

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Sell Property in Petersburg
MHT #9100955

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 Elizabeth and Vinton Woodyard. 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 located in Petersburg, Alaska, and is more particularly described as: Lots 8, 9, and 10, located within Section 34, Township 59 South, Range 79 East, Copper River Meridian, containing approximately 0.47 acres (MH Parcels: CRM-2237;CRM-2238;CRM-2239).

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 22, 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).

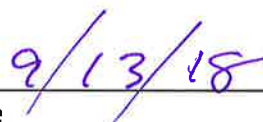
Copies of the written decision are available at the Trust Land Office, or at www.alaskamentalhealthtrust.org. If you have any questions concerning this action, please contact the Trust Land Office at (907) 269-8658.

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.



Wyn Menefee
Executive Director



Date
Published Petersburg Pilot: 09/20/2018

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

MHT #9100955

MH Parcel(s): CRM-2237, CRM-2238 & CRM-2239

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 parcels located in Petersburg, parcels CRM-2237, CRM-2238, and CRM-2239, to the purchaser in the amount of \$21,000.00, which is the 2017 appraised fair market value of the three parcels.

II. Applicant/File #. Elizabeth and Vinton Woodyard/MHT 9100955

III. Subject Property.

A. Legal Description. Section 34, T59S, R79E, Copper River Meridian.

B. Settlement Parcel Number(s).

CRM-2237 (Lot 8) – 0.34 acres

CRM-2238 (Lot 9) – 0.08 acres

CRM-2239 (Lot 10) – 0.05 acres

C. Site Characteristics/Primary Resource Values. The waterfront parcels are located south of the town of Petersburg at 7.5 mile of the Mitkof Hwy. All three parcels are within section-line easements situated adjacent to the Wrangell Narrows and private uplands. The three parcels are long and narrow, and mostly consist of slivers of tidally influenced beach. The largest of the parcels (CRM-2237) is used by Vinton and Elizabeth Woodyard (upland property owners) to secure their gangway and dock. The highest and best use for these parcels is to

combine the three parcels into one saleable lot, and dispose of said lot for residential or commercial business purposes.

- D. Historical and Existing Uses of the Property.** The property was historically vacant; however, the current existing use is the gangway dock that begins on parcel CRM-2237.
- 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. On June 5, 2018, Elizabeth and Vinton Woodyard, a local Petersburg couple, and property owners adjacent to the subject Trust land, offered to purchase Trust Parcels CRM-2237, 2238, and 2239 for \$21,000. The parcels are remnant slivers separated from larger parcels by section lines and situated along the waterfront shoreline in front of private property including the Woodyard property and the File property, which are both located about 8 miles south of Petersburg on the Mitkof Hwy.

Parcel information:

- The parcels are long and narrow, and bounded by a section-line and private property line on the east boundary, and the mean high tide line serving as the boundary on the west.
- The highest and best use for the parcels is to sell them to the adjacent upland landowner which will allow water access to the adjacent upland owners and prevent access related or other trespass that may occur from the adjacent upland property owners.
- The only parcel that appears to contain any upland sq. footage is CRM-2237. This parcel is located in front of the Woodyards property, and provides access to the water.
- Parcel CRM-2237 was appraised in April 2017 for \$17,000.00
- Parcel CRM-2238 was appraised in April 2017 for \$4,000.00. This parcel is located in front of the Files property and consists primarily of shoreline.
- Parcel CRM-2239 was not appraised due to its size; and the majority of the parcel is in the water.

The Files were afforded the opportunity to purchase, however, were not interested in purchasing the parcel in front of their property. Subsequently through negotiations, the Woodyards will purchase all three parcels to include the parcel in front of the Files property.

- V. Terms and Conditions.** Unless paid for fully in cash, the parcels 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 proposal is consistent with the “Resource Management Strategy for Trust Land” (RMS), which was adopted in March 2016 in consultation with the Trust and provides for the TLO to identify and enhance lands for economic development and mitigate risk liabilities of Trust land.

VII. Alternatives. In the event the negotiated sale does not go through, then the primary alternatives would be to:

- A. Do nothing or offer for sale sometime in the future.
- B. Offer the parcel in a future land sale. Although this may be problematic because of the existing section line easements, as well as, the accessibility of the water.
- C. Retain the parcels and require the Woodyards to get a revocable land use license for the parcel they are using for their dock.

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 parcels are not generating any revenue for the Trust and considered to be non-performing assets.
- 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 2016, 2017, and 2018.
- B. **Valuation.** As of April 14, 2017, the combined appraised value of the parcels is \$21,000.00.
- C. **Terms and Conditions Review.** Contract documents were reviewed by the Attorney General’s Office and an independent law firm.
- D. **Other.** Title reports have been completed for the parcels.

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:

- 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).

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 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-2237, 2238, and 2239 are approximately 0.47 acres, combined. Given the price offered, section line

easement proximity, the size and shape of the parcels, 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 \$21,000 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: www.mhtrustland.org.

XVI. APPROVED:




Wyn Menefee
Executive Director
Alaska Mental Health Trust Land Office



Date



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





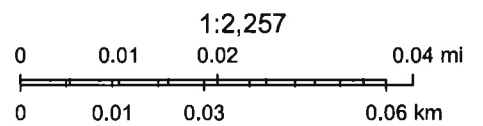
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The Trust Land Office



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-  Land Use License (450)
-  MHT Settlement Parcels



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