

No-bid deal to expand legislative offices downtown draws criticism

BY LISA DEMER

ldemer@adn.com December 21, 2013

[Facebook](#)[Twitter](#)[Google Plus](#)[Reddit](#)[E-mail](#)[Print](#)



A large construction crane has been moved into place for the start of renovations to the Anchorage legislative office building on 4th Avenue in downtown Anchorage on Friday, December 13, 2013. **BOB HALLINEN** — **Anchorage Daily News** [Buy Photo](#)

The lawmakers have moved out and giant construction cranes have taken over a stretch of downtown as work begins on an expensive redo of the Anchorage legislative building.

When it's all done, not only will the Legislature's rent for Anchorage balloon fivefold overnight, but on a square-footage basis, the state will pay more than double the going rate for downtown office space, according to a check of leases and space available on Multiple Listing Service.

State Rep. Mike Hawker, the Anchorage Republican who negotiated the 10-year lease extension with developer Mark Pfeffer, maintains the rent for 716 W. Fourth Avenue will be below market value -- a finding he had to make to bypass the usual requirements for competition and justify the no-bid deal.

An appraiser hired by the state to review the deal concluded that legislative offices are too specialized -- like the FBI building or even a prison or medical facility -- to be fairly compared to conventional office space.

"There simply was no property that could offer a competing proposal," Hawker said in June after the council agreed he could serve as state procurement officer for the lease. Repeated efforts to reach Hawker in December were unsuccessful.

Pfeffer says the Legislature is getting a dramatically improved building in a familiar and prominent spot that will be good for Anchorage's downtown business district.

"This project will provide a great value for the State of Alaska, and for those Alaskans who want good access to their lawmakers," Amy Slinker, director of marketing for Pfeffer Development, said in an email.

Anchorage brokers, developers and other real estate experts say other properties, including new, top quality office buildings in Midtown, were available for far less than the \$3.4 million a year -- plus utilities, maintenance, insurance, property taxes and other operating costs -- the Legislature agreed to pay for the next 10 years.

Larry Norene, a semi-retired commercial broker who has studied the deal, calls the lease "outrageous."

State Rep. Bill Stoltze, R-Chugiak and a member of the Legislative Council that agreed to let Hawker negotiate the terms, said he has "renter's remorse." Stoltze, co-chairman of the House Finance Committee, said he mistakenly assumed the council would get to sign off on the terms when it agreed on June 7 to let Hawker negotiate.

"Bad on me," Stoltze said in an interview. "It was off to the races after that enabling vote."

NOBODY DID ANYTHING

Hawker became chairman of the Legislative Council, the joint House-Senate panel that manages the Legislature's business, in January. He said with its Anchorage lease expiring May 31, the Legislature was out of time.

Some council members resisted the idea of a new building, and most were committed to staying downtown, said Rep. Lance Pruitt, a Republican from East Anchorage. For him, Midtown, with easy parking, had more appeal.

Hawker found his way out of an inherited tough spot, Pruitt and others on the council said.

"We were stuck with what we had because nobody had done anything and our lease was up," Pruitt said.

The council had been searching for replacement space since 2002 but nothing worked out, Hawker says. The Legislative Affairs Agency issued requests for proposals in a competitive procurement process in 2002 and

again in 2003. The agency sent out five informal requests for information to see what was available, in 2006, 2007, 2009, 2011 and 2013.

Promising prospects fell through; the council failed to move quickly enough, the other party backed out or the property was too expensive.

While Hawker, Pruitt and others said the Legislature had no choice but to stay put, the council and the Legislative Affairs Agency also neglected to follow up on a number of possibilities, including existing buildings in Midtown and build-to-suit downtown lots.

In response to the 2011 query, builders, developers, brokers and landowners -- among them some of the most prominent in town -- offered up a total of 24 possibilities for new legislative space. Twenty-two were within the specified geographic boundaries that started downtown, stretched south to Tudor Road then east to Gambell Street.

Pfeffer Development pitched five ideas, including a view lot on L Street between Seventh and Eighth avenues that made it to the top five list. The parcel is owned by the Alaska Mental Health Trust Authority, a state agency with a land base to use to pay for mental health services. The Legislature could have ended up there in a new building for much less than the cost of the renovated Fourth Avenue building, according to an analysis put together in 2011.

"We never got a response," said John Morrison, chief administrative officer of the Mental Health Trust Land Office. That lot now is being marketed anew.

JL Properties and related companies offered seven projects, including a proposal for a new building in its showpiece Midtown business park, space in one of the Calais buildings that made it to the top five, and a suggestion that the Legislature seek competitive proposals to build on an Eighth Avenue parcel downtown between D and E streets owned by the Alaska Housing Finance Corp.

The Legislative Council, with then-Sen. Linda Menard, R-Wasilla, as chair, zeroed in on the old Unocal oil company building at 909 W. Ninth Avenue as its No. 1 choice. Legislators were skittish about making an offer, and a deal involving NANA Development Corp. beat them out. Pfeffer, who is part owner of the building with Bristol Bay Native Corp. listed as majority owner, was the developer. The redone building is now a striking new NANA office.

There's no evidence the council re-examined the next best sites.

Pfeffer's office says the L Street site did not include parking or relocation costs.

The council began looking anew in May 2013. Legislative Affairs posted its latest request for information online but didn't mail the request to a large group the way it had before.

Most brokers, builders and developers had lost enthusiasm for the project and didn't bother responding.

Just two properties were offered. The Legislature ended up back where it started.

THE PFEFFER TOUCH

A team led by Pfeffer is ripping out the worn guts of the Fourth Avenue building, which was built in 1972 as a bank and has been the Legislature's Anchorage home for 21 years. Crews are building a new exterior and installing modern, efficient heating and air conditioning systems, newly configured offices, two glass elevators and new bathrooms with maple doors on the stalls. The new digs will feature public-friendly ground floor legislative hearing rooms that theoretically could accommodate both houses of the Legislature at once for a special session. There will be a freight elevator and staging area for the twice-a-year moves to-and-from Juneau.

Hawker says the old pipes were rusty, the water was too brown to drink, and temperatures bounced between stifling and frigid. The main hearing room sometimes couldn't handle all the constituents trying to attend, and it was tucked away on the second floor, reachable by one slow elevator. Offices are cramped -- three Anchorage Democrats share an office with their staff, which Hawker says is not acceptable.

Pfeffer is a prominent and politically active Anchorage developer who bought into the Fourth Avenue building and neighboring Anchor Pub and Club earlier this year. He is an active campaign donor, and in September he and his wife hosted a fundraiser for Gov. Sean Parnell at their West Anchorage home.

He gives to Democrats and Republicans alike. On the current Legislative Council, Republican Reps. Hawker, Pruitt, Stoltze, Craig Johnson, Alan Austerman and House Speaker Mike Chenault, as well as Sens. Peter Micciche, Lesil McGuire, Kevin Meyer, Gary Stevens and Senate President Charlie Huggins, all got donations from Pfeffer their last campaign. So did Democrats Max Gruenberg, Dennis Egan and Lyman Hoffman, who like Austerman is an alternate. Only Rep. Peggy Wilson of Wrangell and Sen. John Coghill of Fairbanks, both Republicans, didn't report any contributions from Pfeffer.

"Mark has been involved in political and civic activities for many years," his marketing director, Slinker, said. "He does not target any special interests or particular candidates. Mark believes in the civic process and has a history of participating at the city, state and federal levels."

Pam Varni, Legislative Affairs executive director for 20 years, said the agency had long had a challenging relationship with Bob Acree, the building's longtime sole owner and Pfeffer's partner in the new deal. Years ago, Varni withheld rent after determining that some of the parking spots the Legislature was paying for were only big enough for a motorcycle.

When Pfeffer stepped in, legislators saw opportunity. Pfeffer has been involved in numerous big public-private projects -- the Dena'ina Civic & Convention Center, the Linny Pacillo parking garage, the NANA office and the Alaska Regional Hospital expansion.

He also is part of the group that owns Anchorage City Hall.

A 'LUDICROUS DEAL'

Under the terms of the deal Hawker signed with Pfeffer and Acree on Sept. 19, the Legislature will pay \$281,638 a month, or \$3.4 million a year, for 10 years once Pfeffer and his partners remake and expand the building. It's supposed to be ready by December 2014. The demolition of the Anchor Pub will make room for the addition.

According to Norene, the broker who has examined the terms in detail, the real price is much higher and the square footage is much less than what the lease says. The deeper he dug, he said, the more anomalies he found.

"It just bugged me to death," Norene said in a recent interview. "I got hold of the lease and figured out what it is actually costing and how outrageous it really is."

The price specified in the lease doesn't include property taxes, building insurance, utilities, routine maintenance or janitorial service -- standard expenses that Anchorage developers, including JL Properties, say typically are included in commercial leases. The state will pay for those in addition to rent.

Factor in taxes, insurance and operational expenses that Norene estimated at \$670,000 a year, plus the \$7.5 million the Legislature has agreed to pay for its share of the renovations, and the yearly cost works out to just under \$5 million, Norene said.

On top of that, the lease lists the square footage as "approximately 64,048 gross square feet" when a more comparable, standard measurement is "net usable square feet," Norene said. Gross square footage counts the thickness of exterior walls, elevator shafts and mechanical spaces. Pfeffer says it's common to use a gross footage figure if one tenant will occupy the whole building.

Norene determined that the state will pay more than \$7 a square foot a month. He drew the usable footage figure of 55,000 from the report of the consultant who said the building was a good value for the state. If anything, Norene said, he was low-balling it because the 55,000 includes 9,800 square feet in the basement.

What's the next highest rent in Anchorage? Downtown, high-end office suites are going for \$2 to \$3 a square foot a month, according to recent property postings by the Multiple Listing Service. None is new or as big as the Legislature needed in one place, Pfeffer notes. For Midtown space with operational expenses covered, JL Properties charges in the range of \$3 to \$3.10 a square foot, according to property listings.

"This is a ludicrous deal made by the supposed stewards of our budget," Norene said.

CHEAP SPACE IN DELTA

The lease itself makes no mention of the price per square foot, the basic measure used in real estate comparisons, Norene says.

Varni said she came up with lower figures than Norene, using the signed lease figure of 64,000 gross square feet and a slightly lower estimate of operational costs.

Under her methodology, the state will pay \$6.21 a square foot the first five years, then \$5.24 a square foot the second five years, once the state has paid off the \$7.5 million it will owe for renovations.

Legislative Affairs leases office space around the state, paying as little as \$1.35 a square foot in Delta Junction and -- until now -- a top figure of \$3.20 in Kotzebue.

Under the old terms for Anchorage, the state paid \$682,356 a year for a "full-service" lease, which provided 22,834 square feet, counting all the office space and 811 square feet of basement storage. That included maintenance, janitorial services, property taxes and utilities other than phones. That works out to \$2.49 a square foot a month, according to Varni.

During the annual 90-day legislative session in Juneau, just 11 legislative staff members are based in the Anchorage building, though the public often comes to testify at or listen to teleconferenced hearings. Between legislative sessions, about 90 staff members and legislators have offices there, Varni said.

Pfeffer's office notes that the building will remain on the city property tax rolls, while a state-owned building would have been exempt.

A SPECIAL BUILDING

Under state law, for the Legislature to extend a lease without going through a competitive process, it needed a formal determination that the new price was at least 10 percent below market rent.

Appraiser Timothy Lowe got the job of appraising the rental. Lowe is a West High graduate who worked in Anchorage in the 1980s and considers himself a friend of project developer Pfeffer. Lowe concluded that the state would end up paying 13.5 percent below market rent in his 116-page "Rental Value Appraisal Report."

Lowe's primary reference point wasn't the going rate for office space in Anchorage, but rather the value of the Fourth Avenue building itself once Pfeffer completes the renovation. In other words, he compared the Legislature's building to itself.

Lowe said this appraisal method is common for special properties. He said the Legislature's special needs are demonstrated by the fact that it failed to find new space after years of searching.

"There are special-purpose or limited-market properties all around us. We walk in them every day," Lowe said. "Things like churches and schools and courthouses and government office buildings and aviation facilities. I could go on and on. Sports facilities."

Consider a shuttered church building, he said. It will only sell for its full value to another church. Any other user would likely get a deal because it wouldn't have much use for a worship hall's special construction, stained glass windows, pews and altar. His report said prisons, medical buildings and sewage treatment plants also are examples of special-purpose facilities.

The method, he acknowledged, "is one of the more challenging and controversial areas in property appraisal."

'NOT UNREASONABLE'

"Our annual savings will be \$528,344," Varni wrote in a Sept. 19 letter justifying the deal to Sen. Anna Fairclough, the chairwoman of the Legislative Budget and Audit Committee, as well as Hawker, who is vice chairman.

But that wasn't savings compared to what the Legislature was paying -- once everything is added up, the state will pay about \$4 million more each year. Instead, it was based on Lowe's calculation that the new building would have a "market rental value" of \$3.9 million a year, compared to the \$3.4 million that Pfeffer and Hawker agreed to.

Lowe was hired by the Alaska Housing Finance Corp., which the Legislative Council had asked to determine if the deal was justified. He provided his preliminary findings on Sept. 18, one day before Hawker signed the lease extension.

AHFC had looked for an Anchorage appraiser but couldn't find one who hadn't worked for Pfeffer, said Mike Buller, AHFC deputy executive director. Pfeffer suggested Lowe. They had known each other for decades and Lowe was once on the opposite side of a Pfeffer proposal for a Muldoon town center.

But Lowe also had worked directly for Pfeffer on several projects dating back 25 years or more.

Buller initially said it was important that the appraiser who evaluated the legislative building had never worked for Pfeffer. In a later interview, he corrected himself and acknowledged that Lowe had previously worked for the developer. Buller said Lowe had disclosed his earlier work for Pfeffer to AHFC but because it was long ago it slipped his mind in the first interview.

At any rate, Lowe said the relationship didn't affect his judgment.

AHFC officials say the Legislature's Anchorage building is specialized. It must be accessible to the public yet secure, much of it is set aside for hearing rooms, and it needs high-tech teleconferencing systems. It's expensive to remake a building in the heart of downtown, Buller said.

The municipality's comprehensive plan encourages government offices to be downtown. Without the anchor of government, Fourth Avenue is at risk of reverting to the days when it was all about bars, Buller said.

Crews are now dismantling the old structure. Part of busy Fourth Avenue is blocked off. The Legislative Council is deciding what will go in the new interior.

In November, the council agreed to spend up to \$100,000 on a design for furnishings.

NOTE: The original version of this story said Sen. Lesil McGuire was a Legislative Council member. She was recently replaced by Sen. Mike Dunleavy but was a member in June when the committee agreed to pursue new rental terms.

Reach Lisa Demer at ldemer@adn.com or 257-4390.

The Legislature has been struggling with office space in Anchorage for more than a decade. How we got here:

June 1, 1993: Anchorage legislative offices move from Midtown to 716 W. Fourth Ave.

April 2002: Legislative Affairs Agency issues request for proposals for 20,000 to 25,000 square feet of office space. Boundaries cover downtown and stretch as far east as Boniface Parkway and south to O'Malley Road. Five responses, including for a Mark Marlow building at 323 E. Fourth Ave. and one at 2525 Gambell St. in Midtown. Owner Bob Acree proposes keeping legislative office at 716 W. Fourth Ave.

July 2003: LAA issues new request for proposals for 24,000 square feet of office space, same boundaries. Two responses, from Acree and Marlow, for same buildings as before.

April 6, 2004: Legislators and Acree sign new five-year lease with five one-year extensions for 716 W. Fourth Ave.

Feb. 2006: Legislative Affairs issues request for information for 24,000 square feet and 98 parking spots. No geographic boundary. Three responses.

March 2007: Legislative Affairs issues request for information for 35,000 square feet of office space and 100 parking spots. No geographic boundaries. Five responses.

February 2008: Legislative Council agrees to pursue project with Alaska Court System to build joint complex on Fourth Avenue downtown.

April 2008: Project with court system falls apart as too expensive.

May 2009: Legislative Affairs issues request for information for 40,000 to 50,000 square feet and 140 spots. No geographic boundaries. Fourteen responses.

Fall 2009: Legislative Council pursues state-owned parking lot at Ninth Avenue and E Street but Parnell administration wants to see bigger building there.

April 2010: Legislative Council bids to buy old Unocal building at 909 W. Ninth Ave. Bid rejected.

April 2011: Anchorage Community Development Authority proposes project at Seventh Avenue and F Street.

May 2011: ACDA board withdraws its proposal

June 2011: LAA issues request for information for 30,000 to 45,000 square feet of space and 120-160 parking spots in area that starts downtown and stretches east to Gambell Street and south to Tudor Road. Receives 22 offers within that area. Legislative Council subcommittee narrows group to five, then to one: the Unocal building.

November 2011: Legislative Council bids again to buy old Unocal building. NANA Regional Corp. beats legislators to it.

May 2013: Legislative Affairs issues request for information for 30,000 to 45,000 square feet of office space in Anchorage. No geographic boundaries listed and number of parking spaces not specified. Two responses.

June 7, 2013: Legislative Council agrees to pursue deal with Mark Pfeffer to revamp its existing building at 716 W. Fourth Ave.

Sept. 19, 2013: Rep. Mike Hawker, R-Anchorage and the Legislative Council chairman, signs 10-year lease extension for Fourth Avenue building.