

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

EXAMINATION REPORT
OF

COMMON COUNCIL
CITY OF AUSTIN
SCOTT COUNTY, INDIANA

January 1, 2011 to December 31, 2011



FILED
08/02/2013

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CITY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
President of the Common Council	Roger Hawkins	01-01-11 to 12-31-12
	Jim Kallembach	01-01-13 to 12-31-13
Mayor	Douglas Campbell	01-01-08 to 12-31-15
Clerk-Treasurer	Dillo Bush	01-01-08 to 12-31-15



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE CITY OF AUSTIN

We have examined the records of the Common Council of the City of Austin for the period from January 1, 2011 to December 31, 2011, and certify that the records and accountability for cash and other assets are satisfactory to the best of our knowledge and belief, except as stated in the Examination Results and Comments. The financial transactions of this office are reflected in the Annual Report of the City of Austin for the year 2011.

STATE BOARD OF ACCOUNTS

May 22, 2013

COMMON COUNCIL
CITY OF AUSTIN
EXAMINATION RESULTS AND COMMENTS

COUNCILMAN RESIDENCY

Richard L. Buchanan was elected to the City of Austin's Common Council as the District 3 representative for the term January 1, 2008 until December 31, 2011. Prior to the election, Richard L. Buchanan's voter registration record showed an address of 150 S. 1st Street, Austin, which is located in the voting boundaries of District 3. The voter registration record for Richard L. Buchanan continued to show 150 S. 1st Street, Austin as being his residence through May 31, 2012. On November 29, 2007, Richard L. Buchanan filed for a homestead deduction with the Scott County Auditor for property located at 75 N. U.S. Hwy 31, Austin. The property at 75 N. U.S. Hwy 31 is located outside the boundaries of District 3 to which Richard L. Buchanan was elected to represent. The property at 75 N U.S. Hwy 31 is located in District 1.

Richard L. Buchanan served as Councilman elected from District 3 for the period January 1, 2008 to December 31, 2011. During this same time period, Richard L. Buchanan received the benefit of a reduction in his property tax liability as a result of the homestead deduction he filed on property located outside the boundaries of District 3.

Richard L. Buchanan was compensated a total of \$16,600 for the period January 1, 2008 to December 31, 2011 for being a City Councilman and received a homestead tax benefit of \$8,426.99 during this same period.

Richard L. Buchanan stated on November 5, 2012, that he rented the house located in District 3 from his Mother and the property at 150 S. 1st Street, Austin continued to be his principal place of residence throughout his term as Councilman. Richard L. Buchanan stated it was his intent to move to the property that he filed a homestead deduction on, but this was not done until March of the year 2012. Richard Buchanan stated he did not realize that the filing for a homestead deduction was a problem because he only owned one piece of property and was only claiming the deduction for one piece of property.

The homestead deduction form signed by Richard L. Buchanan dated November 29, 2007 included a certification statement that Richard L. Buchanan occupied the property located on 75 N. Highway 31, Austin as his principal place of residence. The back of the form defined "Homestead" – "means an individual's principal place of residence in Indiana as of March 1 of the year with respect to which the credit was claimed that . . . The individual either owns or is buying under contract . . ."

Indiana Code Regarding Residency

Indiana Code 36-4-6-2 states in part:

"(d) A member of the legislative body must reside within: (1) the city as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and (2) the district from which the member was elected, if applicable.

(e) A member forfeits office if the member ceases to be a resident of the district or city."

COMMON COUNCIL
CITY OF AUSTIN
EXAMINATION RESULTS AND COMMENTS
(Continued)

Indiana Code Regarding Homestead Definition

Indiana Code 6-1.1-12-37(a)(2) states in part: "'Homestead' means an individual's principal place of residence . . ."

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Request for Refund

Based on Richard L. Buchanan's statement that his principal place of residence was 150 S. 1st Street, Austin, we requested Richard L. Buchanan to refund \$8,977.89 to Scott County (the amount requested included the tax benefit he received from the homestead exemption in the amount of \$8,426.99 plus a civil penalty of \$550.90 required by Indiana Code 6-1.1-12-37(f)).

Richard L. Buchanan refunded \$8,977.89 to Scott County on June 12, 2013. (See Summary of Charges, page 8)

ADDITIONAL EXAMINATION COSTS

The State of Indiana incurred additional examination costs in the investigation of Richard L. Buchanan's Residency (See Examination Result and Comment titled Councilman Residency) in the amount of \$2,724.15.

Examination costs incurred because of malfeasance, misfeasance, or nonfeasance of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Richard L. Buchannan was requested to refund \$2,724.15 of additional examination costs to the State of Indiana. Richard L. Buchanan refunded \$2,724.15 to the State of Indiana on June 6, 2013. (See Summary of Charges, page 8)

COMMON COUNCIL
CITY OF AUSTIN
SCOTT COUNTY
EXIT CONFERENCE

The contents of this report were discussed on May 22, 2013, with Richard L. Buchanan. The Official Response has been made a part of this report and may be found on page 7.

The contents of this report were discussed on June 4, 2013, with Douglas Campbell, Mayor; and Dillo Bush, Clerk-Treasurer.

OFFICIAL RESPONSE

May 30, 2013

To Whom It May Concern:

Originally, when my wife and I purchased the house, I planned to step down from my elected office. However, we later decided not to move in and stay in our residence of 8 years so I could remain in office. The realization of having applied for the Homestead Exemption had been forgotten by the time we made that decision. It was not intentional. I was then and am now more than willing to pay any property tax that I owe.

Sincerely,

A handwritten signature in black ink, appearing to read "R. L. Buchanan", with a long horizontal flourish extending to the right.

Richard L. Buchanan

COMMON COUNCIL
CITY OF AUSTIN
SCOTT COUNTY
SUMMARY OF CHARGES

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Richard Buchanan, former City Councilman Councilman Residency, pages 4 and 5 Refunded by Richard L. Buchanan, Receipt 13296, June 12, 2013	\$ 8,977.89	\$ 8,977.89	\$ -
Additional Examination Costs, page 5 Refunded by Richard L. Buchanan, Receipt 7309, June 6, 2013	2,724.15	<u>2,724.15</u>	<u>-</u>
Totals	<u>\$ 11,702.04</u>	<u>\$ 11,702.04</u>	<u>\$ -</u>

This report was forwarded to the Office of the Indiana Attorney and to the Scott County Prosecuting Attorney.