documents necessary to effectuate this ordinance.


**SECTION 7.** Demian T. Sagerser shall have 180 days after enactment of this ordinance to accept this offer by execution of a purchase agreement.

**SECTION 8.** That this ordinance shall take effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 5TH DAY OF AUGUST, 2008.**

  
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Grace Merkes, Assembly President

ATTEST:

  
John Blankenship, Borough Clerk

Yes: Fischer, Gilman, Knopp, Long, Marth, Smith, Sprague, Superman, Merkes  
No: None  
Absent: None

