

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT, AT ANCHORAGE

ALASKA BUILDING, INC., an Alaska
corporation,

Plaintiff

vs.

716 WEST FOURTH AVENUE LLC, and
LEGISLATIVE AFFAIRS AGENCY

Defendants.

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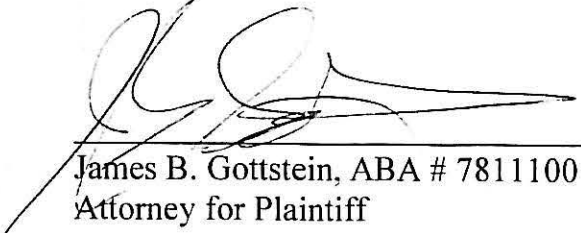
Clerk of the Trial Courts

**NOTICE OF ADMISSIONS BY
LEGISLATIVE AFFAIRS AGENCY**

Case No. 3AN-15-05969CI

PLEASE TAKE NOTICE that pursuant to Evidence Rules 801(d)(2) and 1007, the November 24, 2015, Memorandum to the Alaska State Legislature Legislative Council (Legislative Council) by Senator Gary Stevens, chair of the Legislative Council, titled "Anchorage LIO Office Space Report" (LIO Report) attached to the Affidavit of James B. Gottstein Esq., of even date, constitutes an admissions by party-opponent Legislative Affairs Agency (LAA), that (a) there is space available in the Atwood Building for the Anchorage Legislative Information Office, and (b) the LAA will save \$22,672,240 by moving to the Atwood Building, including taking into account the \$7.5 million spent on tenant improvements. These admissions by party-opponent LAA belie contrary assertions in its Reply Brief In Support of Motion for Summary Judgment Under the Laches Doctrine.

Dated December 7, 2015.


James B. Gottstein, ABA # 7811100
Attorney for Plaintiff

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AFFIDAVIT OF JAMES B. GOTTSTEIN, ESQ.

THIRD JUDICIAL DISTRICT)

)ss

STATE OF ALASKA)

JAMES B. GOTTSTEIN, Esq., being first sworn under oath, hereby deposes and
states as follows:

1. Attached hereto is a true and correct copy of the November 24, 2015,
Memorandum to the Alaska State Legislature Legislative Council (Legislative Council) by
Senator Gary Stevens, chair of the Legislative Council, titled "Anchorage LIO Office
Space Report" (LIO Report).

2. The LIO Report was downloaded from the Alaska Legislatures website at
http://www.legis.state.ak.us/basis/get_documents.asp?session=29&docid=29009, and is
still available thereat as of the date hereof.

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FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 7th day of December, 2015.


James B. Gottstein, Esq.

SUBSCRIBED AND SWORN TO before me this 7th day of December, 2015.




Notary Public in and for Alaska
My Commission Expires: 8/1/17



ALASKA STATE LEGISLATURE LEGISLATIVE COUNCIL

MEMORANDUM

CHAIR:

Sen. Gary Stevens

VICE CHAIR:

Rep. Bob Herron

SENATE MEMBERS:

President Kevin Meyer
Sen. John Coghill
Sen. Lyman Hoffman
Sen. Charlie Huggins
Sen. Anna MacKinnon
Sen. Peter Micciche
Sen. Lesil McGuire – alt

HOUSE MEMBERS:

Speaker Mike Chenault
Rep. Mike Hawker
Rep. Craig Johnson
Rep. Sam Kito
Rep. Charisse Millett
Rep. Mark Neuman
Rep. Steve Thompson – alt

COMMITTEE CONTACT:

Session/Interim:
State Capitol 429
Juneau, AK 99801-1182
(907) 465-4925

Committee Aide:

Katrina Matheny
(907) 465-4713

TO: Legislative Council Members

FROM: Senator Gary Stevens, Chair
Legislative Council

DATE: November 24, 2015

SUBJECT: Anchorage LIO Office Space Report

At the April 13, 2015 Legislative Council meeting there was general agreement that, in the face of enormous financial problems, the Legislature must reduce its cost of doing business as is being done in all other State agencies and departments. Specifically, the Council voted to direct the Chair to analyze options for legislative office space in Anchorage and report back to the full Council for consideration of the following:

1. Purchasing 716 W. 4th Avenue Building and Land;
2. Request Bonding Costs from Alaska Housing Finance Corporation (AHFC) to purchase 716 W. 4th Avenue; and
3. Evaluate State-Owned Office Space.

This memo and the attached documents comprise my report to Council. In working with the Departments of Revenue and Administration, as well as AHFC, the LAA and I have put together an Anchorage Legislative Offices Cost Comparison (summary attached). Below are five scenarios that compare annual cash outlays over a 10 year period (2016-2025) not including tenant improvement costs:

1. Continue Current Lease 716 W. 4th Avenue: \$40,320,000;
2. Purchase 716 W. 4th Ave. funded by AHFC Issuing Fixed-Rate Bonds Plus Operating Costs: \$48,850,000;
3. Purchase 716 W. 4th Ave. Issuance of Variable Rate Certificates of Participation Plus Operating Costs: \$44,614,600;
4. Cash Purchase of 716 W. 4th Ave.: (\$37,950,000 plus operating costs) \$43,200,000; or
5. Move to State-Owned Space at the Atwood Building: \$6,647,760.

Negotiations have been ongoing over the interim between the managing owner of 716 W. 4th Ave., Mark Pfeffer; his attorney Don McClintock with Ashburn & Mason, P.C.; Serena Carlsen, our outside real estate attorney with Stoel Rives, LLP; myself and Council Chair staff Katrina Matheny; as well as, Pam Varni, Executive Director and Doug Gardner, Legal Director of the Legislative Affairs Agency.

I am ready to discuss in detail the five different scenarios with the full Council and any other interested Members.

Attachments

ANCHORAGE LEGISLATIVE OFFICES COST COMPARISON

Scenario #1: Continue Current Lease at 716 W. 4th Avenue

Action Required: The Legislature needs to fully fund the Legislature State Facilities Rent Component every year for the remainder of the original 10 year lease, which expires on May 31, 2024. For comparison purposes, all the scenarios, including this one, are 10 year projections. Costs per square foot are based on usable space of 45,371 sq. ft. We have a total of 86 parking spaces.

Costs to Occupy 716 W. 4th Ave. at Current Lease Terms, Fiscal Years 2016-2025			
Fiscal Year	Lease Amount	Operating Expenses	Total Annual Cost
2016	\$3,379,656	\$652,344	\$4,032,000
2017	\$3,379,656	\$652,344	\$4,032,000
2018	\$3,379,656	\$652,344	\$4,032,000
2019	\$3,379,656	\$652,344	\$4,032,000
2020	\$3,379,656	\$652,344	\$4,032,000
2021	\$3,379,656	\$652,344	\$4,032,000
2022	\$3,379,656	\$652,344	\$4,032,000
2023	\$3,379,656	\$652,344	\$4,032,000
2024	\$3,379,656	\$652,344	\$4,032,000
2025	\$3,379,656	\$652,344	\$4,032,000
Total	\$33,796,560	\$6,523,440	\$40,320,000
Average Annual Cost			\$4,032,000
Total Monthly Costs per Usable Square Foot			\$7.41

Total 10 Year Lease & Operating Expenses	\$40,320,000
Tenant Improvement Costs	\$7,500,000
Total Monthly Costs per Usable Sq. Ft. Including Tenant Improvements	\$8.78

Scenario #2: Purchase 716 W. 4th Avenue Funded by AHFC Issuing Fixed-Rate Bonds

Action Required: The Legislature needs to pass a stand-alone bill to enable AHFC to finance the purchase of this building. Among the financing options available to the Legislature when it purchases or constructs facilities is the issuance of debt in the form of bonds sold to investors. Alaska's current credit profile would enable the issuance of bonds with a 10-year maturity at a fixed rate of approximately 2.16 percent. Summing all annual expenditures shows total annual costs of approximately \$4.8 million. This scenario is based on a usable space estimate of 45,371 square feet. A building manager position has been factored in this scenario. The Legislature would own an asset and be responsible for all ongoing maintenance and operating costs of this building. We have a total of 86 parking spaces.

Cost to Purchase 716 W. 4th Ave. by Issuing Bonds: Average Annual Costs, Fiscal Years 2016-2025				
Fiscal Year	Building Purchase	Debt Service Interest	Operating Expenses	Total Annual Cost
<i>Cost of Bond Issuance and Administration</i>				<i>\$850,000</i>
2016	\$3,795,000	\$480,000	\$525,000	\$4,800,000
2017	\$3,795,000	\$480,000	\$525,000	\$4,800,000
2018	\$3,795,000	\$480,000	\$525,000	\$4,800,000
2019	\$3,795,000	\$480,000	\$525,000	\$4,800,000
2020	\$3,795,000	\$480,000	\$525,000	\$4,800,000
2021	\$3,795,000	\$480,000	\$525,000	\$4,800,000
2022	\$3,795,000	\$480,000	\$525,000	\$4,800,000
2023	\$3,795,000	\$480,000	\$525,000	\$4,800,000
2024	\$3,795,000	\$480,000	\$525,000	\$4,800,000
2025	\$3,795,000	\$480,000	\$525,000	\$4,800,000
Total	\$37,950,000	\$4,800,000	\$5,250,000	\$48,850,000
Average Annual Cost				\$4,885,000
Total Monthly Costs per Usable Square Foot				\$8.97

Total to Purchase & Operating Expenses	\$48,850,000
Tenant Improvement Costs	\$7,500,000
Total Monthly Costs per Usable Sq. Ft. Including Tenant Improvements	\$10.35

Scenario #3: Purchase 716 W. 4th Avenue via Issuance of Variable Rate Certificates of Participation

Action Required: The Legislature would need to pass a stand-alone bill outlining the project, cost, annual payment and total payments. With variable rate securities, the interest rate paid on bonds is reset periodically for the following week, month, or year. This has the effect of resetting the interest rate every so often on the short (lower interest rate) end of the yield curve. As a result, the Legislature would pay only the short term interest rate rather than the fixed long-term blended rate and will pay a lower rate at the point of issuance. The risk with a variable rate is as interest rates rise, the state's credit quality diminishes, or there is market dislocation that results in the interest rate changing from one year to the next. In this era of historically low interest rates, it appears reasonable to expect increases in rates over the life of the securities; however, attempting to predict the timing or amount of such increases would be purely speculative. As a result, the figures below are shown at a flat interest rate of 0.6 percent (the current variable rate available), and is therefore likely the minimum cost scenario. A building manager position is factored in this scenario. Costs per square foot are based on usable space of 45,371 sq. ft. The Legislature would own an asset and be responsible for all ongoing maintenance and operating costs of this building. We have a total of 86 parking spaces.

Cost to Purchase 716 W. 4th Ave. by Issuing Variable Rate Certificates of Participation: Average Annual Costs over Fiscal Years 2016-2025				
Fiscal Year	Principal	Debt Service Interest	Operating Expenses	Total Annual Cost
<i>Approximate Cost of COP Issuance and Administration</i>				<i>\$265,000</i>
2016	\$3,695,000	\$216,615	\$525,000	\$4,436,615
2017	\$3,715,000	\$194,385	\$525,000	\$4,434,385
2018	\$3,740,000	\$172,020	\$525,000	\$4,437,020
2019	\$3,760,000	\$149,520	\$525,000	\$4,434,520
2020	\$3,785,000	\$126,885	\$525,000	\$4,436,885
2021	\$3,805,000	\$104,115	\$525,000	\$4,434,115
2022	\$3,830,000	\$81,210	\$525,000	\$4,436,210
2023	\$3,850,000	\$58,170	\$525,000	\$4,433,170
2024	\$3,875,000	\$34,995	\$525,000	\$4,434,995
2025	\$3,895,000	\$11,685	\$525,000	\$4,431,685
Total	\$37,950,000	\$1,149,600	\$5,250,000	\$44,614,600
Average Annual Cost				\$4,461,460
Total Monthly Costs per Usable Square Foot				\$8.19

Total to Purchase & Operating Expenses	\$44,614,600
Tenant Improvement Costs	\$7,500,000
Total Monthly Costs per Usable Sq. Ft. Including Tenant Improvements	\$9.57

Scenario #4: Purchase 716 W. 4th Avenue

Action Required: The Legislature would appropriate in the capital budget \$37,950,000 to go toward the purchase price of \$37,000,000 plus the estimated cost of \$950,0000 prepayment penalty of the landlord for his loan of \$28,000,000. The Legislature would own an asset and be responsible for all ongoing maintenance and operating costs of this building. The Legislature would not be reimbursing the landlord for property taxes or insurance once we are owners. A building manager position is factored in this scenario. We have a total of 86 parking spaces.

Cost to Purchase 716 W. 4th Ave. through Single Appropriation with Occupancy Costs, Fiscal Years 2016-2025			
Fiscal Year	Building Purchase	Operating Expenses	Total Annual Cost
2016	\$37,950,000	\$525,000	\$38,475,000
2017		\$525,000	\$525,000
2018		\$525,000	\$525,000
2019		\$525,000	\$525,000
2020		\$525,000	\$525,000
2021		\$525,000	\$525,000
2022		\$525,000	\$525,000
2023		\$525,000	\$525,000
2024		\$525,000	\$525,000
2025		\$525,000	\$525,000
Total	\$37,950,000	\$5,250,000	\$43,200,000
Average Annual Cost			\$4,320,000
Total Monthly Costs per Usable Square Foot			\$7.93

Total To Purchase & Operating Expenses	\$43,200,000
Tenant Improvement Costs	\$7,500,000
Total Monthly Costs per Usable Sq. Ft. Including Tenant Improvements	\$9.31

SCENARIO #5: Move to State-Owned Space at the Atwood Building

Action Required: Non appropriation of the lease with 716 W. 4th Avenue and enter into a State lease with the Department of Administration for the Atwood Building. Of the total of 838 parking spots available in the Linny Pacillo parking facility, we would be paying for 84 parking spots based on our square footage. There are also 80 underground parking spots reserved for Legislators on a first come, first served basis at the Atwood Building. There are an additional 266 spots available on a first come, first served basis located in Blocks 102 and 79. Figures are based on per sq. ft., per month, costs of \$1.5375 for office space and of \$0.3091 for parking, as quoted by Tanci Mintz, State Leasing and Facilities Manager. At 716 W. 4th Avenue we previously had 811 sq. ft. of basement space. After the remodel there is 10,080 gross sq. ft. and 8,048 usable sq. ft. of basement space that we are not utilizing. We will not have basement space at the Atwood Building. We also have extra offices at 716 W. 4th that we are not using and will not have at the Atwood.

Prospective Lease of Office Space in the Atwood Building, Fiscal Years 2016-2025			
Fiscal Year	Office Lease 30,000 sq. ft. usable space	Parking 84 parking spaces	Total
2016	\$553,500	\$111,276	\$664,776
2017	\$553,500	\$111,276	\$664,776
2018	\$553,500	\$111,276	\$664,776
2019	\$553,500	\$111,276	\$664,776
2020	\$553,500	\$111,276	\$664,776
2021	\$553,500	\$111,276	\$664,776
2022	\$553,500	\$111,276	\$664,776
2023	\$553,500	\$111,276	\$664,776
2024	\$553,500	\$111,276	\$664,776
2025	\$553,500	\$111,276	\$664,776
Total	\$5,535,000	\$1,112,760	\$6,647,760
Average Annual Cost			\$664,776
Total Monthly Costs per Usable Square Foot			\$1.85

Total 10 Year Lease & Operating Expenses	\$6,647,760
Tenant Improvement Costs For Atwood Building	\$3,500,000
Tenant Improvements Lost From 716 W. 4 th Avenue	\$7,500,000
Total Monthly Costs per Usable Sq. Ft. Plus Operating Costs	\$4.90

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CERTIFICATE OF SERVICE

I hereby certify that on this date I mailed a copy of:

1. Notice of Admissions by Legislative Affairs Agency,
2. Affidavit of James B. Gottstein (attaching November 24, 2015, Legislative Council Chair's Anchorage LIO Office Space Report), and
3. this Certificate of Service, to:

Jeffrey W. Robinson/
Eva R. Gardner
Ashburn & Mason, PC
1227 W. 9th Ave., Ste. 200
Anchorage, AK 99501

Kevin M. Cuddy
Stoel Rives LLP
510 L St., Ste. 500
Anchorage, AK 99501

Dated: December 7, 2015


Jim Gottstein

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