

BK 3329PG443

BK 3329PG447

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 COURT CLERK
 JUDICIAL DISTRICT

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

UNIVERSITY OF ALASKA,

Plaintiff,

vs.

ALASKA PACIFIC UNIVERSITY,

Defendant.

No. JAN-97-7779 CIV

AGREEMENT OF PARTIES AND FINAL JUDGMENT

Based upon the agreement of the parties, the Court enters final judgment as follows:

1. The land which is the subject of this judgment is:

The Northwest one-quarter (NW 1/4) of the Northeast one-quarter (NE 1/4) of the Northwest one-quarter (NW 1/4), the South one-half (S 1/2) of the Northeast one-quarter (NE 1/4) of the Northwest one-quarter (NW 1/4), the Northwest one-quarter (NW 1/4) of the Northwest one-quarter (NW 1/4), the South one-half (S 1/2) of the Northwest one-quarter (NW 1/4), and the North one-half (N 1/2) of the Southwest one-quarter (SW 1/4); all within Section 27 of Township 13 North, Range 3 West, Seward Meridian, Alaska; and

The East one-half (E1/2) of the East one-half (E1/2) of the Southeast one-quarter (SE 1/4) of the Northeast one-quarter (NE 1/4), and that portion of the East one-half (E1/2) of the East one-half (E 1/2) of the Northeast one-quarter (NE 1/4) of the Southeast one-

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quarter (SE 1/4) located east of the Bragaw Drive right-of-way; all within Section 28 of Township 13 North, Range 3 West, Seward Meridian, Alaska;

Portions of said property are included within Plats 83-309, 85-299, 88-1, 92-117, and 97-24, recorded at the Anchorage Recording District, Third Judicial District, State of Alaska.

2. Effective March 11, 1972, APU dedicated in perpetuity the above-referenced land and existing and future buildings to nonprofit education, health, recreation and conservation or related public purposes. Notwithstanding this restriction, U of A will not unreasonably challenge land usage by APU that is in keeping with the spirit of the Bureau of Land Management language that originally conveyed the land to APU, to wit,

a. Net income to APU is used to support the educational programs of APU,

b. The facility has a significant and substantial relationship to an educational program offered by APU, including "hands on" training in various educational and vocational skills.

3. Notwithstanding the foregoing, APU may lease a portion of its campus lands to Medistar Corporation (Medistar) for development and use as a health care facility by HealthSouth Corporation (HealthSouth) (the health care facility), consistent with a Conditional Use Application which Medistar submitted to the Municipality of Anchorage, dated July 9, 1998 (the conditional use application), to

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allow for construction and operation of the health care facility. The health care facility may be operated upon six and two-tenths (6.2) acres of land which Medistar desires to lease from APU, and which is described in the conditional use application, and upon up to eight-tenths (.8) of an acre of adjoining land, for a total of up to seven (7.0) acres of land. The lease and use of land stated in this paragraph is conditioned upon the approval by the Municipality of Anchorage of the conditional use application in a form substantially similar to that submitted by Medistar on July 9, 1998 and upon receipt of plat approval for the subdivision by APU of the lands to be leased and use in a manner substantially similar to that identified in the conditional use application.

4. This Agreement of the Parties and Final Judgment is binding upon the parties' successors and assigns.

5. This Agreement of the Parties and Final Judgment may be amended at the request of either party to include a property description when plat approval of the health care facility is granted.

6. This Agreement of the Parties and Final Judgment may be recorded for multiple purposes by either party under AS 40.17.035(3).

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7. Otherwise, this matter is dismissed with prejudice, each party to bear its own costs and attorneys' fees.

Agreed: Mark R. Hamilton
President Mark R. Hamilton
University of Alaska

Date: 10 Sept 1998

Submitted by: Russell L. Winner
Russell L. Winner
Attorney for
University of Alaska
Alaska Bar No. 2811149

Date: 9/14/98

Agreed: Douglas M. North
President Douglas M. North
Alaska Pacific University

Date: 9/14/98

Submitted by: Peter A. Lekisch
Peter A. Lekisch
Attorney for Alaska
Pacific University
Alaska Bar No. 6911039

Date: 9/15/98

FILED IN THE TRIAL COURTS
State of Alaska Third District

SEP 24 1998

Clerk of the Trial Courts

IT IS SO ORDERED

Dated this 24 day of Sept, 1998.

Brian deShortell
Superior Court Judge

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I certify that on 9/24/98
a copy of the above was mailed to each
of the following at their addresses of
record: Winner, Lekisch
deShortell
Secretary/Deputy Clerk

I hereby certify that this is a true and correct
copy of the original on file in my office.
ATTEST:
Clerk of the Trial Courts of Anchorage
By deShortell 9/24/98
Deputy

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