

**BEFORE THE HEARING OFFICER OF THE
CITY OF WASILLA, ALASKA**

IN THE MATTER OF THE APPEAL OF)
NOEL KOPPERUD AND ALEX KOPPERUD)
OF THE CITY OF WASILLA PLANNING) APPEAL CASE NO.15-01
COMISSION RESOLUTION)
SERIAL 15-10(AM))
_____)

APPELLANT'S REQUEST FOR PRODUCTION OF DOCUMENTS

TO: City of Wasilla

INSTRUCTIONS

1. Pursuant to Rule 34 of the Alaska Rules of Civil Procedure (ARCP), Appellants Noel and Alex Kopperud (Appellants) submit the following request for production of documents from the City of Wasilla, its agents and employees (City).
2. Pursuant to Alaska Rules of Civil Procedure (ARCP) Rule 34(a), Appellants acknowledge that these requests are limited to the scope of ARCP Rule 26(b), or Alaska Public Records Act (APRA) AS 40.25.110, whichever is the broader in scope. Appellants request that when City is unable to produce certain documents because they fall outside of such scope, City will provide a brief explanation as to the reason why the documents fall outside the scope of the request.
3. If certain requests are duplicative of documents that have already been produced, as a part of the record on appeal, City need not reproduce such documents but is requested to notify Appellants that such documents are among those already produced.
4. Pursuant to ARCP Rule 34(b)(2), Appellant requests that when City does produce the requested documents, including electronically stored information (ESI), City will produce such documents or ESI as they are kept in the usual course of business or will organize and label them to correspond to the categories in the request.
5. Appellant requests that City make a good faith effort to produce any and all requested documents that are readily ascertainable from City, and its employees, agents, representatives, servants, consultants, contractors, subcontractors, investigators, attorneys, and any other persons or entities acting or purporting to act on behalf of the City of Wasilla, of every type and nature.

DEFINITIONS

1. The words “**any**” and “**all**” shall be read in the conjunctive and not in the disjunctive wherever they appear, and neither of these words shall be interpreted to limit the scope of a request. Furthermore, the use of a verb in any tense shall be construed as the use of the verb in all other tenses and the singular form shall be deemed to include the plural, and vice-versa. The singular form of any noun shall be deemed to include the plural, and vice-versa.
2. “**Appellants**” means Noel Kopperud and Alex Kopperud.
3. “**Communication**” and “**communications**” means any and all inquiries, discussions, conferences, conversations, negotiations, agreements, meetings, interviews, telephone conversations, letters correspondence, notes, telegrams, facsimiles, electronic mail (e-mail), memoranda, documents, writings, or other forms of communications, including but not limited to both oral and written communications.
4. “**Copies of**” as set forth in the Instructions to this motion means authentic duplicates of the originals as noted, kept, maintained, and organized by Plaintiff in the ordinary course of business.
5. “**City**” means any and all employees, agents, representatives, servants, consultants, contractors, subcontractors, investigators, attorneys, and any other persons or entities acting or purporting to act on behalf of the City of Wasilla.
6. “**Discussion,**” “**discussions,**” “**discuss,**” “**discusses,**” “**mention,**” “**mentions,**” “**describe,**” “**describes,**” “**analyze**” or “**analyzes**” means any and all inquiries, conferences, conversations, negotiations, agreements or other forms or methods of oral communication or such dialogue sent via e-mail, facsimile, letter, telegram, or other written communication.
7. “**Document,**” “**documents,**” “**internal communication,**” “**internal communications,**” “**record,**” “**records,**” “**written communication,**” and “**written correspondence**” means all data, papers, and books, transcriptions, pictures, drawings or diagrams or every nature, whether transcribed by hand or by some mechanical, electronic, photographic or other means. All written documents shall include marginalia notes that were made upon such documents. Documents, communications, and correspondence shall include: sound reproductions of oral statements or conversations by whatever means made, written papers or memoranda which summarize oral conversations, whether in your actual or constructive possession or under your control or not, relating to or pertaining to or in any way to the subject matters in connection which it is used and includes originals, all file copies, all other copies, no matter how prepared and all drafts prepared in connection with such writing, whether used or not, including by way of illustration and not by way of limitation, the following: books; records; reports; contracts; agreements; video, audio and other electronic recordings; memoranda (including written memoranda of telephone conversations, other conversations, discussions, agreements, acts and activities); minutes; diaries; calendars; desk pads; scrapbooks; notes; notebooks; correspondence; drafts; bulletins; electronic

mail (e-mail); facsimiles; circulars; forms; pamphlets; notice; statements; journals; postcards; letters; telegrams; publications; inter- and intra- office communications; photocopies; microfilm; maps; drawings; diagrams; sketches; analyses; transcripts; electronically stored information (ESI) and any other documents within City's possession, custody or control from which information can be obtained or translated, if necessary, by detection devices into reasonably usable form, i.e. typed in English.

8. **“Electronically stored information”** and **”ESI”** means any Information on operational systems including accounting, financial, distribution, or manufacturing systems; E-mail; Instant Messages (IM); Web pages; text messages; ‘Tweet’ and ‘Twitter’ and ‘Facebook’ messages; cell phone data; Excel spreadsheets and underlying formulae; metadata; computer databases (i.e. PDAs, Blackberries and Palm Pilots; cell phones; IM tools; or USB drives.

9. The words **“or”** and **“and”** shall be read in the conjunctive and not in the disjunctive wherever they appear, and neither of these words shall be interpreted to limit the scope of a request. The use of a verb in any tense shall be construed as the use of the verb in all other tenses and the singular form shall be deemed to include the plural, and vice-versa. The singular form of any noun shall be deemed to include the plural, and vice-versa.

10. **“Request,”** and **“Requests”** mean and are limited to the numerical requests set forth in this motion for production of documents.

DOCUMENT REQUESTS

Please provide for inspection all documents, internal communications, records, written communication, written correspondence, and electronically stored information (ESI) as defined herein above, in possession of the City, of every type, that pertain in any manner to the following:

1. Any documents, as defined herein, which pertain to the following properties (Address/Tax ID#)

954 E. Westpoint Drive / 5224B01L014
972 E. Westpoint Drive / 5224B01L013
990 E. Westpoint Drive / 5224B01L012
1000 E. Westpoint Drive / 5224B01L011
1018 E. Westpoint Drive / 5224B01L010
1036 E. Westpoint Drive / 5224B01L009
Lakeridge Condos 1072 E. Westpoint Drive #1-7
/ 9014000U001 – U007
1090 E. Westpoint Drive / 5224B01L006
1100 E. Westpoint Drive / 5224B01L005
1144 E. Westpoint Drive / 5224B01L004
1166 E. Westpoint Drive / 5224B01L003
1168 E. Westpoint Drive / 5224B01L002
1190 E. Westpoint Drive / 5224B01L001
1220 E. Westpoint Drive / 1037T02P001
1220 E. Westpoint Drive / 1037T02P002

1191 E. Westpoint Drive / 5225B02L001
1167 E. Westpoint Drive / 5225B02L002
1165 E. Westpoint Drive / 5225B02L003
401 N. Westcove Drive / 2253B02L004A
445 N. Westcove Drive / 2253B02L005B
491 N. Westcove Drive / 2246B02L007
501 N. Westcove Drive / 5225B02L008
523 N. Westcove Drive / 5225B02L009
545 N. Westcove Drive / 5225B02L010
567/571 N. Westcove Drive / 5225B02L011
1018 E. Lakeshore Ave. / 5225B02L012
1090 E. Lakeshore Ave. / 5225B02L013
1190 E. Lakeshore Ave. / 17N01W10A001
1210 E. Lakeshore Ave. / 5225B05L001

And the property referenced by Commissioner

1240 E. Westpoint Drive / 1037T02P003A
1260 E. Westpoint Drive / 1037T02P003B
1245 E. Westpoint Drive / 1037T01P003
1225 E. Westpoint Drive / 1037T01P002
1201 E. Westpoint Drive / 1037T01P001

Means at time code 181 during the 7/14/2015
Planning Commis. meeting – it received a
variance earlier / was located “behind the
fitness club.”

Document Request, continued

Please provide for inspection all documents, internal communications, records, written communication, written correspondence, and electronically stored information (ESI) as defined herein above, in possession of the City, of every type, that pertain in any manner to the following:

2. Code enforcement on the properties at 1260 E. Westpoint Drive and 1245 E. Westpoint Drive, and code enforcement actions taken by City to enforce 75-foot shoreline setback provision on other properties in City.
3. All variance applications acted upon by the City pertaining to the 75-foot shoreline setback provision.
4. Every City of Wasilla Letter of Certification of Legal Non-Conforming Setbacks which pertains to the 75-foot shoreline setback provision
5. Any document, as defined herein, pertaining to the water quality, fish, wildlife, and recreational aspects of all waterbodies within the City of Wasilla, including but not limited to Wasilla Lake, Lake Lucille, Jacobsen Lake, Lucille Creek, and Cottonwood Creek. The requested production should include correspondence, studies, and other documents as defined herein to or from City and Matanuska-Susitna Borough, Alaska Department of Environmental Conservation, Alaska Department of Fish and Game, Natural Resource Conservation Service/Soil and Water Conservation, US Corps of Engineers, and US Environmental Protection Agency.
6. Any document, as defined herein, pertaining to the floodplain of Wasilla Lake, including also any documents referring to FEMA-designated Special Floodplain Hazardous Areas and/or required permits for development therein.
7. Any document, as defined herein, regarding the interpretation of the shoreline setback provision or intergovernmental management or dual management of Wasilla Lake by the City and the Matanuska-Susitna Borough.
8. Any document, as defined herein, that describes the authority of the City to enforce, repeal, or modify the shoreline setback provision as contained in MSB 17.55.020 or WMC 16.24.030 (C)(3).

9. Any document, as defined herein, that pertains to a City taking or condemnation of a property right, as a result of denial or granting of a variance.
10. Any documents, internal communications, records, written communication, written correspondence, and electronically stored information, as defined herein above, between City and its attorneys or other legal representatives, whether in possession of the City or its attorneys, legal representatives, agents, or consultants, created at any time prior to the time of appeal, July 29, 2015, that pertain in any manner to Variance 15-01, including all parties and issues of every type and nature related thereto.
11. All documents and ESI, as defined herein, including log notes or other documents of the City Planning Director or other City employees, and any notes or sketches made by or given to the Commissioners during any hearing which pertains in any manner to Variance 15-01 or Appeal Case 15-01. Appellants also request a copy of all communications or documents or ESI of every type and nature as defined herein between City and Planning Commissioners which pertain to Variance 15-01 or Appeal 15-01. Such request shall include all documents, communications, and ESI between City legal representatives and Commission members.
12. A copy of all documents that were obtained and provided to Commissioner Means in response to his email request to the Planning Director dated June 2, 2015, and a copy of all other documents of every type provided to the Commissioners at any time during the pendency of Variance 15-01.
13. All documents and electronically stored information between the City and any Interested Parties as defined in the Wasilla Municipal Code as pertains to Parcel 3, Tract 1, Lakeshore Subdivision (1245 E. Westpoint Drive).
14. Any document, legal correspondence, or ESI, as defined herein, that interprets or discusses in any manner a provision of City law, other policy, or "rule of thumb" which specifies that every platted lot in Wasilla is entitled to have one house built thereon.
15. Any document, legal correspondence, or ESI, as defined herein, that interprets or discusses in any manner a provision of City law or other policy which references the proposition that blocking a landowner's view does not "significantly adversely affect" another property within the meaning of variance ordinance WMC 16.28.110 (D)(5).
16. Any document, legal correspondence, or ESI, as defined herein, that interprets or discusses in any manner a provision of City law or other policy which interprets the term "no more than is necessary to permit reasonable use" as it pertains to WMC 16.28.110 (D)(1).
17. Any document, legal correspondence, or ESI, as defined herein, that interprets in any manner any of the other provisions of WMC 16.28.110. Appellants also request a copy of any City policy statement or document that applies in any manner to the granting or rejecting of variances or the standards and conditions specified in the ordinance.

18. Any document, as defined herein, pertaining to a minimum house size ordinance in the City.

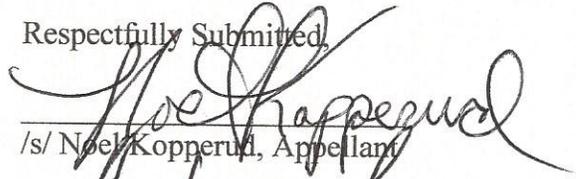
19. Resumes or completed applications for the Wasilla Planning Commission members who participated in Variance 15-01, providing their background information to City.

20. Any comprehensive plan, recreation plan, waterbody plan, shoreline use plan, US Corps of Engineers study or plan, salmon/habitat/wildlife management plan or study which pertains in any manner to Wasilla Lake.

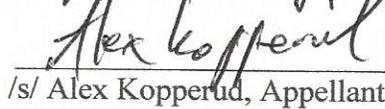
21. All documents and communications, including all ESI, between the City and H&M Court Reporters.

Dated: October 2, 2015

Respectfully Submitted,



/s/ Noel Kopperud, Appellant



/s/ Alex Kopperud, Appellant