

# Developer Seeks Tax Break On Elmendorf Project; JL PROPERTIES: Company Objects To Higher Bill; City Mulling A Deal

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Anchorage city government is negotiating a deal that could save a local development company millions of dollars in property taxes on a private housing project it built and is operating on Elmendorf Air Force Base.

The company, JL Properties, objected to the 2004 tax bill on its \$110 million Elmendorf project, the first private military housing arrangement of its kind in Alaska.

In response, the company pushed a measure through the Alaska Legislature in the closing days of this year's session allowing a special tax exemption to reduce future payments to the city.

Gov. Frank Murkowski has not yet signed it into law. A former state legislator is threatening a lawsuit if he does, saying the measure is special interest legislation.

City officials and the company are considering a deal that would enable JL Properties to pay hundreds of thousands of dollars less each year than it would have had to pay under this year's tax bill. The deal could save the company millions of dollars in taxes over the next 50 years.

The president of the company, Leonard Hyde, said that without a tax break, it can't move forward on the second, larger phase of residential development on the base. Anchorage Mayor Mark Begich is supporting the deal.

In 2001, the Air Force awarded a contract to Aurora Military Housing -- made up of JL Properties and Hunt Building Corp. of San Antonio, Texas -- to renovate, build and manage base housing at Elmendorf.

The Department of Defense has awarded 30 such private housing contracts at bases across the country, allowed under the Private Sector Housing Initiative approved by Congress in 1996. The contract was the first time the arrangement had been used here.

The first phase on Elmendorf is done: a complex with 828 new and renovated multifamily buildings and duplexes near the base's Boniface Parkway entrance.

The thinking behind the program is that private developers can renovate aging and deteriorating military housing and put up new units quicker and cheaper than the government can, as well as operate and maintain them more efficiently.

Earlier this year, negotiations were under way between the company and Elmendorf for a second, larger phase, to build or renovate 1,194 more units. Then the company learned that its city tax assessment on Phase 1 had nearly tripled. Assessments, based on the estimated value of property, determine the amount of taxes owed.

In 2003, the city had assessed the first phase of the project at \$15 million. That shot up to \$44.5 million with this year's assessment. The result: a tax bill that went from \$250,000 to \$720,000 in a single year. The city assessor said the difference is based on new information he obtained about the property and what it is worth.

Hyde said the jump in taxes made him and other people involved in the project think twice about moving forward with Phase 2, estimated to cost \$232 million.

"We needed certainty," Hyde said. "If we got these kind of increases continually, we couldn't do it."

The company began pushing a measure in the Legislature to change the way the property is taxed. It received little public attention. The bill requires the city and developer to negotiate an annual payment in lieu of taxes.

While the measure is waiting for the governor's signature, the city is reconsidering JL Properties' \$720,000 tax bill for 2004. The assessor said it could be reduced by as much as half. The arguments used to lower the tax bill are much the same as the points being considered to figure out a long-term payment in lieu of taxes.

The developer is proposing paying about \$250,000 in lieu of taxes on Phase 1, Hyde said -- about what the company paid in taxes in 2003.

Loan documents show that the developers budgeted about \$720,000 for annual taxes on the existing housing. That was a high estimate to account for assessment growth over time and cover a worst-case scenario, Hyde said.

The company would be willing to pay \$350,000 annually for Phase 2, Hyde said. The city has not yet agreed to payment amounts.

The city based the development's \$44.5 million assessment on the developer's income from future rent, similar to how the city assesses most other commercial properties, Assessor Marty McGee said.

Loan documents from Alaska Housing Finance Corp., the state-owned company that financed \$48 million of Phase 1, say that the developer would earn \$6.1 million a year after paying taxes, operation and maintenance expenses. From that, the documents say, the developers would pay about \$5.4 million for the mortgage, leaving about \$700,000 a year profit.

But about half of the profit goes to the Air Force for a "reinvestment fund" that helps the military restore the buildings.

"It's not a fat deal," Hyde said.

However, as the developers pay off the 30-year loans, their expenses will diminish and income will increase. The deal gets more profitable for the developer during last 20 years of the 50-year contract with the Air Force, McGee said.

The new base housing arrangement puzzled the assessor's office, as it tried to address the company's objection to its 2004 tax bill, McGee said. For starters, the private housing sits on land owned by the military, so the company can't subdivide or sell it. Also, if the military built the housing, it would be tax exempt.

But the biggest factor the mayor and assessor say they are considering in justifying lower taxes is that the city's police, fire and road services don't cover the base. The city originally had applied a tax rate mirroring those of other downtown areas with full city services.

While the city was trying to figure out a tax level that reflected lesser services for JL Properties, Senate Bill 136 was passed in Juneau.

"The bill, pushed at the request of the developers, simplifies our question," McGee said.

McGee says a payment in lieu of taxes is different from regular property taxes, which are calculated based on a property's assessed value. The payment is intended to cover a share of city-funded services that base residents benefit from when they drive off base, such as police, ambulance response and road maintenance.

The military pays the city \$11 million a year for public school services, McGee said.

The city has never had to calculate such an arrangement for private base housing before, he said. However, the city has a number of similar payment agreements, from government-owned properties to affordable-housing projects.

Hyde said that before starting any development on base he told McGee he needed some certainty about future taxes, because the company could not control rents on base or have access to nonmilitary renters.

The assessor couldn't make any promises about future taxes, Hyde said, but did explain the philosophy behind assessments. It seemed like that philosophy changed when taxes jumped in 2004, Hyde said.

Hyde said the company needs more certainty about its future expenses before signing off on Phase 2.

If it doesn't get it? "We're walking away," he said.

Mayor Mark Begich said he isn't worried about that. If the company pulls out, the military would find another way to develop housing, he said.

The developers are not obligated to do the second phase, said Ken Walters, a privatization project manager at Elmendorf.

The Alaska Housing Finance Corp. announced Thursday that it plans to lend the developer about \$107 million for Phase 2, "pending final negotiations with the Air Force."

Begich said he likes SB 136 because a payment in lieu of taxes guarantees reliable revenue for the city on the existing housing, after the Legislature dangled the threat of a complete base housing tax exemption. He said similar private housing on some bases elsewhere pay no local taxes at all.

On May 3, Sen. Tom Wagoner, R-Kenai, proposed a tax exemption for military housing as an amendment to his bill that dealt with several property tax exemptions cities can use.

Wagoner said lobbyists for the developer, along with Sen. Ben Stevens, R-Anchorage, had urged him to add the amendment, saying if the exemption didn't pass, JL Properties and its partner would not continue building on the base.

Stevens did not return calls about the amendment.

Wagoner said he wants more military housing and likes having private developers build it.

"I was dumbfounded when I found out that state law and federal law allowed the municipality to tax this (private development) on base," Wagoner said in an interview.

Immediately after Wagoner proposed his amendment, Sen. Gretchen Guess, D-Anchorage, added another change that would require a payment in lieu of taxes.

Begich helped Guess write that part. He said he jumped in because he heard the developers sought a total exemption from taxes and he wanted to make sure the city received some kind of payment.

The mayor said JL Properties probably could not have gotten an exemption without the legislation. If JL Properties had wanted to negotiate an exemption with the city, the case would have ended up in court, Begich said. He said he worried that JL Properties would win in court because of other exemptions on private housing on bases in other states.

Several Anchorage Assembly members said they were unaware of the base housing exemption as the bill moved through the Legislature. Their reactions varied.

Allan Tesche said giving the exemption to JL Properties won't trim city revenues; it just shifts the taxes the company would have paid onto other taxpayers.

Janice Shamberg said she would have liked to have been informed about the bill.

"Every time you do an exemption, it affects every individual taxpayer," she said.

Dick Tremaine said he thinks payment in lieu of taxes are common, that military housing is typically exempt from taxes and that the project is necessary. So, Tremaine said, it makes sense to him.

But Ray Metcalfe, a commercial real estate broker, former state representative and chairman of the Republican Moderate Party, said it's inherently unfair. Many developers, including him, would like a tax break for building a project that serves a common good.

Metcalfe said if the governor signs the bill, he will sue the state to stop the exemption. He called it unconstitutional special legislation for a specific project that will pass costs to other taxpayers.

He mentioned U.S. Sen. Ted Stevens' financial investment in other companies connected with JL Properties and the fact that Stevens' son was pushing a tax break to help the firm. JL Properties forms separate entities for its various business ventures, and Ted Stevens was not involved with the base housing deal, according to Stevens and John Rubini, Hyde's partner in JL Properties.

Ted Stevens invested \$50,000 in another Anchorage real estate venture involving JL Properties years ago, and that had multiplied, on paper, to between

\$750,000 and \$1.5 million by last year, according to Stevens' financial disclosure documents.

In response to Metcalfe's accusations, Wagoner said the bill could be perceived as special-interest legislation, but it addresses all military lands statewide.

"It's for the greater good," he said. "I wasn't concerned with who was involved with the on-base housing."

And Hyde, the developer, said Phase 2 is important. "For the sake of the economy, the Air Force, quality of life (for military residents), it's a good project," Hyde said.