

Introduced by: Mayor
Date: March 4, 1975
Vote: 106.16 Yes; 10.67 No
Action: Adopted

KENAI PENINSULA BOROUGH

RESOLUTION 75-10

**A RESOLUTION URGING THAT HOUSE BILL NO. 3 PROVIDING
AUTHORITIES FOR A MUNICIPALITY TO REQUIRE THAT ALL PLATS
PROVIDE FOR DEDICATION OF OPEN SPACE, PARK, OR RECREATION
AREAS WITHIN THEIR BOUNDARIES BE DEFEATED.**

WHEREAS, House Bill No. 3 has been introduced in the first session of the Ninth Legislature of the State of Alaska to provide authority for a municipality to require that all plats provide for dedication of open space, park, or recreation areas; and

WHEREAS, Section 18 of the Constitution of the State of Alaska provides that "Private property shall not be taken or damaged for public use without just compensation", and the Fifth Amendment to the Constitution of the United States of America provides "nor shall private property be taken for public use, without just compensation"; and

WHEREAS, the requirement which would be authorized by House Bill No. 3 is obviously in conflict with the cited portions of the Constitutions of the State of Alaska and of the United States of America since no compensation is required to be made for such taking; and

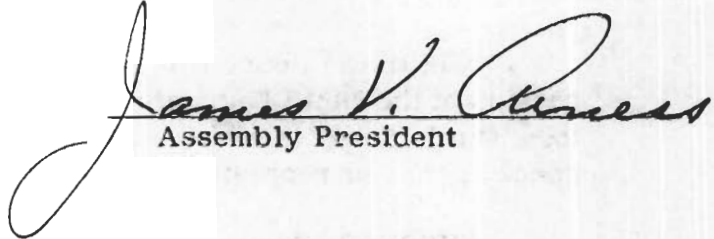
WHEREAS, AS 40.15 provides that plats must be filed for every subdivision, and AS 40.15.190 (2) defines "subdivision" as meaning any division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and thus anyone selling any portion of a piece of property less than the whole could be required to furnish lands for open space or parks without any payment therefor and whether or not open space or parks were needed by the municipality;

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

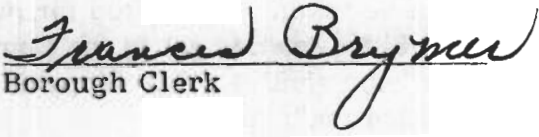
That the Assembly of the Kenai Peninsula Borough vigorously
opposes enactment of House Bill No. 3 or any variation thereof.

Copies of this resolution shall be transmitted to Governor Jay
Hammond, Rep. Hugh Malone, Chairman of the House Finance Committee;
Sen. Jalmar Kertulla, Sen. Clem Tillion, Rep. Keith Specking, and
Rep. Leo Rhode.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
THIS 4 DAY OF MARCH, 1975.


Assembly President

ATTEST:


Borough Clerk