

MEMORANDUM

(Open Session Report)

State of Alaska Department of Law

to: Board of Agriculture and
Conservation

Division of Agriculture,
Department of Natural Resources

DATE: May 31, 2012

FILE NO.: BAC general

TEL. NO.: (907) 269-3039

SUBJECT: AAG report for June
13, 2012 BAC meeting

FROM: Bob McFarlane
Assistant Attorney General
Commercial & Fair Business Section
Anchorage

PART 1: NON CONFIDENTIAL MATTERS FOR OPEN MEETING SESSION

1. Right to farm lawsuit: Eric Lanser vs. Robert Riddle, Case Number 4FA-11-3117 CIV. On May 22, 2012 the court denied Mr. Lanser's motion for a preliminary injunction. The court also denied Mr. Riddle's motion to dismiss the case. This means the case will have to go to trial if it is not resolved by motion practice or settlement. I will continue to provide periodic updates as the case progresses.

2. Agricultural Investors, LLC: A foreclosure has been started on this loan obligation. The foreclosure sale is set for September 5, 2012 at 10:00 a.m. in Fairbanks. Additional information concerning the foreclosure and efforts to resolve the matter with a prospective purchaser are confidential and will be discussed in executive session.

PART 2: CONFIDENTIAL MATTERS FOR EXECUTIVE SESSION

Open Meetings Act – A.S. 44.62.310(b)¹
Attorney Client Privilege - Alaska Evidence Code §503(b)²
Board of Agriculture and Conservation Statutes³

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

² 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..."

³ AS 03.09.040 authorizes the board to classify some loan and marketing information confidential.

ARLF Regulations⁴

1. **Loan status information to be discussed at meeting.** See separate confidential report regarding loan status and delinquencies. Discussion of loan status is confidential pursuant to 11 AAC 39.061.

⁴ 11 AAC 39.061 makes most loan information confidential and 11 AAC 39.031(f) authorizes the board to meeting in executive session to consider loan applications.