

Pierce County

Office of Prosecuting Attorney

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TO: Dale Washam, Pierce County Assessor-Treasurer

FROM: Douglas W. Vanscoy, Chief Civil Deputy

DATE: January 27, 2010

RE: Renewed Request for Investigation

Prosecuting Attorney Mark Lindquist has asked me to respond to your January 11, 2010 request for “help to get a full investigation into the alleged unlawful forgery and falsification of the Pierce County Assessor-Treasurer office’s official records as set forth in the Pierce County Assessor-Treasurer Investigative Report dated September 2, 2009.” Having reviewed that report, and the October 6, 2009 letter from Governor Gregoire’s Constituent/Management Services Manager which you forwarded, I am struck by the fact that neither the report nor the letter mention either former Prosecuting Attorney Gerald Horne’s memorandum responding to your original request to this office concerning this subject or the 2005 recall litigation which is discussed in that memorandum.

In his May 11, 2009 memorandum, a copy of which is enclosed, Mr. Horne noted that you were seeking a “full investigation” into the alleged falsification of A-T documents during the period 2001-2008, namely, “the entry of the initials ‘KMP’ upon certain Assessor-Treasurer computer records, the failure to conduct physical inspections of property, and false reports to the Department of Revenue that such inspections had occurred.” These are the same matters to which your September 2 report and your current letter refer. Mr. Horne continued as follows:

In 2005 you were one of four citizens who brought a recall petition against your predecessor, raising the same three issues: the initials, the failure to conduct physical inspections, and the reports to the DOR. *In re Ken Madsen*, Pierce County Superior Court Case No. 05-2-05329-7. After a full evidentiary hearing, Judge William Thomas McPhee on April 22, 2005 entered written findings against petitioners in all respects. Of particular interest, in regard to any potential criminal investigation now, is the specific finding on page 2: “The Court further finds that there is a ‘legally cognizable justification’ for Mr. Madsen’s actions and therefore Charge #2 is not legally sufficient.” Charge #2 involved the alleged false reports to DOR, and so included elements of both the use of KMP initials and the failure to make the physical inspections. Judge McPhee’s order was not appealed. The burden of proof in a criminal case is, of course, much higher than that in a recall matter. (Emphasis added.)

Your September 6 report and your January 11 renewed request do not address the fact that Judge McPhee expressly found that “there is a legally cognizable justification” for your predecessor’s actions, nor is there any indication that you informed the Governor’s Office of that finding or of Mr. Horne’s memorandum.

Mr. Horne also noted that this office, like other prosecutor’s offices in the state, does not conduct criminal investigations, but makes charging decisions based upon the reports and investigative work of police agencies. He further observed that according to a report from the county performance audit office to County Council, “There is no reason to believe that individual property taxpayers were harmed by missed physical inspections of their homes in the past.” After laying all this out, Mr. Horne concluded, “I frankly do not believe that the use of further investigative resources is warranted.”

Given the state of the economy and current public budget constraints, the Prosecutor’s Office and other law enforcement agencies are operating with even fewer resources than were available when Mr. Horne sent his memorandum nearly a year ago. Accordingly, the Prosecutor’s Office again respectfully declines your request, as it cannot support the diversion of law enforcement resources to review conduct which a court has already found to be legally justifiable.

(Enclosure)