

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Dispose of Madson Subdivision Parcels through the
Trust Statewide Land Sale Programs – Moose Pass
TLO Project No. 2020 – 175 Madson Subdivision

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 dispose of a portion of Mental Health Parcel S20084 through the Trust Statewide Land Sale Programs. 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 to Moose Pass and is more particularly described as: The portion east of the western most 80-acres of township 004 North, range 001 West, Seward Meridian, Alaska. Section 1: Lot 2; That unsurveyed portion of Lot 3 within the NE1/4; and the E1/2NW1/4; containing 117.62 acres, more or less. According to the survey plat accepted by the United States Department of the Interior, Bureau of Land Management in Anchorage, AK on October 29, 1990 (MH Parcel S20084).

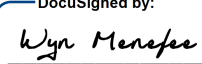
Persons who believe that the written decision should be altered because it is not in the best interest of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020, or any other provision of 11 AAC 99, must provide written comments on or before **4:30 PM, January 18th, 2021. 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 <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.

DocuSigned by:

Wyn Menefee
Executive Director

12/11/2020

Date

Published Kenai Peninsula Clarion: 12/15/2020

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Decision to Dispose of Madson Subdivision Parcels through the
Trust Statewide Land Sale Programs – Moose Pass

TLO Project No.: **2020-175 Madson Subdivision**
MH Parcel: **S20084**

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. The proposed action is to offer, through the TLO’s Statewide Land Sale Programs, the portions of Trust parcel S20084 highlighted on attachment A, inclusive of the proposed subdivision, which may be completed to ensure maximum revenue to the Trust.

II. Applicant/File #. Trust Land Office/TLO Project 2020-175 Madson Subdivision.

III. Subject Property.

A. Legal Description. The portion east of the western most 80-acres of township 004 North, range 001 West, Seward Meridian, Alaska. Section 1: Lot 2; That unsurveyed portion of Lot 3 within the NE1/4; and the E1/2NW1/4; containing 117.62 acres, more or less.

According to the survey plat accepted by the United States Department of the Interior, Bureau of Land Management in Anchorage, AK on October 29, 1990.

B. Settlement Parcel Number(s). S20084.

C. Site Characteristics/Primary Resource Values. S20084 is heavily forested with mountainous topography to the west and rolling topography to the east. The parcel is irregularly shaped and does not contain any classified upland wetlands.

Legal access exists via the Seward Highway. The parcel is typical of residential and recreational properties in the area with the primary resource value being rural residential or recreational real estate.

- D. Historical and Existing Uses of the Property.** There are no known historic or existing uses. The Department of Natural Resources issued a Quitclaim Deed for this parcel to the Trust in 1996.
- E. Adjacent Land Use Trends.** Adjacent lands are mostly vacant, rural residential use, private recreational use, and national forest.
- F. Previous State Plans/Classifications.** None.
- G. Existing Plans Affecting the Subject Parcel.** This parcel is in the Rural Zoning District of the Kenai Peninsula Borough and land use is unrestricted.
- H. Apparent Highest and Best Use.** Rural residential or recreation.

- IV. Proposal Background.** The TLO has been selling subdivided lots and small parcels through the land sale programs since 1998 on behalf of the Trust. The parcels offered in the land sale programs are predominately from pre-existing subdivisions designed and platted by the Department of Natural Resources in the 1970's and 1980's, subdivisions recently developed by the TLO, or parcels under 10 acres in size.

The Moose Pass area has historically and continues to be a sought-after area. The TLO has sold nearly all of the Trust land holdings in Moose Pass that are suitable candidates for the land sale programs. This offering would create additional quality inventory to add to the land sale programs in the Moose Pass area.

- V. Terms and Conditions.** Parcels will be offered up in the following order of Land Sale Programs:

1. Annual Competitive Land Sale Program (Sealed Bid Auction Format).
2. Year-round Over-the-Counter Land Sale Program.
3. Negotiated Sale at, or above, the appraised value.

Some parcels that have unique attributes and characteristics will use a two-step auction process. This will be determined at the discretion of the TLO. In the event that more than one sealed bid is received for one of these unique parcels, an outcry auction will be held among the three highest qualified bidders.

Unless paid for fully in cash, the parcels will be sold via a land sale contract administered by the TLO. The principle terms and conditions include the following:

- A. Minimum bids are based on an appraisal or other acceptable valuation approach.** At least 5% of the bid amount is to be submitted with the bid. Another 5% is required with the signed Declaration of Intent form. 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. Parcels will be sold "as is" / "where 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 quitclaim deed.
- E. To protect the interest of the Trust, the TLO reserves the right to postpone or cancel any land offering. Individual parcels may be withdrawn from the sale process at any time prior to the TLO signing the final conveyance document.

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 and provides for the TLO to maximize return at prudent levels of risk, prevent liabilities, and convert nonperforming assets into performing assets. Experience has demonstrated that it is unlikely that these parcels will appreciate at a rate that would justify holding them for a later sale. It is also not cost effective for the TLO to hold these parcels for a long period of time and incur the associated management costs and liabilities.

VII. Alternatives.

- A. Do nothing or offer sometime in the future. These alternatives would delay receipt of revenues from sales and income from interest payments and could result in additional costs and risks to the Trust without significant increases in value.
- B. Leasing the Parcels. Most residential lots are purchased, rather than leased. Management costs to the Trust will generally decrease on the properties through a sale.
- C. Alternate Development. The parcel has limited resource values besides real estate or no immediate feasible alternate development interests or proposals.

VIII. Risk Management Considerations.

- A. **Performance Risks.** Performance risks will be mitigated through the TLO’s bid forms, land sale contract, and quitclaim deed. These documents include contemporary language to limit risks to the TLO and The Trust, ensure performance by the buyer, and allow for termination in the case of default.
- B. **Environmental Risks.** There are no known environmental risks associated with this action.
- C. **Public Concerns.** Subject to comments resulting from the public notice, there are no known concerns that suggest the proposed transaction is inconsistent with Trust principles.

IX. Due Diligence.

- A. **Site Inspection.** TLO staff inspected the parcel on June 3, 2019 and a contract surveyor inspected the parcel on June 8, 2020.
- B. **Valuation.** Minimum parcel bids will be established via appraisals that meet the most current Uniform Standards of Professional Appraisal Practice (USPAP) or other appropriate valuation methods.
- C. **Terms and Conditions Review.** The Standard TLO land sale 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 sales 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). 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).

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. The Alaska Mental Health Trust Authority Resource Management Committee was consulted on April 17, 2019. The Resource Management Committee concurred with the proposed use of Trust land as described in this Best Interest Decision.

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 will 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 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.mhtrustland.org.

XVI. APPROVED:

DocuSigned by:

Wyn Menefee

Wyn Menefee

Executive Director

Alaska Mental Health Trust Land Office

12/11/2020

Date

Exhibit A – Map

