

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue Negotiated Land Sale – Kasilof
MHT #9200144

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 sale of certain Trust land to Ionia, Inc. 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 Kasilof, Alaska, and is more particularly described as: Lot One (1), Aero Acres, according to the official plat thereof, Filed under Plat Number 86-41, Records of the Kenai Recording District, Third Judicial District, State of Alaska, containing 4.38 acres, more or less (MH Parcel(s) SM-7026).

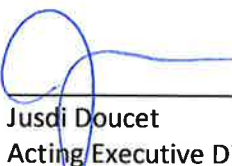
Persons who believe that the written decision should be altered because it is not in the best interest of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020, or any other provision of 11 AAC 99, must provide written comments on or before **4:30 PM, March 20, 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).

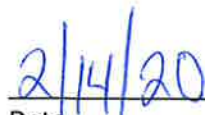
Copies of the written decision are available at the Trust Land Office, or at <https://alaskamentalhealthtrust.org/trust-land-office/>. If you have any questions concerning this action, please contact the Trust Land Office at (907) 269-8658.

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.



Jusdi Doucet
Acting Executive Director



Date
Published Peninsula Clarion: 02/19/2020

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

MHT: 9200144
MH Parcel(s): SM-7026

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. Disposal of one Trust parcel through a negotiated sale near Kasilof (See Exhibit A – Map) at a price of \$23,422.04.

II. Applicant/File #. Ionia, Inc. / MHT 9200144.

III. Subject Property.

A. Legal Description. Lot One (1), Aero Acres, according to the official plat thereof, Filed under Plat Number 86-41, Records of the Kenai Recording District, Third Judicial District, State of Alaska, containing 4.38 acres, more or less.

B. Settlement Parcel Number(s). SM-7026.

C. Site Characteristics/Primary Resource Values. SM-7026 is mostly forested with level topography. Toward the north side of the parcel there is a cleared area and driveway. This area is encumbered by multiple dilapidated structures, abandoned cars, and a derelict vessel. No fuel or barrels were identified on site. The parcel is rectangular in shape and does not contain any classified wetlands. Legal and constructed access exists via Diana Avenue.

D. Historical and Existing Uses of the Property. This parcel was included in a land acquisition agreement, serialized as MHT 9200072, made in 2000 by and

between the TLO on behalf of the Trust and Ionia, Inc. Since 2000 the TLO has managed the lien interest and in the fall of 2019 completed a non-judicial foreclosure to acquire title. The parcel is currently not occupied.

E. Adjacent Land Use Trends. The area is mostly rural residential, and includes assets held by the applicant Ionia, Inc.

F. Previous State Plans/Classifications. None.

G. Existing Plans Affecting the Subject Parcel. This area lies within the rural district of the Kenai Peninsula Borough but is not specifically zoned, land use in the rural district is unrestricted.

H. Apparent Highest and Best Use. Disposal through negotiated sale via land acquisition agreement.

IV. Proposal Background. The applicant, Ionia, Inc., requested to purchase the parcel after, by contractual obligation, they were offered the opportunity to purchase through a negotiated land sale subject to the terms of MHT 9200072, land acquisition agreement from 2000.

V. Terms and Conditions. The parcel will be sold via a cash sale paid in full at the time of closing. The terms and conditions include the following:

A. Parcel 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.

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. This sale is being completed based on the terms of MHT 9200072. It is also not cost effective for the TLO to hold this parcel and incur the associated management costs and liabilities.

VII. Risk Management Considerations.

A. Performance Risks. Performance risks will be mitigated through the TLO’s 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.

VIII. Due Diligence.

A. Site Inspection. TLO Staff conducted an on-site inspection of the parcel on September 30, 2019. An aerial (drone) inspection of the parcel was completed on July 19, 2019.

B. Valuation. The valuation was done using the terms previously agreed upon under MHT 9200072.

C. Terms and Conditions Review. The standard TLO land sale contract documents have been reviewed by the Department of Law.

IX. 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).

X. 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.

XI. 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 in is in the best interest of the trust and its beneficiaries for a non-competitive disposal. This property is being sold under the terms of an agreement previously made between Ionia, Inc. and the Trust. Given the compulsory terms of MHT 9200072, it is in the best interest of the Trust to uphold its obligations as required under previous agreements. In addition, the cost of removing the abandoned cars, derelict vessel, and remaining chattels may be greater than the benefit to the value of the parcel if sold through standard means. Given the

obligations required under MHT 9200072, along with the challenging management issues, and sale cost considerations, a non-competitive disposal is in the best interests of the Trust and its beneficiaries.

XII. 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.)

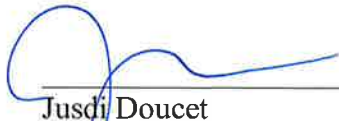
XIII. Reconsideration. To be eligible to file for reconsideration of this Best Interest Decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

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.

XIV. 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/>.

XV. APPROVED:



Jusdi Doucet
Acting Executive Director
Alaska Mental Health Trust Land Office

2/12/20
Date

XVI. CONSULTATION CONCURRENCE:

In accordance with 11 AAC 99.030(d) and the policies of the Alaska Mental Health Trust Authority, the Trust Land Office has consulted with me, and received concurrence to proceed with the above transaction.






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

2/12/20
Date

Exhibit A - Map



MHT 9200144

-  Kenai Roads
-  Kenai Peninsula Borough Parcels
-  Trust Parcel SM-7026

Lot 1, Aero Acres, containing 4.38 acres, according to the official plat filed in the Kenai Recording District on February 28, 1986 as Plat number 86-41.

