



	Presented
Comment:	9/22/08
Verified by:	<i>K. Smithers</i>

**WASILLA CITY COUNCIL INFORMATION MEMORANDUM**

**IM No. 08-20**

**TITLE: LETTER REGARDING CLAIM FOR REIMBURSEMENT FROM ANDRES**

Agenda of: September 22, 2008

Date: September 12, 2008

Originator: K. Smithers, City Clerk

Route to:	Department	Signature/Date
	Police Chief Youth Court, Dispatch, Code Compliance	
	Culture and Recreation Services Director Library, Museum, Sports Complex	
	Public Works & Recreation Facility Maintenance Director	
X	Finance, Risk Management & MIS Director Purchasing	
X	Deputy Administrator Planning, Economic Development, Human Resources	
X	City Clerk	<i>K. Smithers</i>

**REVIEWED BY MAYOR DIANNE M. KELLER:** \_\_\_\_\_

**FISCAL IMPACT:**  yes\$ or  no      Funds Available  yes  no  
Account name/number:

Attachments: Letter received September 8, 2008 from Bob and Annette Andres  
Letter received September 22, 2008 from Thomas Klinkner

**SUMMARY STATEMENT:**

Attached please find a letter from Bob and Annette Andres regarding a claim for reimbursement. And a response from our attorney, Thomas Klinkner.

**RECEIVED**  
SEP 08 2008  
OFFICE OF THE CITY CLERK  
CITY OF WASILLA

September 2, 2008

City of Wasilla  
City Council Members  
290 East Herning Street  
Wasilla, Alaska 99654

RE: Reimbursement of Time and Costs for Offenses Cited in Denali Law Group  
Investigation Report

Dear Council Members:

It has been a year now since we received the letter dated August 24, 2007, signed by Dianne Keller, pertaining to a proposed road through the parking lot of our business, the Windbreak. Additionally, we would later find out that there also existed another plan to remove our access along Sun Mountain Avenue which would have destroyed our business, in favor of a new development. As the most effected property owner and business, we had to spend a good deal of our time, in excess of one thousand hours, or approximately fifty percent of a normal yearly work schedule and other fees in excess of seven thousand dollars more or less defending our legal rights.

We now seek reimbursement for our time and expenses. We value our time as no less valuable than that of the Mayor of Wasilla or its Public Works Director.

Therefore, we seek fifty percent of the annual salary of the Mayor of Wasilla as reimbursement for the hours worked to defend ourselves against City Administration. In addition, we seek an additional seven thousand dollars for the expenses paid out of pocket to date.

We wish to conclude this matter and move on with other issues that are more fruitful to both the City of Wasilla and to our business and to end any animosity that may exist. We do not want, nor have we ever wanted this issue to extend to the courts. We are therefore, hopeful, that the Coucil will recognize our claim. We ask to hear from the Council by October 15, 2008 in regard to this matter.

Again, we would like to go forward, as we had for the previous thirty years, enjoying a positive relationship with the City of Wasilla.

Sincerely,



Bob and Annette Andres  
357-8760

LAW OFFICES

**BIRCH, HORTON, BITTNER AND CHEROT**

A PROFESSIONAL CORPORATION

1127 WEST SEVENTH AVENUE • ANCHORAGE, ALASKA 99501-3301 • TELEPHONE (907) 276-1550 • (800) 478-1550 • FACSIMILE (907) 276-3680

HAL R. HORTON (1944 - 1998)

RONALD G. BIRCH\*\*  
WILLIAM H. BITTNER  
KATHRYN A. BLACK  
SUZANNE CHEROT  
ADAM W. COOK  
JON M. DEVORE\*\*  
CHARLES R. EBERLE†  
GREGORY S. FISHER  
DOUGLAS S. FULLER\*

MAX D. GARNER  
DAVID KARL GROSS  
TINA M. GROVIER  
WILLIAM P. HORN\*  
STEPHEN H. HUTCHINGS  
DANIEL C. KENT  
THOMAS F. KLINKNER  
DAVID E. LAMPP\*†

STANLEY T. LEWIS  
JAMES H. LISTER\*†  
GREGORY A. MILLER  
JENNIFER L. OWENS, Ph.D.  
MICHAEL J. PARISE  
TIMOTHY J. FETUMENOS  
ELISABETH H. ROSS\*\*  
HOLLY C. SUOZZO

OF COUNSEL:  
JENNIFER C. ALEXANDER  
KENNETH E. VASSAR

1155 CONNECTICUT AVE., N.W.  
SUITE 1200  
WASHINGTON, D.C. 20036  
(202) 659-5800  
FACSIMILE (202) 659-1027

\* D.C. BAR  
\*\* D.C. AND ALASKA BAR  
† MARYLAND BAR  
‡ VIRGINIA BAR  
○ ALL OTHERS ALASKA BAR

WRITER'S DIRECT DIAL (907) 263-7268 • FAX (907) 276-3680 • tklinkner@bhb.com

September 11, 2008

via EMAIL ONLY

Members of the City Council  
City of Wasilla  
290 East Herning Avenue  
Wasilla, Alaska 99654

RE: Claim for Reimbursement by Bob and Annette Andres

Ladies and Gentlemen:

The City Clerk has asked that I advise you about the claim referred to above. The claim appears in a letter dated September 2, 2008 addressed to the City Council from Bob and Annette Andres, in which Mr. and Ms. Andres "...seek fifty percent of the annual salary of the Mayor of Wasilla as reimbursement for the hours worked to defend ourselves against City Administration (sic)," and in addition, "seven thousand dollars for the expenses paid out of pocket to date."

The Andres' letter provides little of the detail that would be necessary to assess the merits of their claim. The first paragraph of the letter cites two actions as the basis for their claim:

It has been a year now since we received the letter dated August 24, 2007, signed Dianne Keller, pertaining to a proposed road through the parking lot of our business, the Windbreak. Additionally we would later find out that there also existed another plan to remove our access along Sun Mountain Avenue which would have destroyed our business, in favor of a new development.

The August 24, 2007 letter to which the letter refers appears to be the letter that is quoted at pp. 20-21 of the Denali Law Group report to the City Council ("Report"), and which appears as Exhibit JJ to the Report. The Report concludes that the City

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Administration threatened the use of eminent domain against Mr. and Ms. Andres in the August 24, 2007 letter.<sup>1</sup>

Exhibit MM to the Report is a letter dated September 14, 2007 from Mayor Keller to Mr. Andres, in which Mayor Keller acknowledges Ms. Andres' appearance at the September 4, 2007 Council meeting,<sup>2</sup> and states with regard to the use of eminent domain against the Andres' property, "I want to assure you that this will not happen." Thus, it appears that any threat of eminent domain in the August 27, 2007 letter to the Andres' had been withdrawn no later than September 14, 2007.

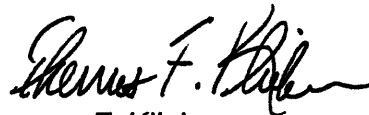
The letter's reference to "another plan to remove our access along Sun Mountain Avenue" is unclear. It does not identify this plan or its author, so I am unable to assess its significance as a basis for the Andres' claim. However, the Report did not find that any misconduct by the City Administration occurred following the August 24, 2007 letter.<sup>3</sup>

The Andres' also do not provide any documentation to support their claim to compensation for either time or out-of-pocket expenses. Such documentation would be necessary both to confirm the quantities of time and expenses that are claimed, and to assess the relationship of the time and expenses to either securing the withdrawal of the threat of eminent domain in the August 27, 2007 letter or responding to the other plan to remove access along Sun Mountain Avenue that the letter alleges.

For the reasons discussed above, I conclude that the information in the Andres' September 2, 2008 letter is insufficient to support the Council's authorization of any payment of compensation to Mr. and Ms. Andres. If the Andres' submit any further explanation and documentation of their claim, I am available to review it at the Council's request.

Yours truly,

BIRCH, HORTON, BITTNER and CHEROT



Thomas F. Klinkner

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<sup>1</sup> Report, pp. 23.24, 26-27.

<sup>2</sup> The Council meeting at which Ms. Andres appeared and objected to Mayor Keller's August 24, 2007 letter actually was held on September 10, 2007.

<sup>3</sup> Report, pp. 42-51.