

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Sell Property
MHT #9100899

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 Geoff and Marcelle Larson. 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 Gustavus, and is more particularly described as: Lot 7N of Trust Land Survey No. 2004-01, a Plat of Gustavus Flats, located within Section 18, Township 40 South, Range 59 East, Copper River Meridian, containing approximately 40.76 acres (MH Parcels: CRM-1049; CRM-6005).


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, October 1, 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 www.alaskamentalhealthtrust.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.



Wynn Menefee
Executive Director



Date
Published Juneau Empire: 08/31/2018

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Land Sale of Trust Parcels - Gustavus Flats

MHT #9100899
MH Parcel(s): CRM-1049 and CRM-6005

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. Negotiated Land Sale.

II. Applicant/File #. Geoff and Marcelle Larson/MHT 9100899.

III. Subject Property.

- A. Legal Description.** Section 18, T. 040 S, R. 059 E, Copper River Meridian; Lot 7N of Trust Land Survey No. 2004-01, a Plat of Gustavus Flats, containing 40.76 acres, more or less.
- B. Settlement Parcel Number(s).** CRM-1049 and CRM-6005.
- C. Site Characteristics/Primary Resource Values.** The parcels are located in the community of Gustavus, and situated between the Good and Salmon Rivers. There is no developed road access to the parcels, however there is dedicated legal access via a section line easement. Trust Parcel CRM-1049 is inland and forested, with some open flats; the northeast corner borders the Salmon River; it’s approximately 25.94 acres in size. Trust Parcel CRM-6005 consists of open flats and wetlands, and the eastern property boundary borders the Salmon River; it’s approximately 14.82 acres in size.

- D. Historical and Existing Uses of the Property.** The property is vacant, and there are no known uses currently taking place on the land. Any historical uses of the area are likely associated with hunting and nature viewing.
- E. Adjacent Land Use Trends.** The community of Gustavus, a second-class city, has a population of 430 people according to the 2000 census. Gustavus is the gateway to Glacier Bay National Park. The subject parcels are situated adjacent to protected land owned by the Nature Conservancy. Residential land use in the community is a mix of year-round and seasonal living. Commercial use in the area is associated with the fishing and tourism industry.
- F. Previous State Plans/Classifications.** Northern Southeast Area Plan, adopted in October 2002.
- G. Apparent Highest and Best Use.** The highest and best use of these parcels is disposal through a negotiated sale. Any effort to subdivide the area would likely require extensive costs. Road construction activities in the community is cost prohibitive due to a lack of a material source in the area, thus any road building materials would need to be barged in resulting in a very high cost.

IV. Proposal Background. In 2010 and 2012 the applicant pursued a negotiated purchase of the property, but TLO staff rejected his applications due to the need to do more research of the Gustavus real estate market. The applicant owns land adjacent to the Trust parcels and has a vision of establishing a retirement community on the land. In winter of 2017, the applicant contacted the TLO once again pursuing interest in purchasing the parcels through a negotiated sale, and submitted an application to do so. An appraisal of the parcels was performed in late 2017, and a report was submitted on February 6, 2018.

V. Terms and Conditions. On June 27, 2018, Geoff and Marcelle Larson signed and returned a purchase and sale agreement sent to them by the Trust outlining the process for purchasing property through a negotiated sale. They have the option to enter into a land sale contract or pay the entire sale price in one lump sum. When the purchase price is paid in full a Quit Claim Deed will be executed.

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. 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 for a long period of time and incur the associated management costs and liabilities.

VII. Alternatives.

- A.** Do nothing or offer for sale sometime in the future.
- B.** Retain the parcels for residential or commercial leasing. There is currently no interest.
- C.** Retain the parcels for potential future conservation or environmental mitigation purposes. There is currently no interest.

Alternatives A, B, and C would delay receipt of potential revenues 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 parcels are not generating any revenue for the Trust. The parcels are considered a non-performing asset.
- B. Environmental Risks.** There are no known environmental risks associated with the proposed sale. There is no history of the Trust authorizing any land uses on the parcel.
- C. Public Concerns.** Subject to comments resulting from public notice, there are no known public concerns. The Trust has previously sold land in Gustavus, to the Nature Conservancy, and is not aware of any history of public concerns pertaining to Trust land sales in the community.

IX. Due Diligence.

- A. Site Inspection.** TLO staff visited the site in July 2018, and walked the property boundary. An appraiser visited the parcels in December of 2017.
- B. Valuation.** An appraisal was performed using a sales comparison approach and the market value of parcel CRM-1049, as of February 6, 2018, was \$145,000.00; and the market value of parcel CRM-6005, as of February 6, 2018 was \$150,000.00. To compensate for not selling the land competitively a premium of 30% has been added to the appraised fair market value, bringing the sale price to \$383,500.00. Additionally, the purchaser is also responsible for covering the cost of the appraisal, which was \$4,500.00, for a total return to the Trust of \$388,000.00.
- C. Terms and Conditions Review.** An agreement for the purchase and sale of the property was completed on June 28, 2018. The agreement outlines the terms and conditions of the sale.

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 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:

1. 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.
2. 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.

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. The Resource Management Committee of the Alaska Mental Health Trust Authority Board of Trustees was consulted on this proposed sale on August 3, 2017, and concurred with the decision to move forward with a negotiated land sale.

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 XIII, the Executive Director may consider a competitive sale under the authority of this decision. MH Parcels CRM-1049 and CRM-6005 are approximately 40.76 acres, more or less, combined. Given the price offered, the current real estate market, and the costs associated with subdividing a non-competitive disposal 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 <https://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 \$388,000 for the 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.

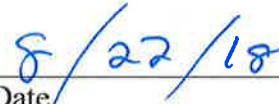
- XV. Available Documents.** Background documents and information cited herein is on file and available for review at the TLO, located at 2600 Cordova Street, Suite 100, Anchorage, Alaska 99503. Phone: (907) 269-8658. Email: mhtlo@alaska.gov.

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: <https://alaskamentalhealthtrust.org/trust-land-office/>.

XVI. APPROVED:



Wyn Menefee
Executive Director
Alaska Mental Health Trust Land Office



Date