

**Alaska Mental Health Trust Authority**  
**Trust Land Office**  
**Notice under 11 AAC 99.050 of**  
**Decision to Aspenwood Subdivision Negotiated Sale**  
**MHT 9400651, 9400652, and 9400653**

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 Andrew Plumlee. 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 Ester, Alaska, and is more particularly described as: Section 26, Township 1 South, Range 3 West, Fairbanks Meridian, Alaska: that portion of Block 2, Lots 7-9, of Alaska State Land Survey No. 84-20, Aspenwood Subdivision, and containing 8.289 acres, more or less. (MH Parcel(s) FM-0991).


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 18, 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](mailto: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.

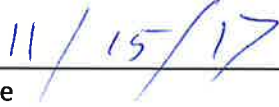
To be eligible to file for reconsideration of the best interest decision, or to file a subsequent appeal to the Superior Court, a person must have submitted written comments during the notice period. Eligible persons will have twenty (20) calendar days after published notice of or receipt of the final 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](http://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.

  
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Wyn Menefee  
Executive Director (Acting)

  
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Date  
Published Fairbanks Daily News Miner: 11/17/2017

# The Alaska Mental Health Trust Authority Trust Land Office

## BEST INTEREST DECISION Aspenwood Subdivision Negotiated Sale

MHT #9400651, 9400652, and 9400653  
MH Parcel(s) FM-0991

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.** The proposed action is to sell three parcels in the Aspenwood Subdivision through a negotiated sale process.
- II. **Applicant/File #.** Andrew Plumlee / 9400651, 9400652, and 9400653.
- III. **Subject Property.**
  - A. **Legal Description.** Section 26, Township 1 South, Range 3 West, Fairbanks Meridian, Alaska: that portion of Block 2, Lots 7-9, of Alaska State Land Survey No. 84-20, Aspenwood Subdivision, and containing 8.289 acres, more or less.
  - B. **Settlement Parcel Number(s).** FM-0991.
  - 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. Under TBAP the area was designated as settlement and forestry.
- 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 General Use 1 (GU-1). The proposed action is consistent with the zoning ordinances.
- 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 April 12, 2017, Mr. Andrew Plumlee submitted a request to purchase six lots in the Aspenwood Subdivision near Ester, ASLS 84-20, a portion of Trust parcel FM-0991, Lots 5, 7-11 of Block 2. The parcels were included in the Land Sale consultation at the January 26, 2016 Resource Management Committee meeting and January 27, 2016 Full Board meeting. The consultation stated, "If not sold in the first sale the parcels may be re-offered in future competitive or over the counter sales". Both the RMC and Board concurred with the disposal of the parcel through the TLO Land Sale Program and was included in the Public Notice and Best Interest Decision. Lots 5, 10, and 11 were offered in subsequent competitive land sale and received no bids. Lots 7-9 have not been previously offered in a competitive land sale and are the subject of this Best Interest Decision.

**V. Terms and Conditions.** The total purchase price for the three parcels is \$92,160, which includes a 20% premium of the appraised value of the property. 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 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. 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. Offer the parcel through competitive sale.** Competitive land sales in the Aspenwood Subdivision average 6.3% above the minimum bid amount. Sale through the negotiated land sale, as proposed, would generate a premium of 20% above the minimum bid.

**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 are no known environmental risks associated with this action.
- 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.** TLO staff conducted an inspection of the parcels on September 14, 2017.
- B. Valuation.** The total purchase price for the three parcels is \$92,160. The purchase price was determined by an appraisal completed by Hans Axelsson, Axelsson & Associates, Inc., on July 13, 2017. The appraisal determined the estimated market value of the property to be \$76,800. 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 120% 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.** A title report has been completed prior to issuing a sale contract or quitclaim deed.

**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). Other provisions of law the TLO deems inconsistent with Trust responsibilities include:
  - 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.**

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 may serve the best interest of the Trust. A future determination of that nature may 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 XIII, the Executive Director may consider a competitive sale under the authority of this decision. Given the price offered, a non-competitive disposal is in the best interests 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://mhtrustland.org/index.php/land/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 \$92,160 for the three parcels, a deposit of 10% of the offered price in certified funds. In the event that there is competing interest, all qualified interested parties will be notified by phone, fax, or e-mail 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 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](mailto: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](http://www.mhtrustland.org).

**XVI. APPROVED:**

  
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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.

  
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Michael K. Abbott  
CEO Alaska Mental Health Trust Authority

11-8-17  
\_\_\_\_\_  
Date