

CITY OF UNALASKA
UNALASKA, ALASKA

RESOLUTION 2021-45

A RESOLUTION OF THE UNALASKA CITY COUNCIL AUTHORIZING THE CITY ATTORNEY TO BRING SUIT QUIETING TITLE TO LOT 1, BLOCK 6 USS 4988

WHEREAS in 1987, the City of Unalaska (City) contracted with the Sverdrup Corporation ("SC") for SC to acquire Lot 1, Block 6 USS 4988 (the Property) and for SC to construct a Public Safety Building on the Property; and

WHEREAS, pursuant to the SC-City agreement, SC acquired the Property and leased the Property to the City ("the Lease"); and

WHEREAS, the Lease gave the City an option to purchase the Property upon payment of the balance of quarterly rental payments set by the Lease; and

WHEREAS, in 1992, the City paid the balance of the remaining lease payments directly to the Bank of America; and

WHEREAS, upon receipt of full payment from the City, Bank of America ("BA") issued a deed of reconveyance conveying the Bank of America's interest in the Property "unto the parties entitled thereto"; and

WHEREAS, upon issuance of the deed of reconveyance by BA, SC was obligated to convey the Property to the City; and

WHEREAS, SC failed to convey its interest in the Property to the City; and

WHEREAS, SC's failure to convey its interest in the Property to the City has created a cloud on the City's title to the Property which will inhibit the City's ability to substantially alter or construct a replacement Public Safety Building on the Property; and

WHEREAS, Jacobs Engineering ("Jacobs") is the successor in interest to SC; and

WHEREAS, the City requested Jacobs issue the City a deed to the Property but Jacobs has not responded to the request.

NOW THEREFORE BE IT RESOLVED that the Unalaska City Council authorizes the City Attorney to file civil suit quieting title to the Property against Jacobs and any other person who may claim an interest in the Property.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on June 22, 2021.

Vincent M. Tutiakoff, Sr.
Mayor

ATTEST:

Marjie Veeder, CMC
City Clerk

MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: Marjie Veeder, City Clerk
Through: Erin Reinders, City Manager
Date: June 22, 2021
Re: Resolution 2021-45: Authorizing the City Attorney to bring suit quieting title to Lot 1, Block 6, USS 4988

SUMMARY: The City does not have clear title to the Public Safety property located at 29 Safety Way due to an oversight in 1992 when the City paid off the underlying debt. The building was financed and constructed with Sverdrup Corporation and leased to the City under a lease-purchase arrangement in 1987. After the City paid the related debt, a deed should have been recorded conveying the property to the City. That was not done. It is in the best interest of the City to clear the cloud on the title either through a quiet title action, or the successor of Sverdrup, Jacobs Engineering Group, voluntarily signing a quitclaim deed to the City. If Jacobs does not deed the property to the City, a quiet title action is necessary for the City to gain clear title to the property. Staff recommends adoption of Resolution 2021-45 authorizing the City Attorney to bring a quiet title action.

PREVIOUS COUNCIL ACTION: There has been no recent council action on this topic. In 1987 council passed several resolutions related to the property in question -- negotiations with the construction company, approving the agreement and the terms of the lease. In 1992 council authorized pay-off of the debt related to the property.

BACKGROUND: In 1987 the City entered into an agreement with Sverdrup Corporation for the construction of the Unalaska Public Safety Building, with financing through a lease purchase agreement. Sverdrup purchased the property, constructed the building and leased it back to the City. The agreement with Sverdrup gave the City the option to purchase the property. The City exercised this option and in 1992 paid off the debt. Unfortunately, the final step in the process was not completed – a deed transferring ownership of record to the City. Please see the [June 8 memo from the City Attorney](#) for further details.

DISCUSSION: Sverdrup Corporation has changed hands several times and the successor is Jacobs Engineering Group. The City Attorney has communicated with Jacobs' attorneys several times over the last couple of years, requesting a review of this matter with the goal of Jacobs signing a quitclaim deed to the City. This would be the most expedient resolution of this matter and we wouldn't need to proceed with a quiet title action. If council authorizes a quiet title action, the City Attorney will make a final request to Jacobs to sign a deed with the hope of avoiding the time and expense of a quiet title action.

ALTERNATIVES: Council may choose to adopt Resolution 2021-45 or not; and may amend the resolution. No action now means the cloud on the City's title to the property will continue.

FINANCIAL IMPLICATIONS: Additional attorney fees and costs related to a quiet title action will be incurred if Jacobs chooses not to sign a deed to the City and we proceed with the quiet title action.

LEGAL: Staff has been working with the City Attorney on this issue since 2018. The City Attorney prepared Resolution 2021-45 authorizing the quiet title action.

STAFF RECOMMENDATION: Staff recommends adoption of adoption of Resolution 2021-45 so that the City may gain clear title to the public safety property.

PROPOSED MOTION: I move to adopt Resolution 2021-45.

CITY MANAGER COMMENTS: I support adoption of Resolution 2021-45.

ATTACHMENT: [Memo from City Attorney Brooks Chandler.](#)

CHANDLER, FALCONER, MUNSON & CACCIOLA, LLP

Attorneys At Law
Suite 302
911 West Eighth Avenue
Anchorage, Alaska 99501
Telephone: (907) 272-8401
Facsimile: (907) 274-3698
bcf@bcfaklaw.com

MEMORANDUM

TO: Unalaska City Council



FROM: Brooks Chandler

DATE: June 8, 2021

RE: Quiet Title Lawsuit

This memorandum discusses the history of ownership of the property on which the Public Safety Building is located. In summary, if the City is going to build a new Public Safety Building on this property it is necessary to file a quiet title action which will result in the court declaring the City the rightful owner. Alternatively, filing the quiet title action will succeed in getting Jacobs Engineering to issue the City a deed something they were asked to do 2 years ago.

Facts

When the City was examining options for building or renovating the public safety building, a "hole" in the chain of title to the property was discovered. The hole stems from the City and Sverdrup Corporation forgetting to have Sverdrup issue the City a deed as anticipated by the terms of a lease-option agreement between the City and Sverdrup under which the initial construction of the building was financed back in 1992.

Sverdrup contracted with Unalaska to build the public safety building. The plan was for Sverdrup to finance acquisition of the building site and the construction costs using a lease with the City as collateral. To implement this plan, in April of 1987 Sverdrup acquired Lot 1, Block

6 USS 4988 from the Verne Robinson living trust. Sverdrup then leased the property to the City. The lease gave the City an option to buy the property. Rent was to be paid quarterly over a period of 18 years. At any point during the lease the City could exercise its option to purchase the property by paying the remaining principle balance of the quarterly rental payments. This would equal the remaining principal balance of the Sverdrup-Rainier loan. Sverdrup assigned its rights to receive the lease payments to Rainier Bank (since acquired by Bank of America) and executed a deed of trust with Rainier Bank as the beneficiary. This was a standard "lease-purchase" financing arrangement.

In 1992, the City paid off the remaining balance of the lease payments directly to Bank of America. This satisfied Sverdrup's obligation to the bank under the original promissory note. The bank released its security interest in the property. This resulted in a deed of reconveyance which conveyed all interest created by the deed of trust "unto the parties entitled thereto". However, Sverdrup remained the record owner of the property under the 1987 deed.

The City stopped taxing Sverdrup for the property but never asked for a deed even though under Section 6.09 of the lease-option agreement the city had the legal right to purchase the property once the City had paid off the Sverdrup-Rainier Bank loan. When we set out to contact Sverdrup (a Missouri corporation) we discovered that through a series of transactions Jacobs Engineering is the successor to Sverdrup. We contacted counsel for Jacobs and asked them to review the situation and issue the City a deed to remove the cloud on the City's title. The attorney promised to look into this but no response to repeated requests has been received. A quiet title action is now required to clear the cloud on the title.