

# MEMORANDUM

(Open Session Report)

State of Alaska  
Department of Law

to: Board of Agriculture and  
Conservation  
  
Division of Agriculture,  
Department of Natural Resources

DATE: August 18, 2014

FILE NO.: BAC general

TEL. NO.: (907) 269-3039

SUBJECT: AAG report for  
August 26, BAC meeting

FROM: Bob McFarlane  
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## **PART 1: NON-CONFIDENTIAL MATTERS FOR OPEN MEETING SESSION**

**Matanuska Maid Property:** The EPA has completed its evaluation of the Palmer property, and its findings were in line with those of the Department of Environmental Conservation (DEC). In other words, no serious contamination was discovered. John Carnahan from DEC has been re-assigned to other projects but I will see if I can get some additional details, and a copy of any reports that may be available prior to the meeting.

**Alaska Supreme Court Ruling on Foreclosures:** On August 8, 2014 the Alaska Supreme Court issued an opinion in Alaska Trustee v. Bachmeier (S-13978). The decision makes it very clear that a foreclosing creditor like the ARLF is entitled to collect all reasonable foreclosure costs as a condition of curing a default and stopping the sale. Costs are recoverable even if they are not specifically mentioned in the deed of trust. This is the way non-judicial foreclosures have been done in the past, and with this latest ruling, the issue has finally been settled.

**PART 2: CONFIDENTIAL MATTERS FOR EXECUTIVE SESSION**

Open Meetings Act – A.S. 44.62.310(b)<sup>1</sup>  
Attorney Client Privilege - Alaska Evidence Code §503(b)<sup>2</sup>  
Board of Agriculture and Conservation Statutes<sup>3</sup>  
ARLF Regulations<sup>4</sup>

[See separate executive session report with discussion of delinquent loan collection matter]

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<sup>1</sup> A motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session. AS §44.62.310(b).

<sup>2</sup> Section 503(b) of the Alaska Evidence Code states in relevant part: “A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client...”

<sup>3</sup> AS §03.09.040 authorizes the board to classify some loan and marketing information confidential.

<sup>4</sup> ARLF Regulations at 11 AAC 39.061 makes most loan information confidential and 11 AAC 39.031(f) authorizes the board to meet in executive session to consider loan applications.