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## **SPECIAL ASSESSMENT DISTRICTS - ALASKA**

### **L Street Investments v. Municipality of Anchorage**

**Supreme Court of Alaska - August 23, 2013 - P.3d - 2013 WL 4500329**

The former Anchorage Municipal Code provided for the creation of special assessment districts for public capital improvements. In 1996, the Anchorage Municipal Assembly (Assembly) enacted Anchorage Ordinance 96-77(S-I) to broaden “special assessment districts” to include the provision of services and to authorize business improvement districts. In 1997 the Assembly passed Anchorage Ordinance 97-51, which created the Downtown Improvement District (District) for a period of three years.

When passing this ordinance, the Assembly amended the boundaries of the proposed District to exclude some properties on K and L Streets. The building at 420 L Street, the property owned by appellant L Street Investments, was in the original proposal but subsequently carved out by the Assembly.

In 2000 the Assembly extended the life of the District for ten years. Beginning in 2009, the Anchorage Downtown Partnership canvassed businesses hoping to extend the life of the District again and expand the District to include businesses between I and L Street.

After the majority of business owners in the proposed District approved the extension and expansion, the Assembly extended the life of the District and expanded it to include businesses between I and L Streets, including the building at 420 L Street.

L Street Investments filed a complaint arguing: (1) Section 9.02(a) of the Municipality of Anchorage’s Charter does not authorize the Municipality to finance services within the District by an assessment—rather, the Municipality can finance services only by a tax levy; and (2) the District is a “service area,” and AS 29 .35.450(c) prohibits the expansion of a service area unless a majority of voters in the area to be added vote in favor of expanding the service area. The Anchorage Downtown Partnership intervened, and all parties filed cross-motions for summary judgment.

The Supreme Court of Alaska concluded that Section 9.02(a) does not preclude the Municipality from levying an assessment for services because the language in Section 9.02(a) is permissive rather than mandatory, and does not expressly prohibit the Municipality from using an assessment to finance services. The Municipality, as a unified home rule municipality, enjoys broad authority to exercise all legislative powers not prohibited by law or Charter.<sup>22</sup> The use of assessments to finance services is not prohibited by law or Charter and is therefore a valid exercise of the Municipality’s authority.

As the superior court stated, the legislative history of AS 29.35 .450 shows that the legislature was focused on specific types of service areas. It does not suggest that the legislature either contemplated or intended to impose the voting requirements of AS 29.35.450(c) on a business improvement district that does not primarily provide road, fire, or park and recreation services, but may provide some services in those areas. Neither the plain language nor the legislative history of AS 29.35.450 indicates that the District is a service area subject to its terms. Accordingly, the

Supreme Court of Alaska held that the District was not a service area subject to the voting requirements of AS 29.35.450.

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