

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

MICHAEL WARD,)
Appellant,)
v.)
STATE OF ALASKA, BOARD)
OF REGISTRATION FOR)
ARCHITECTS, ENGINEERS)
& LAND SURVEYORS)
Appellee.)
_____)

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Case No. 3AN-11-8665CI

Clarification Regarding the Order of May 18, 2012

On May 18, 2012, this Court set aside the Appellee's decision of May 5, 2011, as a prejudicial abuse of discretion. The decision was not made in compliance with Alaska law. On May 31, 2012, the Appellee filed a motion requesting clarification of the following language in the May 18 order:


The Board's decision of May 5, 2011, is therefore set aside and the matter is remanded to the agency to make a final determination which complies with the applicable statutes. The Board has 45 days from the date of this order, or until the next regularly scheduled meeting, to submit its determination to the Court for review or else the administrative law judge's proposed decision will be considered a final decision.

The Appellee requests clarification on whether it can address the Court's order at the next regularly scheduled board meeting on August 2-3, 2012, and precisely how long following the meeting it has to comply with the order before the administrative law judge's proposed decision becomes the final decision.

In accordance with Alaska Statute 44.64.060(e), an agency shall act “within 45 days after the date the [administrative law judge’s] proposed decision is served or at the next regularly scheduled meeting that occurs at least 45 days after the proposed decision is served.” Under Alaska Statute 44.64.060(f), the proposed decision becomes the final agency decision when an agency fails to act within this timeframe. The Appellee had five possible courses of action listed in section (e) and the Court found the Appellee failed to take one of those courses. The Court looked to the statute in setting a timeframe and a consequence on remand.

The statute provides that the proposed decision is the final agency decision where the agency fails to act within 45 days or at the next regularly scheduled meeting occurring 45+ days later. Similarly, the Court’s order gave the Appellee 45 days to issue a final decision which complies with the statute or until its next regularly scheduled meeting, which the Appellee notes is 77 days later. The order did not provide any additional time after the meeting concludes to comply; a final agency decision issued on or before August 3, 2012, would be considered timely. Naturally, once the decision is issued or the proposed decision becomes the final decision, Mr. Ward may appeal it as a final decision under Appellate Rule 601(b).

June 19, 2012
Date

 [Signature]
Pat Douglass, Judge

I certify that on 6/19/12
a copy of this document was ~~sent~~/faxed to
the attorneys of record or other, Michael Ward
[Signature] Dan Branch

[Signature]
Clerk