



December 5, 2012

Final Investigative Report Concerning Ombudsman Complaint 2012-0239

COMPLAINT

A constituent contacted the Ombudsman's Office on October 11, 2012 with a complaint that the Heritage Land Bank had violated Municipal Code and HLB Policies, by not providing the required notification to the Spenard Community Council regarding the proposed sale of HLB Property 4-039, the old National Guard Armory located at 4902 Spenard Road.

FINDINGS

This complaint against the Municipality of Anchorage's Heritage Land Bank is **UNSUPPORTED**

ANALYSIS AND CONCLUSIONS

The complainant contacted the Ombudsman on October 11, 2012, stating that she believed that the Heritage Land Bank (HLB) had violated the provisions of A.M.C. 25.40, "Heritage Land Bank," and HLB Policies, regarding the required notification to the Spenard Community Council for the proposed disposal of HLB property 4-039, the old National Guard Armory. A.M.C. 25.40.030.D.1 requires notice by mail to "The community council for the area where the land is located....prior to the Heritage Land Bank advisory commission taking action." HLB policies state "In addition, the HLB also notifies the Community Council where the affected HLB land is located, per AMC 25.40.030.D.1, as well as posts the agendas on the HLB's Commission Information web page (Heritage Land Bank Policies, III – Public Notice and Hearings Procedures).

The complainant, an officer of the Spenard Community Council, stated that to the best of her knowledge the Council was not noticed regarding the proposed land disposal prior to the HLB Advisory Commission passing Resolution 2011-05 endorsing the disposal at their May 26, 2011 meeting. The complainant believes that the HLB violated Municipal Code and HLB Policies by failing to properly notify the Council.

On October 17th, the Ombudsman contacted the Municipality's Director of Real Estate Services/Heritage Land Bank regarding the complaint. The Director informed the Ombudsman that the staff person who had handled the public outreach and noticing for the proposed property disposal was out of the country on vacation until the end of the month. While awaiting the staffer's return, the Ombudsman reviewed A.M.C. 25.40, HLB Policies, Spenard Community Council Minutes and Agendas and elements of the 1986 Spenard Commercial District Development Strategy and the West Anchorage District Plan.

On October 31st the Ombudsman spoke with the HLB staff person who had handled the public outreach and noticing for the proposed disposal of the old Armory property. The staffer stated that the Spenard Community Council had been noticed regarding the proposed property disposal by postal mail and email, prior to the HLB Advisory Commission taking action. The Ombudsman was provided with copies

of relevant documents, including a May 11, 2011 emailed "Agency Review Request," and a copy of the notice that was sent by postal mail to the Council and approximately 200 property owners within 1,300 feet of the site.

Both notices stated that "A Heritage Land Bank Advisory Commission resolution to recommend Assembly approval is slated for consideration and action at the May 26, 2011 public hearing." Both notifications advised that public comments would be taken until Wednesday, May 25, 2011, by email, fax, or postal mail. HLB also sent email notification to the Federation of Community Councils.

The Ombudsman searched the public notice archives of muni.org and verified that the HLB Advisory Commission's May 26, 2011 Meeting and Public Hearing regarding the proposed disposal of HLB property 4-039, had been properly noticed in compliance with Municipal Code, and that the agenda had been posted on the HLB Advisory Commission web page.

Municipal Code only requires that HLB notify "the affected community council," it does not require that the council officer who receives the notice pass it on to the membership. Since community council officers are community volunteers who receive no compensation, it would not be reasonable or fair for Municipal Code to dictate how council officer should perform their duties. It is the responsibility of the council membership to hold council officers accountable for their actions, or lack of actions.

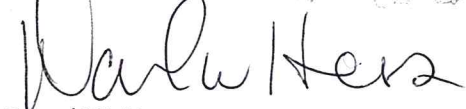
Because Anchorage Municipal Code, Chapter 25.40.030.D.1, and Heritage Land Bank Policies require that affected community councils be noticed regarding any proposed disposal of HLB land prior to action by the HLB Advisory Commission, and because there is sufficient evidence to support HLB's assertion that they followed Code and Policies for the disposal of HLB property 4-039, the old National Guard Armory site located at 4902 Spenard Road, the Municipal Ombudsman finds this complaint to be UNSUPPORTED. Based on the investigation of this case, the Municipal Ombudsman recommends the following:

- (1) That the Federation of Community Councils work with community councils and Municipal agencies to ensure that council presidents AND secretaries receive relevant public notifications; and**
- (2) That the Federation of Community Councils work with community councils and the Municipality to develop polices which ensure that Municipal agencies are notified when the email addresses for council presidents and/or secretaries change.**

Based on these findings and these recommendations this case is closed.

A preliminary report regarding this matter was provided to the department.

If you object to the Ombudsman's decision to decline or discontinue this investigation or review, you may file a grievance with the Ombudsman as specified in A.M.C.R. 2.60.006.



Darrel W. Hess

Municipal Ombudsman