

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

JULIE A. SCHMIDT, GAYLE SCHUH,)
JULIE M. VOLLUCK, SUSAN L. BERNARD,)
FRED W. TRABER, and)
LAURENCE SNIDER,)

Plaintiffs,)

vs.)

THE STATE OF ALASKA, and THE)
MUNICIPALITY OF ANCHORAGE,)

Defendants.)

RECEIVED
FOR _____

OCT 14 2010

DAVIS WRIGHT TREMAINE
BY _____

) Case No. 3AN-10-9519 CI

ANSWER OF MUNICIPALITY OF ANCHORAGE

Defendant the Municipality of Anchorage ("Municipality") hereby responds to plaintiffs' Complaint paragraph by paragraph as follows:

INTRODUCTION

The portion of the complaint entitled Introduction does not appear to contain allegations of fact to which answers are required.

JURISDICTION AND VENUE

1. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph number 1.

2. On information and belief, the Municipality admits that venue is appropriate in this court.

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OFFICE OF THE
MUNICIPAL ATTORNEY

P.O. Box 196650
Anchorage, Alaska
99519-6650

Telephone: 343-4545
Facsimile: 343-4550

3. On information and belief, the Municipality admits the court has jurisdiction over the matters alleged.

GENERAL ALLEGATIONS

4. Paragraph 4 of plaintiffs' complaint does not require a response. It does not contain any allegation of fact but simply quotes language of AS 29.45.030(e).

5. Paragraph 5 of plaintiffs' complaint does not require a response. It does not contain any allegation of fact but simply quotes language of AS 29.45.030(i).

6. In response to the allegations contained in paragraph 6, the Municipality admits only that Title 3 of the Alaska Administrative Code contains provisions concerning the senior and disabled veterans' tax exemptions. The Municipality affirmatively states that the statutory provisions, along with the regulations, provide information about who is eligible to receive the benefit of the exemptions.

7. Paragraph 7 of plaintiffs' complaint does not require a response. It does not contain any allegation of fact but simply quotes language of 3 AAC 135.085(a).

8. Paragraph 8 of plaintiffs' complaint does not require a response. It does not contain any allegation of fact but simply quotes language of 3 AAC 135.085(c).

9. The Municipality is unable to admit or deny allegations concerning statements that may have been made by the Office of the State Assessor as they are directed to the State of Alaska. With respect to the allegations contained in paragraph 9 that pertain to the Municipality, the Municipality is unable to locate any information that the Assessor's Office has ever made any affirmative representations concerning the

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definition of “spouse” or the application of the exemption to same-sex domestic partners, and therefore denies the same.

The Plaintiff Couples

Julie Schmidt and Gayle Schuh

10. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 10.

11. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 11.

12. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 12.

13. The Municipality lacks information sufficient to form a belief as to the truth or falsity of allegations concerning the purchase and remodeling of the residence referenced in paragraph 13. The Municipality admits only that plaintiffs Julie Schmidt and Gayle Schuh are owners of record of property located at 18631 Gibens Circle in Eagle River and have been since 2006.

14. The Municipality admits the allegation contained in paragraph 14.

15. In response to the allegations contained in paragraph 15, the Municipality admits that it found Julie Schmidt met the eligibility requirements to receive a senior tax exemption beginning in 2009. However, to the extent paragraph 15 alleges that being a full-time resident and attaining the age of sixty-five alone qualify an individual for the senior tax exemption, such allegation is denied.

16. The Municipality admits that Ms. Schmidt was approved for a senior exemption on January 4, 2008. Further, the Municipality admits that she did not receive an exemption of \$150,000 in either 2009 or 2010. The Municipality denies any other allegations contained in paragraph 16.

Julie Vollick and Susan Bernard

17. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 17.

18. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 18.

19. The Municipality admits that Ms. Vollick and Ms. Bernard are joint owners of record of property located at 16315 Jackson Hole Ct., Eagle River and have been since 2004. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 19.

20. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 20.

21. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 21.

22. The Municipality lacks information sufficient to form a belief as to the truth or falsity of allegations concerning the purchase, home improvement and decor of the residence contained in paragraph 22. The Municipality admits only that Ms. Vollick and Ms. Bernard are owners of record of the property identified in the response to paragraph 19, above.

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23. The allegation in paragraph 23 is admitted.

24. The Municipality admits only that it has documentation showing that Ms. Vollick has been given a 70% disability rating. The Municipality denies any other allegations that may be contained in paragraph 24.

25. In response to the allegations contained in paragraph 25, the Municipality admits that it found Ms. Vollick met the eligibility requirements to receive a disabled veteran exemption beginning in 2009. However, to the extent paragraph 25 alleges that being a full-time resident and a disabled veteran alone qualifies an individual for the disabled veteran exemption, such allegation is denied.

26. The Municipality admits that Ms. Vollick was approved for a disabled veteran exemption on May 13, 2008. Further, the Municipality admits that she did not receive an exemption of \$150,000 in either 2009 or 2010. The Municipality denies any other allegations contained in paragraph 26.

Fred Traber and Laurence Snider

27. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 27.

28. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 28.

29. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 29.

30. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 30.

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31. The Municipality admits only that Mr. Traber is the owner of record of two condominium units located at 804 P Street. On information and belief, the Municipality admits that Mr. Traber resides in Unit No. 10. The Municipality lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 31.

32. The Municipality admits the allegations in paragraph 32.

33. The Municipality lacks information sufficient to form a belief as to the age of Mr. Snider. Further, the Municipality admits that Mr. Traber has not been granted a senior exemption. The Municipality denies the remaining allegations contained in paragraph 33.

**VIOLATION OF ARTICLE I, SECTIONS 1, 3 AND 22 OF THE
ALASKA CONSTITUTION**

34. The Municipality incorporates its responses to paragraphs 1-33, above.

35. To the extent the allegation in paragraph 35 applies to all three plaintiff couples, the Municipality denies the allegation.

36. The Municipality admits that Ms. Schmidt and Ms. Schuh and Ms. Vollick and Ms. Bernard do not receive the full \$150,000 exemption. The Municipality further admits that Mr. Traber and Mr. Snider do not receive an exemption. The Municipality denies that the reasons for this are because these individuals are same-sex domestic partners and further denies any other allegations that are contained in paragraph 36.

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37. The Municipality is unable to admit or deny the allegations contained in paragraph 37 because the allegations are too general and, in the case of the opportunity to marry, concern state law and therefore are properly directed at the State.

38. The allegations contained in paragraph 38 appear to be directed at the State. Accordingly, the Municipality is unable to admit or deny the allegations.

39. The allegations contained in paragraph 39 do not require a response since they go to the ultimate legal issue in the case. To the extent the allegations do require a response, the Municipality is unable to admit or deny the allegations in paragraph 39 because it continues to investigate and analyze the allegations.

40. The allegations contained in paragraph 40 do not require a response since they go to the ultimate legal issue in the case. To the extent the allegations do require a response, the Municipality is unable to admit or deny the allegations in paragraph 40 because it continues to investigate and analyze the allegations.

41. The allegations contained in paragraph 41 do not require a response since they go to the ultimate legal issue in the case. To the extent the allegations do require a response, the Municipality is unable to admit or deny the allegations in paragraph 41 because it continues to investigate and analyze the allegations.

42. The allegations contained in paragraph 42 do not require a response since they go to the ultimate legal issue in the case. To the extent the allegations do require a response, the Municipality is unable to admit or deny the allegations in paragraph 42 because it continues to investigate and analyze the allegations.

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AFFIRMATIVE AND OTHER DEFENSES

1. The Municipality is required to administer the senior and disabled veteran tax exemptions in accordance with the provisions of AS 29.45.030 and 3 AAC 135 and these provisions do not provide for any discretion by the Assessor.
2. Plaintiffs Mr. Traber and Mr. Snider fail to state a claim upon which relief can be granted.
3. Plaintiffs Mr. Traber and Mr. Snider lack standing.
4. The Municipality reserves the right to assert affirmative defenses as may be discovered during the investigation and defense of this action.

REQUEST FOR RELIEF

WHEREFORE, the Municipality respectfully requests relief as follows:

- A. For judgment in favor of the Municipality and against Plaintiffs dismissing this action with prejudice;
- B. For judgment awarding the Municipality its costs and attorney's fees incurred in defending this action; and
- C. For such other relief as this court deems just and equitable.

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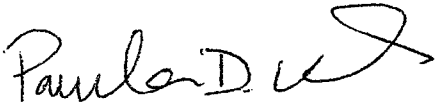
P.O. Box 196650
Anchorage, Alaska
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Respectfully submitted this 13th day of October, 2010.

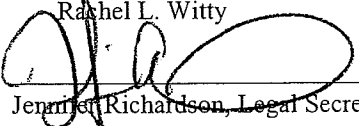
DENNIS A. WHEELER
Municipal Attorney

By: 
Pamela D. Weiss
Assistant Municipal Attorney
Alaska Bar No. 0305022

Certificate of Service

I hereby certify that on 10/13/10 I mailed
a true and correct copy of the foregoing to:

- David W. Oesting
- Thomas Stenson
- Leslie Cooper
- Ryan D. Derry
- Roger A. Lieshman
- Rachel L. Witty


Jennifer Richardson, Legal Secretary
Municipal Attorney's Office

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