

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision of Fair Market Sale or Lease - L Street
MHT Project #2021-186

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 competitive or negotiated sale or competitive or negotiated lease of certain Trust land at or above fair market value. 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 in downtown Anchorage, and is more particularly described as: Lots 1A, 2A, 3A, 5A, and 6A, Block 85, Original Townsite, according to the L Street Slide Re-plat #67-30 filed April 24, 1967 in the Anchorage Recording Office, Third Judicial District, Anchorage, Alaska. (MH Parcels: S1005, S82631).


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, Monday July 6th, 2020**. Comments should be submitted to the TLO at **2600 Cordova Street, Suite 201, 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 Alaska Dispatch News: 06/04/2020

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
L STREET FAIR MARKET SALE OR LEASE

TLO Project File: **2021-186**
MH Parcel(s): **S1005, S82631**

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. This proposal is for the disposal of all or a portion of the subject property through a negotiated or competitive sale or a negotiated or competitive lease, at or above, fair market value to a tenant or purchaser consistent with the TLO’s Resource Management Strategy (“RMS”) and all applicable regulations and laws.

II. Applicant/File #. TLO Project File 2021-186.

III. Subject Property.

- A. Legal Description.** Lots 1A, 2A, 3A, 5A, and 6A, Block 85, Original Townsite, according to the L Street Slide Re-plat #67-30 filed April 24, 1967 in the Anchorage Recording Office, Third Judicial District, Anchorage, Alaska.
- B. Settlement Parcel Number(s).** S1005 & S82631.
- C. Site Characteristics/Primary Resource Values.** The subject property is located on the west side of L Street between 7th & 8th Avenues in downtown Anchorage and is 44,055 square feet or 1.01 acres.
- D. Historical and Existing Uses of the Property.** Trust parcel S82631 was received by Quitclaim deed from the Municipality of Anchorage in 1996 and contains Lots 3A, 5A and 6A. The Trust subsequently purchased Trust parcel S1005 in 2002, which consists of parcels 1A and 2A, to enhance the development

and revenue potential of the original three lots. Structures on the parcels were demolished, and the parcels readied for development by October 2013. Lots 3A and 5A are subject to a revocable land use license agreement with a subsidiary of Diamond Parking. That license can be terminated in the event the transaction proposed herein is successfully negotiated.

- E. Adjacent Land Use Trends.** There is continued and visible demand for downtown land driven by the Anchorage Economic Development Corporation, the Anchorage Downtown Partnership, and private developers. Recently completed significant facilities expansions in the surrounding vicinity have increased the pressure on remaining undeveloped land, likely increasing its value; S1005 and S82631 have received significant investment by the Trust to make them suitable for such development.
- F. Previous State Plans/Classifications.** None known.
- G. Existing Plans Affecting the Subject Parcel.** The parcels are located on the perimeter of the current downtown business and tourist district. Zoning is B-2C, Central Business District.
- H. Apparent Highest and Best Use.** The highest and best use of this property is likely a commercial investment/development either as residential condominium, parking, lodging/hotel or other unidentified use once feasibility has been ascertained.

IV. Proposal Background. The parcel has been marketed on site and online continually for multiple years and the TLO has received inquiries from parties interested in both sale and lease of the subject property in the past and currently. In situations where interests in the commercial real estate market are diminished, marketing the parcel has not produced multiple expressed interests, and a competitive sale or lease may delay revenue generation, due to the extended transaction length, without a significant expected increase in return, the TLO may determine a non-competitive sale or lease to be more appropriate due to the immediacy of revenue returns and the cumulative revenues over time. The TLO will ensure all offerings, both competitive or negotiated, receive prudent market exposure to ensure the Trust receives the highest possible sale price or rental rate.

V. Terms and Conditions. Final terms and conditions to be negotiated through execution of a commercial lease or purchase and sale agreement, as appropriate. Ground leases may range in length from 10 – 99 years, depending on the nature of the proposed developments. The TLO may consider tenant improvements, rent abatement periods, or other common commercial real estate terms in negotiations.

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, which provides for negotiated land sales and land leases, but indicates that competitive land sales or leases shall be utilized when viable. The RMS further calls for the general application of the real estate resource management strategy on land which is not currently being used for Trust programmatic purposes.

VII. Alternatives. The alternatives evaluated for this proposal are:

- A. Do nothing – in anticipation of receiving a specific offer at some point in the future. This alternative would place the Trust and TLO at a strategic disadvantage to negotiate sales or leases in a competitive market as it would inappropriately extend transaction time in an industry for which aggressive timelines are the norm.

VIII. Risk Management Considerations.

- A. **Performance Risks.** Leases of the subject property are subject to defaults by obligors and could result in loss of Trust funds invested in tenant improvements or other lease incentives. Sales will be upon either cash terms or land sale contract terms with little to no risk to Trust principal. Subdivision of the subject property resulting in retained interests by the Trust may result in risks to retained interest by deleterious adjacent uses, but these concerns may be mitigated by development restrictions such as restrictive covenants. Current market conditions, including short/long term downward pressure on market values, due to the economic impacts of the coronavirus in multiple economic sectors will be evaluated and considered prior to any type of sale or lease.
- B. **Environmental Risks.** The seismic classification of the parcel, and the impact of construction requirements on project costs for a potential lessee or buyer, is a risk that will be present with any proposed use of the parcel.
- C. **Public Concerns.** None known.

IX. Due Diligence.

- A. **Site Inspection.** The site has been inspected on many occasions by numerous employees of the TLO. Additional inspection(s) as required to confirm suitability of the land for the offeror's intended use remains as the responsibility of the offeror, and the offeror's own due diligence.
- B. **Valuation.** Sales price or rent will be based upon appraisals, broker's opinion of values, and review of comparable sales or leases in the market.
- C. **Terms and Conditions Review.** Final terms and conditions remain to be established through the completion of a Purchase and Sale Agreement or negotiated lease to be developed and approved by the Executive Director. The TLO has authored and executed similar agreements in the past. Outside and internal legal counsel will be consulted if necessary.

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 sale or lease at fair market value 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).

- XI. Trust Authority Consultation.** The Alaska Mental Health Trust Resource Management Committee was consulted on April 22, 2020. 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 21, 2020, and the Board of Trustees adopted the motion stating, *“The Alaska Mental Health Trust Authority board of trustees concurs with Resource Management Committee and the Trust Land Office (TLO) recommendation for the Executive Director to negotiate a disposal through lease or sale of all or part of Trust Parcels S1005 and S82631 and the subsequent execution by the TLO of the documents necessary to facilitate the transaction and development.”*, 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.
- 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 201, 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.alaskamentalhealthtrust.org.

XVI. APPROVED:



Wyn Menefee
Executive Director
Alaska Mental Health Trust Land Office

5/29/2020

Date