

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue a Negotiated Land Sale Near Murphy Dome
MHT 9400631

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 Land Sale of certain Trust land to Nathaniel Minnema. 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 to Fairbanks, Alaska, and is more particularly described as: Township 1 North, Range 3 West, Fairbanks Meridian, Alaska, Section 15: that portion of the N1/2NW1/4 lying north of the right-of-way of ADL 22290, containing 10.00 acres, more or less, and according to the supplemental survey plat accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C. on August 3, 1967 (MH Parcel(s) **FM-0423-B**).


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, 2017**. 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 www.mhtrustland.org. 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 (Acting)



Date
Published Fairbanks Daily News Miner: 11/20/2017

**The Alaska Mental Health Trust Authority
Trust Land Office**

**BEST INTEREST DECISION
Murphy Dome Negotiated Land Sale**

MHT #9400631
MH Parcel(s) FM-0423-B

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.** Issue land sale contracts through the negotiated sale process with a 10% premium.
- II. Applicant/File #.** Nathaniel Minnema / MHT 9400631.
- III. Subject Property.**
- A. Legal Description.** Township 1 North, Range 3 West, Fairbanks Meridian, Alaska, Section 15: that portion of the N1/2NW1/4 lying north of the right-of-way of ADL 22290, containing 10.00 acres, more or less, and according to the supplemental survey plat accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C. on August 3, 1967.
 - B. Settlement Parcel Number(s).** FM-0423-B.
 - C. Site Characteristics/Primary Resource Values.** Site characteristics are typical of residential and recreational properties with the primary resource value being real estate.
 - D. Historical and Existing Uses of the Property.** The historic and existing use of Trust parcels includes settlement, easements, and recreation.

- E. Adjacent Land Use Trends.** Adjacent land uses include residential, public recreation, road and utility easements, and wildlife habitat.
 - F. Previous State Plans/Classifications.** DNR issued the Tanana Basin Area Plan (TBAP) for State Lands, adopted in 1985 and updated in 1990 and 1999. The primary use for general state land in the Ester Dome subunit is for mineral development.
 - G. Existing Plans Affecting the Subject Parcel.** The subject property is affected by the Fairbanks North Star Borough (FNSB) Title 18, Zoning Ordinance and is zoned Rural Estate (RE-2).
 - H. Apparent Highest and Best Use.** The highest and best use for these parcels is as individual subdivision lots to be sold for residential use.

- IV. Proposal Background.** On October 30, 1981, the Division of Lands issued a land sale contract (ADL 403742) to Mr. Bertram Ryan. The odd lot sale was foreclosed on July 9, 1993, for failure to bring the account current. On December 1, 2015, a trespass file was opened, MHT 9400588. During an inspection conducted on July 19, 2016 by TLO staff a Notice of Trespass and seven Notices of Abandonment were posted to remove personal property (including the debris from a burned structure) and abandoned vehicles within 30 days. The cost to remove debris, vehicles, and personal property is estimated to be approximately \$9,500. On February 14, 2017, Mr. Nathan Minnema submitted a request to purchase Trust parcel FM-0423-B in the Murphy Dome area. Parcels are sold “AS-IS WHERE-IS” with all faults, and in the condition as of the date of the sale with no guarantees, expressed or implied, as to suitability or fitness for any intended use, availability of water, or for any other reason whatsoever. The purchase price and premium take into account the debris, personal property, and abandoned vehicles.

- V. Terms and Conditions.** The standard TLO Purchase and Sale Agreement, Contract for the Sale of Real Property, and Quitclaim Deed will be used for the disposal.

- VI. Resource Management Considerations.** The proposal is consistent with the “Resource Management Strategy for Trust Land,” which was adopted January 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. Past experience has demonstrated that it is unlikely that these parcels will appreciate at a rate that would justify holding them for a later sale. It is also not cost effective for the TLO to hold these parcels and incur the associated management costs and liabilities.

- VII. Alternatives.**
 - A.** Do nothing or offer sometime in the future. This alternative would delay receipt of revenues from sales and income from interest payments and could result in additional costs and risks to the Trust without significant increases in value.
 - B.** Leasing the parcel. Management costs to the Trust will generally decrease on the properties through a sale.
 - C.** Alternate development. The lack of road and utility infrastructure makes development of subdivision or commercial development cost prohibitive. No interest has been expressed for material or mineral development.

VIII. Risk Management Considerations.

- A. **Performance Risks.** Performance risks will be mitigated through the TLO's purchase and sale agreement, land sale contract, and quitclaim deed. These documents include contemporary language to limit risks to the TLO and the Trust, ensure performance by the buyer, and allow for termination in the case of default.
- B. **Environmental Risks.** There is personal property (including the debris from a burned structure) and seven abandoned vehicles located on the parcel. No contaminants were observed during TLO or third-party inspections of the site. Mr. Minnema accompanied TLO staff during a June 7, 2017 inspection of the site and is aware of the condition of the parcel.
- C. **Public Concerns.** Subject to comments resulting from the public notice, there are no known concerns that suggest the proposed transaction is inconsistent with Trust principles.

IX. Due Diligence.

- A. **Site Inspection.** A site inspection was conducted on June 7, 2017.
- B. **Valuation.** The Purchaser agrees to purchase the above described Property for \$50,050 (Purchase Price). The Purchase Price was determined by an appraisal (ASP 10-17-936) completed by Hans Axelsson, Axelsson & Associates, Inc., on July 13, 2017. The appraisal determined the estimated market value of the property to be \$45,500. Under 11 AAC 99.020, the TLO is mandated to sell land on a competitive base. In order to sell land through a negotiated land sale process, TLO's Executive Director has determined that a premium would be charged for all negotiated sales. The premium for the Property will be 110% of the appraised value to compensate for not selling the land through a competitive process.
- C. **Terms and Conditions Review.** Contract documents were reviewed by the Attorney General's Office and an independent law firm.
- D. **Other.** Survey is required in the purchase and sale agreement.

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 Negotiated Land Sale 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 38.05.300

(Classification of Land), AS 38.05.945 (Notice), AS 38.05.946 (Hearings), and 11 AAC 02 (Appeals).

- i. AS 38.05.055, Alaska Residency required for purchase of State land and AS 38.05.940, Veteran's discounts allowed on purchase price of State land. Preferences or discounts provided to Alaska residents or veterans would be granted at a cost to the Trust, hereby violating key Trust management principles.
 - ii. AS 38.05.127, Access to navigable or public water and requiring "to and along" easements on Trust properties diminishes the sale value of Trust lands and therefore is inconsistent with Trust management principles.
 - iii. AS 38.05.065(g), Appeal of director's decision to commissioner is in direct conflict with 11 AAC 99.060 and therefore does not apply to the transaction pursuant to 11 AAC 99.060(d).
- C. Provisions of law applicable to other state land that are determined to apply to Trust land by the Executive Director, on a case-by-case basis include:
- i. AS 38.05.035(i), persons eligible to file a request for reconsiderations.
 - ii. 11 AAC 02.030 (a) and (e), filing request for reconsideration.
 - iii. 11 AAC 02.040, timely filing.

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.

XII. Best Interest Decision. 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.

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. Following the comment deadline, the Executive Director will consider timely written comments that question the decision on the basis of the best interest of the Trust and its beneficiaries or inconsistency with 11 AAC 99. The Executive Director may 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 (Acting)
Alaska Mental Health Trust Land Office

11/8/17

Date

In accordance with 11 AAC 99.030(d) and the policies of the Alaska Mental Health Trust Authority, the Trust Land Office has consulted with me, and received concurrence to proceed with the above transaction.



Michael K. Abbott
CEO Alaska Mental Health Trust Authority

11-8-17

Date

**Exhibit A – Location Map
Purchase and Sale Agreement
MHT 9400631**

