

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue Negotiated Land Sale – Goose Bay
MHT #9200731

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 Mark A. Graber. 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 Goose Bay, Alaska, and is more particularly described as: Lot 1, located within Section 9, Township 015 North, Range 003 West, Seward Meridian, containing approximately 31.79 acres (MH Parcel(s) SM-1778).

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, January 6, 2020**. 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



Date
Published Frontiersman: 12/04/2019

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Land Sale – Goose Bay

MHT: 9200731
MH Parcel: SM-1778

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 sale of one Trust parcel near Goose Bay (See Exhibit A – Map) at a price of \$130,000.00, 30% above the appraised fair market value of \$100,000.00.

II. Applicant/File #. Mark Allen Graber / MHT 9200731.

III. Subject Property.

A. Legal Description. SM-1778: T. 015 N., R. 003 W., SEWARD MERIDIAN, ALASKA, SECTION 9: LOT 1; CONTAINING 31.79 ACRES, MORE OR LESS. ACCORDING TO THE SURVEY MAP EXAMINED AND APPROVED BY THE UNITED STATES SURVEYOR GENERAL'S OFFICE IN JUNEAU, ALASKA ON APRIL 10, 1918.

B. Settlement Parcel Number(s). SM-1778.

C. Site Characteristics/Primary Resource Values. SM-1778 is heavily forested with generally level to slightly rolling topography atop a steep bluff to the Knik Arm beach. The parcel is irregularly shaped, has approximately 1,235 feet of water frontage on Knik Arm, and does not contain any classified upland wetlands. Approximately 6.425 acres of the parcel appears to have eroded, is below the Mean High Tide line, and according to the TLO's parcel attribute library is considered

estuarine and marine wetlands. Legal access exists in the form of Section-Line Easements, though no access has been constructed.

- D. Historical and Existing Uses of the Property.** There has been no historical use of the parcel, and there are no existing uses. This parcel was conveyed to the Mat-Su Borough (MSB) by State Patent in 1981, then the MSB issued a Quitclaim Deed to the Department of Natural Resources (DNR) in 1995, and DNR issued a Quitclaim Deed to the Trust in 1996.
- E. Adjacent Land Use Trends.** The immediate area is mostly vacant with some rural residential and recreational cabin use. The southern boundary of the parcel borders the Goose Bay airport management agreement, ADL 218722, and is managed by the Department of Transportation and Public Facilities.
- F. Previous State Plans/Classifications.** None.
- G. Existing Plans Affecting the Subject Parcel.** This area lies within the MSB but is not specifically zoned. The area may be subject to MSB 17.01 *Acknowledgement of Existing Land Use Regulations*.
- H. Apparent Highest and Best Use.** Disposal through negotiated sale.

IV. Proposal Background. The applicant, Mark A. Graber, requested to purchase the property through negotiated sale and agreed to pay a premium of 30% above the appraised fair market value.

- V. Terms and Conditions.** The parcels will be sold via a cash sale paid in full at the time of closing. The terms and conditions include the following:
- A.** Parcels will be sold “as is” and “where is” with no guarantees as to the suitability for any intended use.
 - B.** Purchaser agrees to pay for all escrow, title, and other closing costs including title insurance if title insurance is desired by the Purchaser.
 - C.** Purchaser agrees to reimburse the TLO for the cost of the appraisal, in the amount of \$4,000.00, at the time of closing, which is not included in the \$130,000 purchase price.

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 this parcel will appreciate at a rate that would justify holding it for a later sale. It is also not cost effective for the TLO to hold this parcel 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 Trust principle interest and could result in additional costs and risks to the Trust without significant increases in value.
- B.** Leasing the parcel. Management costs to the Trust will generally decrease on the properties through a sale.

- C. Alternate development. MSB ordinances to subdivide, plat, and constructed road and utility infrastructure makes development of subdivision cost prohibitive. No interest has been expressed for material or mineral development.

VIII. Risk Management Considerations.

- A. **Performance Risks.** Performance risks will be mitigated through the TLO's Purchase and Sale Agreement and Quitclaim Deed.
- B. **Environmental Risks.** There are no known environmental risks associated with the proposed sale.
- C. **Public Concerns.** Subject to comments resulting from the public notice, there are no known public concerns.

IX. Due Diligence.

- A. **Site Inspection.** An aerial inspection of this parcel was conducted by the appraiser contracted to establish the valuation on October 14, 2019. In addition, a detailed examination was done by the appraiser of all available data pertaining to the parcel when the valuation was completed in November of 2019.
- B. **Valuation.** An appraisal for SM-1778 was completed in November of 2019 and the determined valuation of fair market value was \$100,000.00.
- C. **Terms and Conditions Review.** An agreement for the purchase and sale of the property was completed on November 25, 2019. The standard TLO land sale contract documents have been reviewed by the Department of Law.

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).
- 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. 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. Under 11 AAC 99.020, the TLO is mandated to sell land on a competitive base, unless the Executive Director determines it is in the best interest of the trust and its beneficiaries for a non-competitive disposal. This property is being sold at a premium of 30% above the appraised value to compensate for not selling the land through a competitive process. The cost of subdividing the parcel, given the constructible access issues and platting requirements, is likely to be greater than the benefit to the value of the parcel if subdivided. Given the price offered, along with the erosion, wetland, and development cost considerations, 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 <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 \$130,000.00 for the parcel, 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). This request must be accompanied by the fee established by the Executive Director under 11 AAC 99.130, which has been set at \$500, to be eligible for reconsideration. 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:

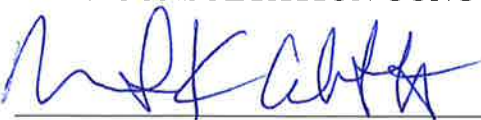


Wyn Menefee
Executive Director
Alaska Mental Health Trust Land Office

12/2/19

Date

XVII. CONSULTATION CONCURRENCE



Michael K. Abbott
Chief Executive Officer (CEO)
Alaska Mental Health Trust Authority


12/2/19

Date

Exhibit A - Map



MHT 9200731 - Negotiated Sale

 MatSu Borough Parcels

 Trust Parcel SM-1778

T. 015 N., R. 003 W., Seward meridian, Alaska, Section 9: lot 1; containing 31.79 acres, more or less. According to the survey map examined and approved by the United States Surveyor General's office in Juneau, Alaska on April 10, 1918.

