

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

MHT: 9101111
MH Parcel: CRM-2299

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 #. Kenneth L Robbins / MHT 9101111.

III. Subject Property.

A. Legal Description. Section 2, Township 60 South, Range 79 East, Copper River Meridian; Lot 27-A of U.S. Survey No. 2472, containing 3.46 acres, more or less, according to the survey plat accepted by the United States Department of the Interior, General Land Office in Washington, D.C. on June 19, 1941.

B. Settlement Parcel Number. CRM-2299.

C. Site Characteristics/Primary Resource Values. Trust parcel CRM-2299 is a waterfront lot located about 8 miles south of Petersburg. The parcel does not have developed road access; however, the applicant, as part of the Purchase and Sale Agreement is planning to develop a road and install electrical to the subject property across an adjacent Trust parcel located west of the Mitkof Highway (parcel CRM-2288). The 3.46-acre parcel is triangular shaped, with the linear sides making up the north and east property lines; the remainder of the parcel is bounded by the water of the Wrangell Narrows along the southwest mean high tide line, approximately 700’ of shoreline water frontage. The terrain of the parcel is wooded, relatively flat, and sloping

towards the water. A small creek bisects the property near the eastern boundary. The entire parcel is forested with vegetation typical of the area. 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, 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 the region 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 3.46-acre waterfront parcel is developable for residential use. The highest and best use of the parcel is disposal through a negotiated sale.

IV. Proposal Background. In December of 2021, the TLO received an application from Kenneth Robbins, seeking to purchase parcel CRM-2299 in Petersburg. An appraisal report was ordered for the parcel in February of 2022, and TLO staff performed a site visit that same month.

V. Terms and Conditions. On March 18, 2022, the TLO and Kenneth Robbins entered into a purchase and sale agreement outlining the terms and conditions for purchasing the parcel through a negotiated sale at a price of \$168,000.00 and construction of an approximately 600’ long access road on the adjacent Trust owned parcel, CRM-2288, from the Mitkof Highway. When the access road is constructed, and purchase price is paid in full a Quitclaim Deed will be executed.

VI. Resource Management Considerations. The proposal is consistent with the “Resource Management Strategy for Trust Land” which was adopted October 2021 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. If this parcel was developed for sale in the future it is unlikely that a subdivision would be initiated, due to the size and lack of developed access. Additionally, it is 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. In present condition, the parcel is not generating any revenue for the Trust. The parcel is considered a non-performing asset.
- 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 February 25, 2022. 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 February 2022.
- B. Valuation.** An appraisal of the subject parcel was completed on February 10, 2022, using a sales comparison approach of similar properties within the region that recently sold and determined the fair market value to be \$140,000.00. To compensate for not selling the land competitively the TLO required a premium of 20% or \$28,000.00 above the appraised fair market value, for a final negotiated sale price of \$168,000.00 for the parcel. Additionally, the applicant agreed to develop and pay for approximately 600' of new road and electrical installation across Trust parcel CRM-2288 (7-acres), with an estimated cost of \$100,000.00. The improvements will increase the value of parcel CRM-2288 through creating constructed access and utilities to 3-4 lots to be developed by a subdivision on CRM-2288, which will provide additional revenue to the Trust at a future date.
- C. Terms and Conditions Review.** An agreement for the purchase and sale of the parcel was completed on March 18, 2022. 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).

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

D. Other provisions of law the TLO deems inconsistent with Trust responsibilities include:

1. 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.
2. 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.

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. This parcel is being sold at a premium of 20% above the appraised value to compensate for not selling or leasing the land through a competitive process,

additionally the TLO required the purchaser to develop an associated 600' of new road construction on the adjacent Trust parcel to the east, CRM-2288 (7-acres), increasing the Trust's adjacent parcel value. This 20% premium offer is similar to the historical average of competitive sales in the immediate area. Given the 20% premium price offered, associated development offered that will benefit the valuation of the adjacent Trust parcel, site development constraints, and historical sales comparisons, 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 of \$500.00, a formal Letter of Intent to include an offer price that exceeds the current offer of \$168,000.00 for the parcel and construction of new access and utilities across CRM-2288, and a deposit of 10% of the offered price in certified funds. If 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 based on 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 \$500.00, 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 Warner
A4E9E1FC953B4D2...

5/18/2022

Date

Jusdi Warner
Executive Director
Alaska Mental Health Trust Land Office

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:

AEEA8207D74C42D...

5/18/2022

Date

Steve Williams
Chief Executive Officer (CEO)
Alaska Mental Health Trust Authority



Negotiated Sale
MHT 9101111

-  MHT 9101111
-  Proposed Access & Utility Easement
-  Mental Health Parcels
-  Easements

