

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Issue Negotiated Land Sale of a Trust Parcel – Petersburg
MHT 9101010

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 Daniel Wiehler. 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 the Petersburg Borough, approximately 10 miles south of Petersburg, and is more particularly described as: Lot 16, located within Section 14, Township 60 South, Range 79 East, Copper River Meridian, containing approximately 2.86 acres (MH Parcel CRM-2326).

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, June 14, 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:

Jusdi Doucet

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Jusdi Doucet

Acting Executive Director

5/7/2021

Date

Published Petersburg Pilot: 05/13/2021

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Land Sale of a Trust Parcel - Petersburg

MHT 9101010
MH Parcel: CRM-2326

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. Negotiated Land Sale.

II. Applicant/File #. Daniel Wiehler / MHT 9101010

III. Subject Property.

A. Legal Description. Section 14, Township 60 South, Range 79 East, Copper River Meridian. Lot 16, according to the supplemental survey plat accepted by the United State Department of the Interior, Bureau of Land Management in Washington, D.C. on April 30, 1952; containing 2.86 acres, more or less, as depicted on “Exhibit A”.

B. Settlement Parcel Number. CRM-2326.

C. Site Characteristics/Primary Resource Values. Trust parcel CRM-2326 is a waterfront lot located a short distance from Papke’s Landing, about 10 miles south of Petersburg. The parcel does not have developed road access, however a state 50’ wide public access and utility easement provides platted access to the parcel (ADL 102456). A nearby subdivision road intersects the 50’ wide public access easement, and construction of a 200’ long road along the easement is feasible and would provide road access to the subject property. The 2.86-acre parcel is rectangular shaped, with the long sides making up the east and west property lines, with the northern boundary adjacent to a small creek, and the southern property line bounded by the water of the Wrangell

Narrows, with approximately 385' of shoreline water frontage. The terrain of the parcel is wooded and relatively flat and sloping towards the water. A small creek bisects the property near the western boundary. The entire parcel is forested with a mix of spruce and pine trees. The primary resource value of the parcel, and its highest and best use, is disposal through a land sale.

- D. Historical and Existing Uses of the Property.** The waterfront parcel is vacant and undeveloped, and slopes toward the water in a southerly direction. No sign of prior logging activity, road construction, or trail development exists. The Department of Natural Resources issued a Quit Claim Deed to the Trust for this parcel in 1996.
- E. Adjacent Land Use Trends.** The subject property is located in "Service Area 1", a rural residential area south of Petersburg that does not require building permits. Land use trends in area are primarily associated with small scale logging, commercial fishing, and outdoor recreation. The general area does not have any major economic activity other than a boat launch, small campground, and convenience store. Most of the residents living in the area are retirees, or seasonal workers participating in the fishing industry.
- F. Previous State Plans/Classifications.** Central/Southern Southeast Area Plan (2000); Region 3. Petersburg.
- G. Existing Plans Affecting the Subject Parcel.** The parcel is within the Petersburg Borough, and is subject to borough zoning requirements.
- H. Apparent Highest and Best Use.** The 2.86-acre waterfront parcel has platted road access and is very developable. The highest and best use of the parcel is disposal through a negotiated sale.

- IV. Proposal Background.** In January of 2021, the TLO received an application from Daniel Wiehler, seeking to purchase a parcel of Trust land (Lot 16) next door to his home. An appraisal report was previously ordered for the parcel in October of 2020, and TLO staff performed a site visit in March of 2021.
- V. Terms and Conditions.** On March 26, 2021, the Trust Land Office and Daniel Wiehler entered into a purchase and sale agreement outlining the terms and conditions for purchasing the property through a negotiated sale. The agreed upon negotiated sale price is \$102,000.00. If Daniel Wiehler purchases the parcel, he will have the option to enter into a land sale contract or pay the entire sale price. Once paid in full a Quit Claim Deed will be issued to him.
- 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. Experience has demonstrated that it is unlikely that this parcel will appreciate at a rate that would justify holding it for later sale. When this parcel would eventually be developed for sale in the future, it is unlikely that a subdivision would be initiated due to the size and lack of developed access. 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 sale, income from land sale contract interest, income from Trust principal interest, and could result in additional costs and risks to the Trust without significant increase in value.
- B. Leasing the parcel.** No interest has been expressed for leasing the property. Management costs to the Trust will generally decrease on the property through a sale.
- C. Alternate development.** The small size of the property and the lack of developed access do not make this a good candidate for subdivision development. No interest has been expressed for material or mineral development, or for timber extraction.

VIII. Risk Management Considerations.

- A. Performance Risks.** Performance risks will be mitigated through the TLO's Purchase and Sale Agreement, Land Sale Contract, and Quit Claim 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 period, there are no known public concerns.

IX. Due Diligence.

- A. Site Inspection.** TLO staff inspected the parcel on March 2, 2021. In addition, a detailed evaluation of the parcel was performed by an appraiser, of all available data pertaining to the parcel when the valuation was completed in October of 2020.
- B. Valuation.** An appraisal of the subject parcel was completed on October 15, 2020, and a sales comparison approach of similar properties within the region that recently sold. Based on information gathered by the appraiser, the determined fair market value was \$75,000.00. A premium of 35% was added to the appraised value for a final negotiated sale price of \$102,000.00 for the subject parcel.

Terms and Conditions Review. An agreement for the purchase and sale of the parcel was completed on April 1, 2021. The agreement outlines the terms and conditions of the sale. 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).

i. 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:

1. AS 38.05.035(i). persons eligible to file a request for reconsiderations
2. 11 AAC 02.030 (a) and (e), filing request for reconsideration
3. 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. 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. The subject parcel is being sold at a premium of 35% above the appraised value. Given the price offered based on the appraisal, size of the parcel, lack of electric utility service, and unconstructed road access, a non-competitive disposal is in the best interest of the Trust and its beneficiaries. If another party submits a qualified offer as explained in Section XIII, the Executive Director may consider a competitive sale under the authority of this decision.

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 \$102,000.00 for the parcel, a deposit of 10% of the offered price in certified funds. In the event that there is a competing interest, all qualified interested parties will be notified

by phone, fax, or email 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 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:

Jusdi Doucet

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Jusdi Doucet

Acting Executive Director
Alaska Mental Health Trust Land Office

5/4/2021

Date

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.

DocuSigned by:



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Michael Abbott

Chief Executive Officer (CEO)
Alaska Mental Health Trust Authority

5/4/2021

Date

Exhibit A



Purchase & Sale Agreement MHT 9101010

