

Attached is the letter that we understand was sent by the Board to Afognak Shareholders on December 31, 2013. The letter was shared by an Afognak Shareholder – it was not sent to my parents nor has ANC reached out to us in any way.

It is unfortunate that the Board has chosen to respond in such an unprofessional and malicious manner, literally manufacturing untruths that have no support in fact or the record.

First, the letter insinuates that the house was placed there purposefully (“the Malmbergs had a house towed to Dry Spruce Bay: when the Malmbergs relocated their house, they placed it on beachfront land owned by Afognak rather than placing it upon land that they had actually purchased.”). This was never asserted. In fact, their lawyer (Brad Ambarian) admitted to our attorney that the encroachment was unintentional (see 5/11/12 letter from Fortier to Ambarian - “In fact, as both sides concede, the encroachment was not intentional.”) Furthermore, the Borough believed the structures to be on our land as well and assessed increased taxes on those improvements the entire 30 years (taxes which my parents paid.)

Second, they also indicate that the ANC land is beachfront – somehow insinuating that this is markedly different than the 10 acres of land owned by my parents. In fact, one only needs to look at a map to see that all of the land is beachfront. The exact same beach is in front of the land on which the house sits, as is in front of the 10 acres owned by my parents right next door. There is literally no difference - except our property has a large amount of timber along the ridgeline and the land on which the house sits has absolutely no trees at all. Furthermore, it is important to note that if the house and retaining walls had not been placed there, the land would have washed away years ago – and once the house and retaining walls are removed, the land will certainly wash away in the next decade due to tidal action. In fact, in 2003 when the parties became aware of the encroachment, my dad provided ANC photographs of the property at high tide that demonstrated much of the encroachments was below mean high tide. ANC representative (Brian Kewan) did not appear concerned upon seeing the photos and nothing was heard from ANC until a letter from Howard Valley (Land Manager) in 2008.

Third, they indicate that in October of 2008 they met with my mother and although “Grace Malmberg shared that her family might be interested in a long term lease..she expressed concern about whether they could make payments on the lease.” This is absolutely false. While it is true that my mom met with Howard Valley in October of 2008 following receipt of his letter, she at that time indicated that we would be interested in a lease, or perhaps an exchange of five acres of our land for the small amount of land on which the house sits. Howard Valley at that time stated that generally ANC never leased, traded or sold land. It was our understanding that following that meeting Mr. Valley was obligated to take our proposal to the Board. Nothing further was heard from Mr. Valley or anyone else at ANC for three years. Furthermore, the Board letter to its shareholders indicates that it was our position that our home was used only for recreational purposes. This is also untrue. Our home was never used solely for recreational purposes – it has always been the only home that my parents have, it contains everything that my parent’s own including furniture, family art projects, personal belongings, tools, clothes, etc. My mother lives currently in a temporary rental. My father lives with my sister. The fact that this house is our family home and remains my parent’s only home has been clear in all correspondence to the Corporation, including the 2011 letter from my father.

Fourth, the Board letter to Shareholders state that “from 2008 to 2011, the Lands Dept. attempted to contact the Malmbergs on multiple occasions to meet... For three years, the Malmbergs refused to respond to any of Afognak’s request for meetings.” This is also an outright lie. Following the meeting in October of 2008 and our request to lease or trade five acres of our property, nothing was heard from ANC for three years. The first communication

following the 2008 meeting is October 18, 2011 from Howard Valley (see letter in Dropbox "2001 and 2011 letters from Valley" stating that:

"Afognak reserves the right to recover from you any expenses incurred by Afognak in removing and/or disposing of your property. Further, regardless of whether you or Afognak removes your property, Afognak reserves the right to recover from you (1) any damages caused to Afognak's land in removing your property, (2) any other damages caused by you or your property's unlawful trespass/encroachment.").

My dad responded to that a month later on November 22, 2011.

"I spent my life improving the property in Pile Bay, reclaiming pieces that were being swept away by the tide and storms...it was only unexpected economic conditions that forced me from living their full time and I have spent the last few years working and saving so that my wife and I can return to our home permanently.

I can only hope you, Mr. Valley, are able to help us reach some type of agreement which will address concerns of the Afogank Native Corporation, but will also allow my wife and I to hold onto our family's history and our only home."

Thereafter we retained a lawyer and attempted to negotiate with the corporation on multiple occasions.

The Board's letter to the Shareholders also indicates that in May, 2012, ANC received a letter offering to swap. Of course we had initially made this offer years before – in 2008 and had never heard anything from ANC. After determining that ANC lawyers were not aware of this offer, our attorney made an official offer May 11, 2012. We were told that the BOD would consider it. We never heard anything until suit was filed. (Although we were told by Afognak's lawyer Ambarian, that "we will keep you updated on the decision on the Malmbergs' offer, and will let you know if we need any further information the proposed swap." However, nobody ever reached out until the lawsuit, and in fact they ignored our requests to attend board meetings). We never heard from them until August 23, 2012 when their outside counsel, Christopher Brecht sent a letter and draft complaint trying to force us to walk away (although giving us no options and still holding us to the costs of removal):

"There can be little question that the Malmberg's will ultimately lose if this matter proceeds to trial. The costs that the Malmbers will incur in removing the encroachments at this point are unavoidable...Unless we hear from you by noon on August 31, 2012, informing us that the encroachments have been removed..., we will proceed to file the enclosed complaint."

The Board's letter also attempts to indicate that the land was not cared for. This is also not true. In fact, a large amount of the encroachments on the Isthmus did not even belong to my family and was left there by others, including oil spill clean up crews, cannery personnel, etc.

In fact, my father has cleaned up all of the encroachments along the Isthmus including debris left by many other trespassers.

At every turn ANC has failed to negotiate in good faith. Furthermore, it is unclear why ANC has acted in such a malicious and hostile manner. Of course it is their choice whether they want to lease or trade land, but they never entertained our requests or responded to them in any way. Furthermore, in all other situations of which we are aware – including Victor Poythress, they have allowed encroachers to sign a quit claim deed confirming ANC's ownership of the encroachment and have burned the structures down. They have never, to our knowledge, required individuals to remove the structures at their expense or return the land to its previous state or be responsible for damages. In this situation, as is evidenced from the correspondence, they never allowed us the option of executing a quit claim deed. Since they were not willing to settle for anything less than removal and return of the land to its previous state, there was no way we could realistically comply with their request. ANC's answer to this at all times was to file a lawsuit (at the expense of their shareholders).

In the end, I am not sure what ANC gains from this other than a few feet of land which will be washed away by the tides in a few short years and a pile of burned rubble.

Mieke Malmberg