

# Ruling upholds BLM townsite program

Because of a recent court decision, the legal right to keep the land they already "own" has been preserved for 90 Alaska communities and 295 homesite owners who received trustee deed under the townsite program, according to the Bureau of Land Management.

A December ruling by the Ninth Circuit Court of Appeals means that Native corporations set up by the Alaska Native Claims Settlement Act may not select lands that have been set aside as townsite lands, even if the process of creating the townsite has not been fully completed.

"One thing this does is remove any

cloud from land that has already been deeded," said BLM Townsite Trustee Gail Ozmina.

"Residents of the villages were affected," she said, "because they couldn't get title to the lots they had occupied."

"That certainly inhibited any residential building, because an individual couldn't get a loan from the bank without title to the land."

The case hinged on claims made by the village corporation Aleknagik Natives Ltd. that ANCSA removed vacant townsite lands from the Townsite Trust and made them available for selection by the

corporation.

One of the act's key provisions withdrew public lands surrounding Native villages from all public appropriations, except for lands "subject to valid existing rights."

The question was whether land that had been set aside as a townsite but not yet subdivided and distributed, had "valid existing rights."

In 1972, the director of the BLM issued a memorandum concluding that if the occupants of a village had filed a petition to segregate the land as a townsite before the act was passed, it had valid existing rights to the land.

The case filed by Aleknagik Natives Ltd. challenged that conclusion.

Interior Department Regional Solicitor Jack Allen said this case, which has been in litigation for more than nine years, "effectively halted any further deeding of unoccupied townsite lands throughout the state for both public purpose projects and other uses."

"The ruling completely vindicates the government's position," he said.

Allen also said that in reaching the decision, the court did an about face on its own previous views of the case, now agreeing with the lower court's analysis.