

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Sell Land
MHT #9100917

Notice is hereby given that, pursuant to the provisions of AS 38.05.801 and 11 AAC 99, the Executive Director of the Alaska Mental Health Trust Land Office (TLO) has determined that it is in the best interest of the Alaska Mental Health Trust and its beneficiaries to complete a negotiated sale of certain Trust land to Katrina and Aaron Miller. The basis for this determination is explained in a written Best Interest Decision prepared by the Executive Director pursuant to 11 AAC 99.040.

The Trust land affected by the decision is near Petersburg, and is more particularly described as: MH Parcel CRM-2206, located within portions of Sections 22 and 23, T59S, R79E, Copper River Meridian, and containing approximately 0.32 acres, according to Engineering Plat 56-2, Tract 9.

Persons who believe that the written decision should be altered because it is not in the best interests of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020, or any other provision of 11 AAC 99, must provide written comments on or before **4:30 PM, December 21, 2018**. Comments should be submitted to the TLO at **2600 Cordova Street, Suite 100, Anchorage, AK 99503**, or by fax **(907) 269-8905** or email mhtlo@alaska.gov. Following the comment deadline, the Executive Director will consider timely comments that question the decision on the basis of the best interest of the Alaska Mental Health Trust and its beneficiaries or inconsistency with 11 AAC 99, and the best interest decision may be changed in response to such written comments or other information. Commenting parties will be provided a copy of the final best interest decision after the end of the notice period.

To be eligible to file for reconsideration of the best interest decision, or to file a subsequent appeal to the Superior Court, a person must have submitted written comments during the notice period. Eligible persons will have twenty (20) calendar days after published notice of or receipt of the final written decision to request that the Executive Director reconsider the decision under 11 AAC 99.060(b).

Copies of the written decision are available at the Trust Land Office, or at <https://alaskamentalhealthtrust.org/trust-land-office/>. If you have any questions concerning this action, please contact the Trust Land Office at (907) 269-8658.

In compliance with the Americans with Disabilities Act, the Alaska Mental Health Trust is prepared to accommodate individuals with disabilities. Please contact the Trust Land Office at (907) 269-8658 for assistance. Requests for assistance must be received at least 96 hours prior to the comment deadline in order to ensure that any necessary accommodations can be provided.

The Executive Director of the TLO reserves the right to waive technical defects in this notice or to amend, postpone, or vacate the best interest decision.


Wyn Menefee

Executive Director


Date

Published Petersburg Pilot: 11/21/2018

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Sale of a Trust Parcel –Petersburg

MHT #9100917
MH Parcel: CRM-2206

In accordance with AS 38.05.801 et seq. and the implementing regulations governing Alaska Mental Health Trust (“Trust”) land management (11 AAC 99), Trust land shall be managed consistently with the responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)). This means that management shall be conducted solely in the best interest of the Trust and its beneficiaries.

In determining the best interest of the Trust and its beneficiaries, and in determining consistency between state law and the Alaska Mental Health Enabling Act, the Executive Director of the Alaska Mental Health Trust Land Office (“TLO”) shall, at a minimum, consider the following interactive Trust management principles in accordance with 11 AAC 99.020:

- Maximization of long-term revenue from Trust land;
- Protection of the corpus;
- Protection and enhancement of the long-term productivity of Trust land;
- Encouragement of a diversity of revenue-producing uses of Trust land; and
- Management of Trust land prudently, efficiently, and with accountability to the Trust and its beneficiaries.

I. Proposed Use of Trust Land. A negotiated land sale of Trust parcel CRM-2206 (0.32 acres) located in Petersburg, to the purchaser in the amount of \$106,250.00, which is 25% above the 2018 appraised value of \$85,000.00.

II. Applicant/File #. Katrina and Aaron Miller / MHT 9100917

III. Subject Property.

A. Legal Description. A portion of Sections 22 and 23, T59S, R79E, Copper River Meridian.

B. Settlement Parcel Number(s).

CRM-2206 (Engineering Plat 56-2, Tract 9; containing 0.32 acres)

C. Site Characteristics/Primary Resource Values. The waterfront parcel is located six miles south of the town of Petersburg on the west side of the Mitkof Highway. The parcel is situated between the highway and the waters of the Wrangell Narrows. The eastern property boundary meets the highway guardrail. The primary resource value for this parcel is disposal for residential or commercial business purposes.

D. Historical and Existing Uses of the Property. The property is undeveloped and vacant.

- E. Adjacent Land Use Trends.** Adjacent lands are in residential use, with some private recreational and commercial use in the area.
- F. Previous State Plans/Classifications.** None.
- G. Existing Plans Affecting the Subject Parcel.** The parcel is within the Petersburg Borough, and is subject to borough zoning requirements.
- H. Apparent Highest and Best Use.** Disposal through negotiated land sale.

IV. Proposal Background. The TLO consulted with the Resource Management Committee on January 5, 2017 regarding creating a pool of approximately 407 subdivision lots and small to medium sized parcels to offer through the TLO's Statewide Land Sale Program. And this recommendation was subsequently approved by the full board of trustees on May 5, 2017. Parcel CRM-2206 was included in this pool, however, has not been offered in the Statewide Land Sale Program to date. The TLO received interest to purchase the parcel from the adjacent land owner with an offer of \$106,250 which is 25% above the appraised value of \$85,000. This Best Interest Decision would allow the TLO to move forward with selling the land through a negotiated sale.

V. Terms and Conditions. Unless paid for fully in cash, the parcel may be sold via a land sale contract administered by the TLO. The principle terms and conditions include the following:

- A.** A minimum down payment of 10% of the purchase price will be required. The TLO's financing term is a maximum of twenty (20) years based on the amount financed with a fixed interest rate based on the Wall Street Journal published prime rate plus 3%.
- B.** Installment payments may be made monthly, quarterly, or annually.
- C.** The parcel will be sold "as is" with no guarantees as to suitability for any intended use.
- D.** The sale agreement allows for minimal clearing and use of materials within the parcel for development of a residential site. No commercial use of resources (timber or materials) may be made until the parcel is paid in full and recording of the deed.

VI. Resource Management Considerations. The proposal is consistent with the "Resource Management Strategy for Trust Land" (RMS), which was adopted March 2016 in consultation with the Trust and provides for the TLO to maximize return at prudent levels of risk, prevent liabilities, and convert nonperforming assets into performing assets. Experience has demonstrated that the average rate of return on parcels of land in the competitive Fall land sale is below 25% above the market value.

VII. Alternatives.

- A.** Do nothing.
- B.** Offer the parcel in a future land sale.
- C.** Retain the parcel.

Alternatives A, B, and C would delay receipt of potential revenues and would result in additional costs and risks to the Trust without significant increases in value.

VIII. Risk Management Considerations.

- a. **Performance Risks.** In present condition, the parcel is not generating any revenue for the Trust and considered to be a non-performing asset.
- b. **Environmental Risks.** There are no known environmental risks associated with this action.
- c. **Public Concerns.** Subject to comments resulting from public notice, there are no known concerns that suggest the proposed transaction is inconsistent with Trust principles.

IX. Due Diligence.

- a. **Site Inspection.** The TLO performed a site inspection in July 2018.
- b. **Valuation.** As of May 10, 2018, the appraised value of the parcel is \$85,000.
- c. **Terms and Conditions Review.** The standard TLO land sale contract documents have been reviewed by the Department of Law.
- d. **Other.** Title report has been completed for the parcel.

X. Authorities.

- a. **Applicable Authority.** AS 37.14.009(a), AS 38.05.801, and 11 AAC 99 (key statutes and regulations applicable to Trust land management and disposal).
- b. **Inconsistency Determination.** As the proposed sales is specifically authorized under 11 AAC 99, any relevant provision of law applicable to other state lands is inapplicable to this action if it is inconsistent with Trust responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)) as clarified by AS 38.05.801 and Alaska Mental Health Trust land regulations (11 AAC 99). 11 AAC 99 includes determinations that certain State statutes applicable to other State land do not apply to Trust land unless determined by the Executive Director, on a case-by-case basis, to be consistent with 11 AAC 99.020. The State Statutes deemed inconsistent with Trust management principles and inapplicable to Trust land by these regulations have not been applied to this decision or this action, including, but not limited to, AS 38.04 (Policy for Use and Classification of State Land Surface), AS 38.05.035 (Powers and Duties of the Director), AS 38.05.127 (Access to Navigable or Public Water), AS 38.05.300 (Classification of Land), AS 38.05.945 (Notice), AS 38.05.946 (Hearings), and 11 AAC 02 (Appeals).

- XI. Trust Authority Consultation.** TLO consultation is defined in statute and regulation under AS 37.14.009(a)(2)(C) and 11 AAC 99.050 and clarified under 11 AAC 99.030(d) which requires the executive director to consult before issuing a public notice of a written decision of best interest. Since the consultation and subsequent approval did not clarify disposing of the parcel outside of the Statewide Land Sale Program this parcel requires additional consultation, which is met by the Alaska Mental Health Trust Authority Chief Executive Officer signature on this Best Interest Decision based on the full Board of Trustees delegation of Authority as of October 27, 2017.

XII. Best Interest Decision.

- a. Given the information above and the information contained in the complete record, the Executive Director finds that the proposed transaction is in the best interest of the Trust, subject to the terms and conditions addressed in this decision. The decision is based upon the consideration of the five Trust management principles set out in 11 AAC 99.020 and is in full compliance with 11 AAC 99. This decision does not preclude the TLO from determining that an alternative proposal will serve the best interest of the Trust. A future determination of that nature will require a best interest decision specific to the proposal.
- b. Non-competitive Disposal Determination. 11 AAC 99.020 (d) allows for the disposal of Trust land through a competitive basis, unless the Executive Director in consultation with the Trust Authority, determines in a written decision required by 11 AAC 99.040 that a non-competitive disposal is in the best interest of the Trust and its beneficiaries. If another party submits a qualified offer as explained in Section XII, the Executive Director may consider a competitive sale under the authority of this decision. This lot is not currently suitable for a residential lot without investment because the eastern property boundary meets the highway guardrail which is problematic in developing a driveway to the property. Considering the trends that indicate an unlikelihood of returns matching 25% above the appraised fair market value by offering competitively and the additional investment needed to make this a desirable lot for competitive offering, a non-competitive disposal with a return of 25% above the fair market value is in the best interest of the Trust and its beneficiaries.

XIII. Opportunity for Comment. Notice of this Best Interest Decision will take place as provided under 11 AAC 99.050. Persons who believe that the decision should be altered because it is not in the best interest of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020 or any other provision of 11 AAC 99, must provide written comments to the TLO during the notice period. Other persons who may be interested in purchasing the Property must submit their proposals during the 30-day public notice period. Instructions to apply can be found online at <http://alaskamentalhealthtrust.org/trust-land-office/land-sales/land-use-application/>. To be considered a qualified competing interest, applications must include the application fee, a formal Letter of Intent to include an offer price that matches or exceeds the current offer of \$106,250 for the parcel, and a deposit of 10% of the offered price in certified funds. In the event that there is a competing interest, all qualified interested parties will be notified by phone, fax, or email and provided information on how they may participate in the alternative sale process. Following the comment deadline, the Executive Director will consider timely written comments that question the decision based on the best interest of the Trust and its beneficiaries or inconsistency with 11 AAC 99. The Executive Director will then, in his or her discretion, modify the decision in whole or in part in response to such comments or other pertinent information, or affirm the best interest decision without changes. The best interest decision as

modified or affirmed will become the final agency action, subject to reconsideration procedures under 11 AAC 99.060. Additional notice will be provided for a substantially modified decision. If no comments are received by the end of the notice period, this best interest decision will be affirmed and the proposed action taken. (See notice for specific dates.)

XIV. Reconsideration. To be eligible to file for reconsideration of this Best Interest Decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

Persons who submit timely written comments will be provided with a copy of the final written decision and will be eligible to request reconsideration within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier under 11 AAC 99.060(b). The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the request for reconsideration. If the Executive Director takes no action during the 20-day period following the request for reconsideration, the request is considered denied. Denial of a request for reconsideration is the final administrative decision for purposes of appeal to the superior court under AS 44.62.560.

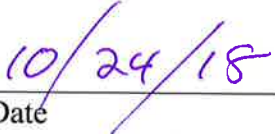
XV. Available Documents. Background documents and information cited herein is on file and available for review at the TLO, located at 2600 Cordova Street, Suite 100, Anchorage, Alaska 99503. Phone: (907) 269-8658. Email: mhtlo@alaska.gov.

The disposal action proposed by this decision will occur no less than 30 days after the first publication date of this decision, and after the conclusion of the TLO administrative process. For specific dates or further information about the disposal, interested parties should contact the TLO at the above address, or visit the website at: www.mhtrustland.org.

XVI. APPROVED:



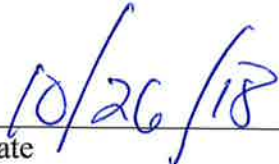
Wyn Menefee
Executive Director
Alaska Mental Health Trust Land Office



Date



Mike K. Abbott
Chief Executive Officer (CEO)
Alaska Mental Health Trust Authority

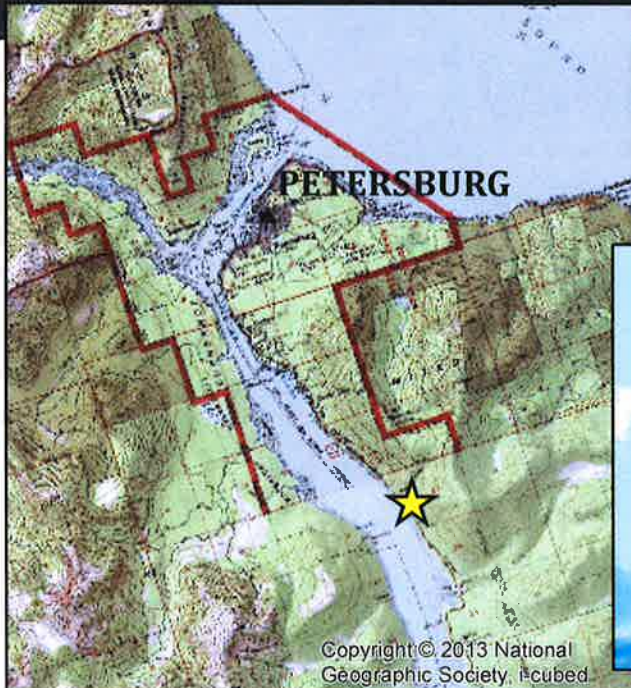


Date



0 25 50 100 150 200 Feet

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



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Sources: Esri, USGS, NOAA

Mental Health Trust Parcel: CRM-2206
Containing approximately 0.32 acre.



Trust
Land Office

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