

§ 2564.4

(26 Stat. 1095, 1099), and the Act of May 25, 1926 (44 Stat. 629).

§ 2564.4 Provisions to be inserted in restricted deeds.

The townsite trustee will note a proper reference to the Act of May 25, 1926, on each deed which is issued under authority of that act and each such deed shall provide that the title conveyed is inalienable except upon approval of the Secretary of the Interior or his authorized representative, and that the issuance of the restricted deed does not subject the tract to taxation, to levy and sale in satisfaction of the debts, contracts or liabilities of the transferee, or to any claims of adverse occupancy or law of prescription; also, if the established streets and alleys of the townsite have been extended upon and across the tract, that there is reserved to the townsite the area covered by such streets and alleys as extended. The deed shall further provide that the approval by the Secretary of the Interior or his authorized representative of a sale by the Indian or Eskimo transferee shall vest in the purchaser a complete and unrestricted title from the date of such approval.

§ 2564.5 Sale of land for which restricted deed was issued.

When a native possessing a restricted deed for land in a trustee townsite issued under authority of the Act of May 25, 1926 (44 Stat. 629; 43 U.S.C. 733-736), desires to sell the land, he should execute a deed on a form approved by the Director, prepared for the approval of the Secretary of the Interior, or his authorized representative, and send it to the townsite trustee in Alaska. The townsite trustee will forward the deed to the Area Director of the Bureau of Indian Affairs who will determine whether it should be approved. Where the deed is approved it shall be returned by the Area Director, Bureau of Indian Affairs, through the townsite trustee to the vendor. In the event the Area Director determines that the deed shall not be approved, he shall so inform the native possessing the restricted deed, who shall have a right of appeal from such finding or decision to the Commissioner of Indian Affairs within sixty days from the date of noti-

43 CFR Ch. II (10-1-02 Edition)

fication of such finding or decision. The appeal shall be filed with the Area Director. Should the Commissioner uphold the decision of the Area Director, he shall notify the applicant of such action, informing him of his right of appeal to the Secretary of the Interior.

§ 2564.6 Application for unrestricted deed.

Any Alaska native who claims and occupies a tract of land in a trustee townsite and is the owner of land under a restricted deed issued under the Act of May 25, 1926 (44 Stat. 629; 43 U.S.C. 732-737) may file an application for an unrestricted deed pursuant to the Act of February 26, 1948 (62 Stat. 35; 43 U.S.C. 732-737), with the townsite trustee. The application must be in writing and must contain a description of the land claimed and information regarding the competency of the applicant. It must also contain evidence substantiating the claim and occupancy of the applicant, except when the applicant has been issued a restricted deed for the land. A duplicate copy of the application must be submitted by the applicant to the Area Director of the Bureau of Indian Affairs.

§ 2564.7 Determination of competency or noncompetency; issuance of unrestricted deed.

(a) Upon a determination by the Bureau of Indian Affairs that the applicant is competent to manage his own affairs, and in the absence of any conflict or other valid objection, the townsite trustee will issue an unrestricted deed to the applicant. Thereafter all restrictions as to sale, encumbrance, or taxation of the land applied for shall be removed, but the said land shall not be liable to the satisfaction of any debt, except obligations owed to the Federal Government, contracted prior to the issuance of such deed. Any adverse action under this section by the townsite trustee shall be subject to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with part 4 of 43 CFR Subtitle A.

(b) In the event the Area Director determines that the applicant is not competent to manage his own affairs, he shall so inform the applicant, and such applicant shall have a right of appeal

Bureau of Land Management, Interior

§ 2565.2

from such finding or decision to the Commissioner of Indian Affairs, within 60 days from the date of notification of such finding or decision. The appeal shall be filed with the Area Director. Should the Commissioner uphold the decision of the Area Director, he shall notify the applicant of such action, informing him of his right of appeal to the Secretary of the Interior.

(c) Except as provided in this section, the townsite trustee shall not issue other than restricted deeds to Indian or other Alaska natives.

(43 U.S.C. 733-735, 737)

[35 FR 9601, June 13, 1970, as amended at 41 FR 29122, July 15, 1976]

Subpart 2565—Non-native Townsites

SOURCE: 35 FR 9601, June 13, 1970, unless otherwise noted.

§ 2565.0-3 Authority.

The entry of public lands in Alaska for townsite purposes, by such trustee or trustees as may be named by the Secretary of the Interior for that purpose, is authorized by section 11 of the Act of March 3, 1891 (sec. 11, 26 Stat. 1099; 43 U.S.C. 732).

§ 2565.0-7 Cross reference.

Townsites in Alaska may be reserved by the President and sold as provided for in sections 2380 and 2381 of the Revised Statutes; 43 U.S.C. 711, 712. The regulations governing these townsites are contained in §§ 2760.0-3 and 2761.3.

§ 2565.1 General requirements.

(a) *Survey of exterior lines; exclusions from townsite survey.* If the land is unsurveyed the occupants must by application to the State Director, obtain a survey of the exterior lines of the townsite which will be made at Government expense. There must be excluded from the tract to be surveyed and entered for the townsite any lands set aside by the district court under section 31 of the Act of June 6, 1900 (31 Stat. 332; 48 U.S.C. 40), for use as jail and courthouse sites, also all lands needed for Government purposes or

use, together with any existing valid claim initiated under Russian rule.

(b) *Petition for trustee and for survey of lands into lots, blocks, etc.* When the survey of the exterior lines has been approved, or if the townsite is on surveyed land, a petition, signed by a majority of occupants of the land, will be filed in the proper office requesting the appointment of trustee and the survey of the townsite into lots, blocks, and municipal reservations for public use, the expense thereof to be paid from assessments upon the lots, as provided in § 2565.3(b) of this part.

(c) *Designation of trustee; payment required: area enterable.* If the petition be found sufficient, the Secretary of the Interior will designate a trustee to make entry of the townsite, payment for which must be made at the rate of \$1.25 per acre. If there are less than 100 inhabitants the area of the townsite is limited to 160 acres; if 100 and less than 200, to 320 acres; if more than 200, to 640 acres, this being the maximum area allowed by the statute.

§ 2565.2 Application; fees; contests and protests.

(a) *Filing of application; publication and posting; submission of proof.* The trustee will file his application and notice of intention to make proof, and thereupon the authorizing officer will issue the usual notice of making proof, to be posted and published at the trustee's expense, for the time and in the manner as in other cases provided, and proof must be made showing occupancy of the tract, number of inhabitants thereon, character of the land, extent, value, and character of improvements, and that the townsite does not contain any land occupied by the United States for school or other purposes or land occupied under any existing valid claim initiated under Russian rule.

(b) *Application service fee.* The trustee's application shall be accompanied by \$10 application service fee which shall not be returnable.

(c) *Expense money to be advanced by lot occupants.* The occupants will advance a sufficient amount of money to pay for the land and the expenses incident to the entry to be refunded to them when realized from lot assessments.