

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Dispose of Trust Parcel CRM-0752 through Negotiated Land Sale (Haines – Mud Bay)
MHT # 9100872

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 sale of certain Trust land to the purchaser. 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 adjacent or near to Mud Bay in Haines, and is more particularly described as: Lot 2; Section 28, Township 31 South, Range 60 East, Copper River Meridian, containing approximately 1.68 acres (Trust Parcel CRM-0752).

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, September 25, 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.



John Morrison
Executive Director

8/18/17

Date
Published Chilkat Valley News: 08/24/2017

The Alaska Mental Health Trust Authority Trust Land Office

BEST INTEREST DECISION MHT 9100872

Decision to Dispose of Trust Parcel CRM-0752 through a Negotiated Land Sale

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 a Trust parcel in Haines, CRM-0752, to the purchaser for \$102,000.00, which is 30% above the appraised value of \$78,000.00.

II. File #. MHT 9100872

III. Subject Property.

A. Legal Description. Lot 2; Section 28, T. 031 S., R. 060 E., Copper River Meridian. The parcel is 1.68 acres in size.

B. Settlement Parcel Number(s). CRM-0752

C. Site Characteristics/Primary Resource Values. The parcel is located south of the community of Haines in an area adjacent to marine waters called Mud Bay. The parcel is forested, and has a rocky coastline. The only access to the parcel is by boat.

D. Historical and Existing Uses of the Property. The property is vacant and there are no known historic or existing uses.

E. Adjacent Land Use Trends. Adjacent lands are in residential use, with some private recreational and commercial use as well.

F. Previous State Plans/Classifications. None.

G. Existing Plans Affecting the Subject Parcel. The parcel is within the Haines Borough, and is subject to borough zoning requirements.

H. Apparent Highest and Best Use. Disposal through a negotiated sale.

- IV. Proposal Background.** The TLO consulted with the Resource Management Committee regarding the disposal of parcel CRM-0752, along with more than 400 other parcels during the January 5, 2017 board meeting. The consultation pertained to a multi-year effort to dispose of parcels through the annual spring and fall land sale program during the years 2017-2019. Parcel CRM-0752 was selected to be listed in the Fall 2017 Land Sale, and went through an appraisal on May 2, 2017. A short time after the appraisal the TLO received interest to purchase exclusively from an adjacent land owner with an offer of \$102,000.00, or 30% above the appraised value of \$78,000.00. A subsequent consultation with the board occurred on August 3, 2017, to clarify the decision to remove the parcel from the annual land sale, and dispose of it through a negotiated land sale. This Best Interest Decision would allow the TLO to move forward with selling the land through a negotiated sale and remove this parcel from the Fall 2017 Land Sale Auction.
- 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% 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 proposed negotiated sale is consistent with the Goals and Objectives of the TLO Land Resource Management Strategy, which are to: maximize long-term revenue by increasing development opportunities over time; manage Trust land prudently, efficiently, and with accountability to the Trust and its beneficiaries; and protect and enhance the inherent value of the surface lands through stewardship obligations.
- VII. Alternatives.** The alternative to a negotiated sale is to not dispose of the parcel or to do so competitively. In the event the negotiated sale does not go through, then the primary alternatives would be to do nothing or offer the parcel in a future land sale. The alternatives would delay receipt of revenue from the sale and potentially income from interest payments, and could 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 is considered 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 has not performed a site inspection within the past 10 years, however an appraiser visited the parcel in May of 2017.
- B. Valuation.** As of May 2, 2017, the appraised value of the parcel is \$78,000.00.
- C. Terms and Conditions Review.** Contract documents were reviewed by the Attorney General's Office and an independent law firm.
- D. Other.** The parcel will have a title report 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 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 38.05.300 (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. The Alaska Mental Health Trust Resource Management Committee was consulted about disposal of these parcels on January 5, 2017, and again on August 3, 2017.

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 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:



John Morrison
Executive Director
Alaska Mental Health Trust Land Office

8-16-17

Date