

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Lease Office Suites in 2600 Cordova Street, Anchorage, Alaska
TLO Project File: 2019-169

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 fair market leases of space of certain Trust land to various fair market commercial tenants. 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 Anchorage, and is more particularly described as: Smith #1 Subdivision, Block 6, Lot 1A, in the Municipality of Anchorage, State of Alaska (aka 2600 Cordova Street, Anchorage, Alaska 99503).


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, June 19, 2019**. 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 <https://alaskamentalhealthtrust.org/trust-land-office/>. 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

5/16/19
Date
Published Anchorage Daily News: 05/19/2019

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Lease Office Suites in 2600 Cordova Street, Anchorage, Alaska

TLO Project File: 2019-169
Fair Market Lease of Space within 2600 Cordova Street Building

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.** Negotiation of commercial fair market leases for space within the building, by negotiated process, located at 2600 Cordova Street, Anchorage AK 99503 (the "Building"), to tenants on terms acceptable to the Executive Director and consistent with the TLO's Resource Management Strategy ("RMS"). The Executive Director may enter into such leasehold disposals in the Building provided the entirety of the lease is consistent with laws, regulations, and internal policies applicable to the TLO.
- II. Applicant/File #.** TLO Project: 2019-169 Fair Market Lease of Space within the 2600 Cordova Street Building.
- III. Subject Property.**
- A. Legal Description.** Lot One 'A' (1A), Block Six (6), FIRST ADDITION TO SMITH SUBDIVISION, according to the official plat thereof, filed under Plat Number 84-292, in the records of the Anchorage Recording District, Third Judicial District, State of Alaska.
 - B. Site Characteristics/Primary Resource Values.** The Building is a 29,546 two-story, multi-tenant office building on the corner of 26th Avenue and Cordova Street in Anchorage, Alaska.
 - C. Historical and Existing Uses of the Property.** The Building was acquired by the Trust in June 2011. The building is a multi-tenant office building currently

housing the Trust Land Office along with other office tenants including dental, real estate, CPA, trade organization, and fair-market beneficiary-serving organization offices.

D. Adjacent Land Use Trends. Adjacent land uses generally consist of medical office, multi-story class A office, single story class B office, restaurant, and single-story retail.

E. Previous State Plans/Classifications. None.

F. Existing Plans Affecting the Subject Parcel. The site is zoned B-3, which is intended for general commercial uses.

G. Apparent Highest and Best Use. Its highest and best use is to continue use as an office building leased to multiple tenants.

IV. Proposal Background. Currently, commercial space leases are entered on a negotiated basis and are then presented to the board through a lease specific acknowledgement by the chairman of the board. The TLO consulted with the AMHTA Resource Management Committee on April 19, 2018 to propose a clearer and more streamlined method of consultation for leasing space within market rent parameters (including commercially reasonable terms, conditions and inducements) for the use of this Trust property. This proposal would allow the TLO staff, through the Executive Director, to negotiate and consummate leases within more commercially reasonable timelines and through conventional real estate industry protocols. This will ensure continued leasing activities in a timely manner to meet the needs of the office rental market, thereby lessening the risk of losing deals based on historical timelines for TLO staff to obtain board of trustees' approval.

V. Terms and Conditions. Under this proposal, the Executive Director would have discretion to configure fair market leases of the Building on commercially reasonable terms, conditions and inducements consistent with similar office space located within the Midtown Anchorage submarket.

VI. Resource Management Considerations. This 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 negotiated land sales, land leases, and the general application of the real estate resource management strategy on land which is not currently being used for Trust programmatic purposes.

VII. Alternatives. Alternatives to this proposal have not been identified as the Building must be managed to maintain and maximize its long-term value. Alternatives with different methodology are problematic as the quarterly nature of the RMC and board meetings prevent the Executive Director from moving forward with proposals in a commercially reasonable manner, as expected by prospective tenants.

VIII. Risk Management Considerations.

A. Performance Risks. There are few concerns associated with this proposal as it is necessary to lease vacant space within the Building in an effort to maximize asset performance and reduce risk of asset impairment. High risk is associated with a

do-nothing scenario as the Building will perform poorly if vacant space is not re-leased, resulting in deterioration over time if it is not properly leased, maintained and/or upgraded as needed. The Property must be managed with a goal toward maintaining a viable revenue-producing asset. This Best Interest Decision gives the Executive Director the ability to move forward with proposed fair market transactions.

B. Environmental Risks. Environmental due diligence was conducted upon acquisition of the asset with no adverse conditions present.

C. Public Concerns. This action should raise no public concerns. The use is entitled by zoning and is a continuation of the Building's historical use.

IX. Due Diligence.

A. Site Inspection. A full suite of due diligence was performed at project acquisition.

B. Valuation. The Building is valued each year by a licensed real estate broker or a licensed appraiser. Fair market rents are set at the going market rates as ascertained by TLO through consultation with a licensed broker.

C. Terms and Conditions Review. TLO utilizes the services of a private attorney to draft commercial leases with tenants.

X. Authorities.

A. Applicable Authority. AS 37.14.009(a), AS 38.05.801, and 11 AAC 99.

B. Inconsistency Determination. As the proposed negotiated leases are 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). AS 38.05.070 (Leases Generally), AS 38.05.075 (Leasing Procedures).

XI. Trust Authority Consultation. The Alaska Mental Health Trust Resource Management Committee was consulted on April 19, 2018. The Committee recommended that the proposed transaction be forwarded to the Alaska Mental Health Trust board of trustees. The board of trustees was consulted on May 24, 2018, and the board of trustees concurred with the lease subject to the outcome of the notice process.

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.

A. 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. It is not contemplated that leases at the building will be offered on a competitive basis because commercial leases of building are driven by space needs fit and time sensitive requirements from potential tenants, which can not be reasonably met by competitive offerings.

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

XVI. APPROVED:



Wyn Menefee
Executive Director
Alaska Mental Health Trust Land Office

5/15/19

Date