



Arrogance of Entitlement

Description

When the Flash Mob Wants your Land



Local **Landmine Blog** buffoon, **Jeff Landfield** and an elected member of the Anchorage Assembly, are joined in this game camera shot by other trespassers, on the private property of **Frank Pugh** near Paradise Valley Subdivision above Potter Marsh. Pugh owns a home in a nearby subdivision.

Imagine you are fortunate enough to be able to purchase a nice parcel of Anchorage woodland for your family, near a quiet subdivision above Potter Marsh, so you can hike on your own property, that happens to be near **Chugach State Park**. You are able to share the natural wonder of the area with your neighbors. But also imagine that just after closing on the purchase your employer needs you to go out of country for a few years. What if you return to discover the **Municipality of**

Anchorage (MOA) has initiated and is actively promoting trespass on your property despite safety hazards that poses?

Would YOU be upset? That in a nutshell is what happened to **Frank Pugh**.

On one occasion a neighbor friend called to say that 15 or more cars were illegally parked in an intersection near his home so they could hike on his property! These vehicles were interfering with access to the neighbor's driveway. The neighbor reported that he called the **Anchorage Fire Department (AFD)** because this situation was dangerous in case of fire. Another neighbor calls **Anchorage Police Department (APD)** because the cars are preventing him from moving equipment down the mountain. Of course, neither AFD nor APD take any action to remedy the situation.

Some months later a hiker who drove from outside the neighborhood to hike on Pugh's property threatens him *on his own property*. Upon calling APD for help, the dispatcher plays down the incident refusing to send an officer out. So Pugh posted signage and restricted access to this entry point. Several months later Pugh received a surprise letter from the Municipal Attorney **William D. Falsey** threatening legal action if he did not reopen that entry point.

The big issues here: When is it necessary for a government entity to take a person's land when there is a prevailing public interest? When taking that land or imposing an easement on it for public use serves a small group of activists with an entitlement mentality? Exactly when does the hand of government override your inherent rights to real estate you have purchased for personal use?



The Chugach Mountains are a backdrop to the Municipality of Anchorage and integral part of the **Chugach State Park**.

Anchorage's Playground

An estimated 70 established trails provide access to **Chugach State Park**, each with a trailhead, where hearty Alaskan hikers, bikers, trekkers or skiers can park their vehicles before encountering wilderness near to Alaska's largest city. I happen to live near to one of the top 20 trailheads listed at <https://www.alltrails.com/parks/us/alaska/chugach-state-park>. Having a nearby trailhead means increased traffic on our mountain road and sometimes crowded parking at the switchback where hikers launch.

I pay homeowner taxes to the Municipality of Anchorage to live here.



Earlier this summer an apparently impaired driver rolled his car off the road onto my own property. We were all lucky that trees stopped his car from rolling down into my front yard where my housemate **Waneta B orden** was tending flowers.



A tow truck prepares to extract an automobile driven by somebody from beyond our neighborhood that rolled off the mountain road onto my property.

Living in this situation is generally tolerable, but for many of the popular trailheads the **Alaska Division of Parks** manages, fees are collected. The trailhead near my house has no fees and cars park in a widened area around the perimeter of the switchback. This free parking may attract cheapskates to trailheads like the one near my home.

Should 70 trailheads be enough to gain access to this local park wonder? In fact, accessibility is a popular theme in promotions of Chugach State Park.

The Chugach Mountains

Alaska's Most Accessible Natural Area

The Chugach Mountains create more than a dramatic skyline for Anchorage. They are a playground for outdoor enthusiasts. Combined, Chugach State Park and Chugach National Forest are home to some of the most accessible outdoor adventures in the state. Best of all, some of the [top trailheads](#) and access points are just 20 minutes from downtown.

Chugach State Park is one of the largest state parks in the nation. To the east of that, Chugach National Forest is the second-largest national forest in the U.S. Together they comprise more than 9,000 square miles of [hiking](#), [rafting](#), [biking](#), [ATVing](#), [kayaking](#), and [fishing](#). The most frequently climbed mountain in Alaska, most popular trailheads, and more than 60 of the state's most accessible [glaciers](#) are all found in the Chugach.

With such a massive range, there are plenty of access points. And ways to enjoy it are as varied as the Chugach landscape. Head north for [kayaking on a glacial lake](#) or [alpine berry picking](#). [A trip south](#) reveals countless hiking trails tucked into the mountains and amazing glaciers.

<https://www.anchorage.net/outdoors/the-chugach-mountains/>

But for some people there will never be enough parks, enough bike trails, or enough Chugach Park trailheads. I remember well the campaign to establish our plethora of parks and bike trails in Anchorage—up to and including establishing the 11-mile **Tony Knowles Coastal Trail**—to celebrate a still living Anchorage Pied Piper of populist liberal activism.

Their theme: *Parks and trails are good, private property rights be damned.*

For background: Four trailheads access the **Turnagain Arm Trail** along the northern shore of Turnagain Arm, originally known as the **Old Johnson Trail**, that once ran from Knik to Girdwood. The trail now runs from Potter Station to Windy Corner, with four access trailheads: **Potter** at mile 115.1, **McHugh Creek State Wayside** at mile 111.7, **Rainbow** at mile 108.3, and **Windy Corner** at mile 106.7. Maintained by the **Alaska Division of Parks**, these trailheads have been established for hearty Alaskan outdoorsmen, their families and dogs, who are respectful of other people's rights and don't need to park illegally in neighborhood roadways to access the park.[1]

So, who has the right to randomly enter private property?

An engineer for British Petroleum Corporation, **Frank Pugh** and his family purchased this acreage during September of 2012. About two months after closing on the purchase, Pugh was dispatched to the **Republic of Azerbaijan**, a majority Muslim country which proclaimed its independence on August 31, 1991, shortly before the dissolution of the Soviet Union. BP needed Pugh's *extended reach drilling* expertise at to help solve drilling problems in a place needing increased oil production. During initial interactions with neighbors before leaving Anchorage, Pugh had established that he didn't mind *neighbors* using the property respectfully and he only had a minimum gate to keep motorized vehicles out. **This was permissible use under the law, not hostile to the property owner.**



Now Pugh had a problem. The *MOA* had initiated and published a proposed *Chugach Park Access Plan* which highlighted this property as a potential entry point. This plan was never passed by the Assembly and only a draft version is available. [2]

Here's the setup: Create interest in the possibility of accessing the park through this private property to stimulate a relatively few activist Anchorage outdoors enthusiasts to flash mob the property and create use demand. What Pugh had hoped would be an amicable relationship with his neighbors suddenly became a new form of harassment by activists beyond the neighborhood.



The gate and signs Frank Pugh installed to protect from intrusions into his property.

In Pugh's own words: *At the request of my neighbor next to our gated entrance, and due to the fact that I had been recently threatened by a person that had driven from outside the neighborhood when I simply questioned whether or not he was a neighbor, I decided to reinforce the gate in October 2015 to deter people driving from outside the neighborhood from entering the property. The gated entrance had simply become a nuisance which threatened the typically quiet neighborhood environment. The intent was to discourage individuals living outside of the adjacent neighborhoods from driving to this area and illegally parking along the neighborhood streets to enter our property while continuing to allow our neighbors to pass through other points on our property.*

During lunch recently with the mild-mannered Pugh, he described to me his intentions. It is understood that this large prime residential section has great potential for development, which he of course does not want encumbered.

Accelerating the problem for Pugh, Mayor **Ethan Berkowitz** Municipal Attorney, Falsey on March 2, 2016 issued a letter claiming a *public prescriptive easement* exists across Pugh's land, and demanding that barriers he had constructed to protect his property be removed. From that time to now Falsey and others in the activist cabal have threatened and tried to coerce Pugh to accept their terms. The now former Muni activist attorney and former city manager claimed a long extinct homestead road of **Ivan and Oro Stewart** exists from the established roadway in the switchback of Steamboat Drive at its intersection with Mountainside Village Road across the property.[3]



Thus began an exchange of letters between counsel for Pugh and Municipality of Anchorage attorneys. Another activist attorney, **Thomas Meacham** established a non-profit corporation, *Friends of the Stewart Public Trail, Inc.* to rally support in the effort to force public access by random persons to Pugh's property.[4]

https://opencorporates.com/companies/us_ak/10086509

Battle lines are drawn. A new mayor **Dave Bronson** should be reason for hope for Pugh, who has lately filed trespassing charges against flash mob participants. He has contacted the (APD) on two occasions, the first in 2019, simply registering a complaint against Landmine clowns, including elected official **Christopher Constant**, **Ross Johnston**, and **Jennifer Johnson**. On August 3, 2021, Landfield and company trespassed again, and Pugh again contacted APD to demand their arrest. According to a Landmine post: "Uniformed police officers arrived at Landfield's residence to question him" and also contacted the associate by phone. They apparently needed to create a story to sensationalize.

Falsey may no longer be MOA Attorney but he needs a job and still knows how to churn cases. He started this one as an MOA employee, you know. [5]

1.15.130 - Restrictions on employment service.

- A. *General one-year rule:* An employee leaving municipal service, representing a matter that was under consideration by the municipal employee participation committee, shall not exercise of official action. In the event of a contract, or determination by the assembly or school board, charter amendments, draft legislation, or other consideration by the employee.
- B. *Waiver:* The assembly or school board may determine that a proposed waiver is in the public interest. The waiver shall be subject to the ethics.

Despite a Municipal Ethics Code that restricts employment for one year for compensation on matters under consideration by the administrative unit served by the employee during municipal service, Falsey successfully appealed to the Assembly for a waiver of the regulation to continue pursuing Pugh on behalf of the mob. On August 10, three Assembly members, **Jamie Allard**, **Crystal Kennedy**, and **John Weddleton** voted against allowing Falsey an ethics regulation exemption.

10.D.13. Assembly Memorandum No. AM 519-2021, a ma
**Anchorage Municipal Code Section 1.15.130A.,
employment after leaving municipal service, to
Assembly Vice-Chair Constant. (Addendum.)**

For some attorneys laws and regulations are for people who cannot find ways to break them legally.

References:

[1] *50 Hikes in Alaska's Chugach State Park*, Shane Shepherd & Owen Wozniak, The Mountaineers Books, 1001 SW Kickitat Way, Suite 201, Seattle, WA 98134, 2001

[2] Draft Proposed Chugach Park Access Plan

https://www.muni.org/departments/ocpd/planning/projects/documents/cap_text%20only.pdf

[3] Initial Letter from MOA Attorney Falsey

MUNICIPALITY OF ANCHORAGE

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Fax: 907-343-4550

Mayor Ethan Berkowitz

Mr. Frank Pugh
16006 Noble Point Drive
Anchorage, Alaska 99516

VIA CERTIFIED MAIL

March 2, 2016

Re: Public Access to Stewart Homestead Road

Dear Mr. Pugh:

It has come to our attention that you recently blocked access to the road/trail that leads to the Stewart Homestead property and beyond. Out of necessity, homesteaders built and travelled this road to reach their homesteads. More recently, local residents have used the trail for recreational purposes. An informal survey of the neighborhood reveals that residents have been walking this trail since at least the mid-1960's.

The public's consistent use of this trail for the past several decades has created a public use easement across the property. A public prescriptive easement exists when there has been continuous, hostile, and open use by the public over a 10-year period.¹

The Municipality has an obligation to protect the public's interest in this trail. Therefore, we respectfully request that you remove the barriers you have installed by March 11, 2016. Formerly, there was a simple metal gate across the trail. We understand that the gate is necessary to block vehicle access. However, please restore the gate to once again allow pedestrian access by removing the additional metal, chains, and signage (pictured below).

If you are unable or unwilling to comply with this request, the Municipality may be forced to take additional action. One way of affirmatively proving the claim would be to initiate a lawsuit with the Superior Court. The Municipality would prefer to resolve this matter without a lawsuit, which would be costly and needlessly time consuming for all parties.

If you have any questions or concerns, you can reach me at 343-4545.

Sincerely,

William D. Falsey,
Municipal Attorney

¹ See, e.g. *Interior Trails Preservation Coalition v. Swope*, 115 P.3d 527 (Alaska 2005).

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • <http://www.muni.org>

MUNICIPALITY OF ANCHORAGE

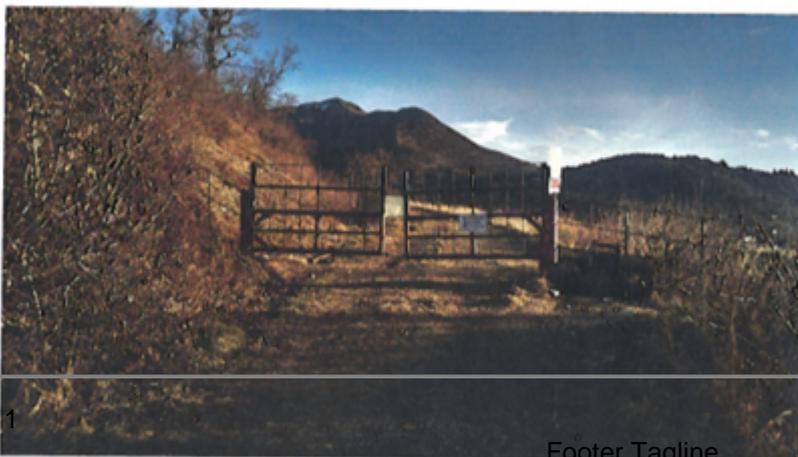
Office of the Municipal Attorney
Civil Division, Suite 730



Telephone: 907-343-4545
Fax: 907-343-4550

Mayor Ethan Berkowitz

Cc: Jennifer Johnston, Assembly
John Rodda, Director, Parks & Recreation
Steve Cleary, Alaska Trails



[4]<https://alaskalandmine.com/wp-content/uploads/2019/11/moa-letter-to-pugh-2016-04-20.pdf>

[5] Assemblyman Constant's letter supporting Falsey doing carrying on the political persecution of Frank Pugh started during Falsey's employment at MOA Attorney.

MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM
No. AM XXX-2021

Meeting Date: August 10, 2021

1 **From:** Assembly Vice-Chair Christopher Constant
2
3 **Subject:** A MATTER-SPECIFIC WAIVER OF ANCHORAGE MUNICIPAL CODE
4 SECTION 1.15.130A., RESTRICTIONS ON EMPLOYMENT AFTER
5 LEAVING MUNICIPAL SERVICE, TO WILLIAM D. FALSEY.
6

7
8 William D. Falsey began working at the Municipality of Anchorage on July 6, 2015 as the
9 Municipal Attorney. Mr. Falsey was appointed Municipal Manager on October 15, 2017. Mr.
10 Falsey left municipal service on December 1, 2020.
11

12 During his time as the Municipal Attorney, Mr. Falsey opined, including by letters written in
13 March and April 2018, that a public prescriptive easement exists over the "Stewart
14 Homestead Road." A private non-profit, Friends of the Stewart Public Trail, Inc. is currently
15 seeking judicial confirmation that the public prescriptive easement exists in the case:
16 *Friends Of The Stewart Public Trail Inc. vs. Pugh Jr, Franklin D et al.* (3AN-19-05746CI).
17 The Friends of the Stewart Public Trail, Inc. wishes to retain Mr. Falsey's services in
18 connection with the ongoing litigation.
19

20 Anchorage Municipal Code subsection 1.15.130A provides that "An employee who leaves
21 municipal service may not, for one year after leaving municipal service, represent, advise,
22 or assist a person for compensation regarding a matter that was under consideration by the
23 administrative unit served by the employee, if the municipal employee participated
24 personally and substantially in the matter through the exercise of official action." The Code
25 further defines "matter" to include "a case, proceeding, application, contract, or
26 determination"
27

28 The Municipality is not, and never has been, a party to the ongoing litigation, but the letters
29 Mr. Falsey issued as Municipal Attorney are referred to in the pleadings.
30

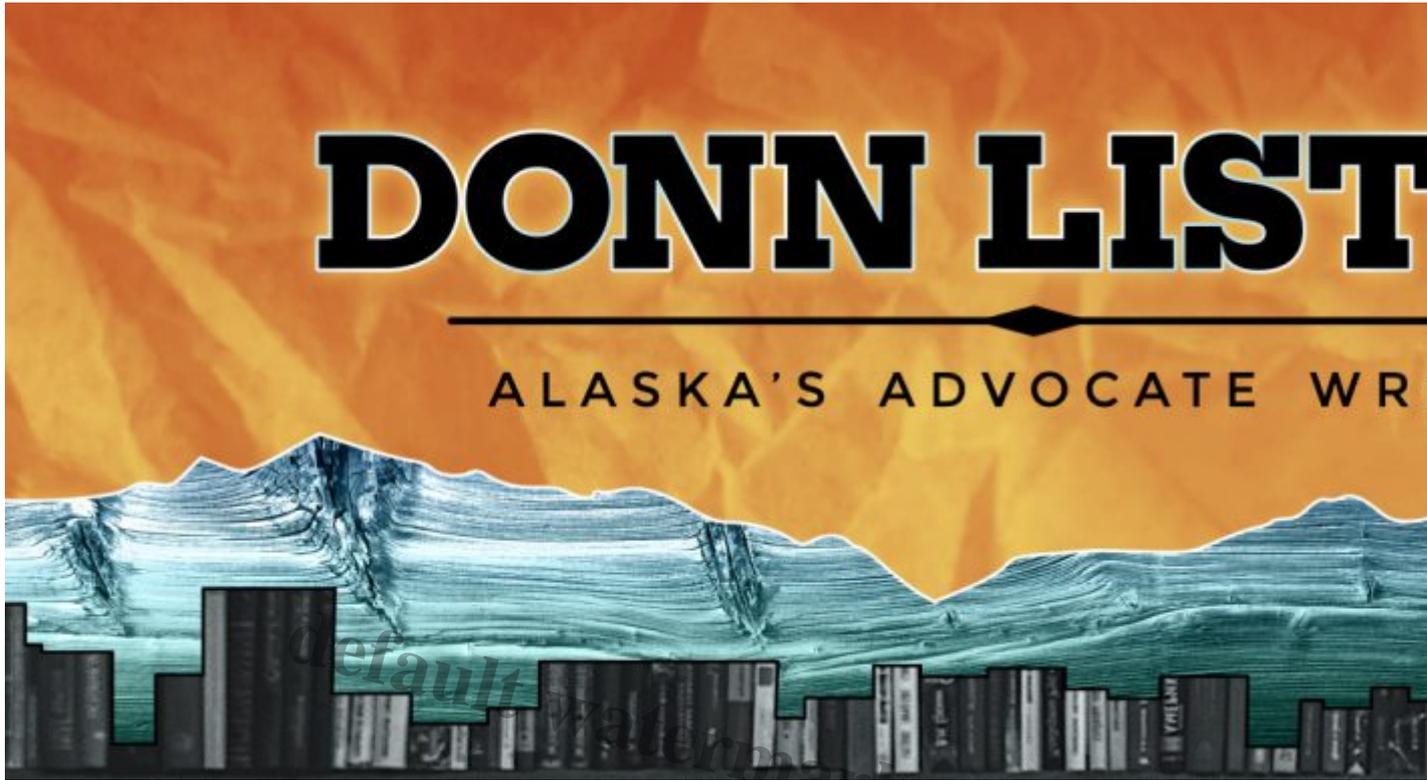
31 Anchorage Municipal Code subsection 1.15.130B permits the Assembly to waive
32 application of 1.15.130A "upon determination that a proposed action by a former employee
33 is not adverse to the public interest." In this case, by acceptance of this memorandum the
34 Assembly finds that it would not be adverse to the public interest for Mr. Falsey to represent,
35 advise or assist the Friends of the Stewart Public Trail, Inc., prior to December 1, 2021. To
36 the extent the restriction set out in AMC subsection 1.15.130A. would limit Mr. Falsey's
37 ability to represent, advise or assist the Friends of the Stewart Public Trail, Inc. prior to
38 December 1, 2021, the Assembly hereby waives the restriction.
39

40 Prepared by: Department of Law and Assembly Counsel
41 Respectfully submitted: Christopher Constant, Assembly Vice-Chair
42 District 1 (Downtown)

Learn more about this situation or to contribute to the defense of Frank Pugh's property go here:

Friends of the Stewart Public Trail, Inc. vs. Frank Pugh et al

<https://gogetfunding.com/protecting-property-rights-in-alaska/>



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Category

1. Alaska Courts
2. Alaska Property Rights
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August 12, 2021

Author

donn