

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION AS MODIFIED
Negotiated Land Sale – Sitka

MHT: 9101115
MH Parcel: CRM-1618 & CRM-7006

Action: Adopt the Best Interest Decision dated May 5, 2022, regarding the above referenced disposal as final, with modification. This decision document, combined with the Best Interest Decision dated May 5, 2022, constitutes the final decision on this matter, in accordance with 11 AAC 99.040.

Notice under 11 AAC 99.050. The Trust Land Office published the public notice of the decision to complete a negotiated land sale of Trust land in Sitka in the Daily Sitka Sentinel on May 16, 2022, on the State of Alaska’s online public notice website, and distributed the notice to the City and Borough of Sitka, the Alaska Mental Health Trust Authority, and other interested public and private parties on May 16, 2022, for 30 days.

Summary of Comments: Eleven (11) timely written comments were received from the general public. Many of the comments contained multiple parts, offered recommendations, or suggested alternatives to the proposal and are summarized below. One (1) agency response was received from the Alaska Department of Transportation & Public Facilities stating that the conveyance should reserve valid existing rights, which is a standard term in Quitclaim Deeds issued by the Trust Land Office. One of the eleven comments received was a qualified competing offer and is addressed below in the modifications. When making a final decision, the Executive Director shall consider only the best interest of the Alaska Mental Health Trust and its beneficiaries. Few comments addressed the best interest of the beneficiaries or consistency with Trust management principles. The comments below are representative of the comments received.

Comment: A number of the comments stated that the appraised value was set too low.

Response: The Trust Land Office used a Sitka based, licensed (through the State of Alaska) general real estate appraiser, who is on the list of acceptable appraisers for State of Alaska business maintained by the Appraisal Program within the Division of Mining, Land & Water, Department of Natural Resources. The appraiser conformed to the requirements of the Uniform Standards of Professional Practice Standard Rules and the Appraisal Institute Certification Standard Rules. The reported analyses, opinions, and conclusions were developed, and the report was prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute. The appraiser certifies that the opinions, conclusions, and analysis are impartial and unbiased.

Comment: A number of comments raised issue with the access to the City of Sitka’s work dock for use by Tlingit fishermen, non-Native fisherman, and other private and public users, and stated the City of Sitka should have input on the future of Trust lands in Sitka.

Response: The City of Sitka has legal access to their work dock on Lot 97A via an easement from the Bureau of Land Management through 2051. There is a portion, approximately half, of the City of Sitka’s work dock access road and parking lot that is outside the Alaska Department of Transportation & Public Facilities (ADOT) managed ROW on Lot 97 that is not authorized. The City of Sitka has been aware of this unauthorized portion and has not remedied the unauthorized use to date. The City of Sitka should contact the new owner, who is purchasing the parcel “as is” and “where is”, should the City of Sitka wish to now remedy the unauthorized use. The remedy of this unauthorized use was not likely to provide the Trust with any sort of substantial revenue that would justify the action, to the contrary it would delay the receipt of land sales revenue totaling \$315,000.00. Trust Land Office decisions are directed by Trust management principles as accepted by the Territory of Alaska under the 1956 Alaska Mental Health Enabling Act, as further clarified by the 1994 Alaska Mental Health Trust litigation

settlement and the associated State of Alaska legislation. Regulation 11 AAC 99.020(b) requires Trust land to be managed “solely in the best interest of the Alaska Mental Health Trust and its beneficiaries”, not for surrounding land use or general public interest.

Comment: A number of the comments raised issue with the negotiated sale, asking why these parcels were not offered competitively, developed in another manner, and asserting that they would sell for more if offered in a competitive auction.

Response: Under 11 AAC 99.020, the Trust Land Office is mandated to sell land on a competitive basis, unless the Executive Director determines it is in the best interest of the Trust and its beneficiaries to complete a noncompetitive disposal. This property was being sold at a premium of 30% above the appraised value to compensate for not selling the land through a competitive process, which exceeds the premium typically seen in a competitive sale of lots in this area of the state. In addition, as explicitly stated in section “**XIII. Opportunity for Comment.**” of the Best Interest Decision dated May 5, 2022, other persons who may have been interested in purchasing the parcels were invited to compete by submitting their proposals that would meet or exceed the existing offer during the 30-day notice period. In the case of these parcels a qualified competing offer was received, the Trust Land Office completed the sale through an alternative sale method involving an outcry auction between all qualified competing interested parties. During the outcry auction, the parcels garnered a final sale price of \$315,000.00, 262.5% above the appraised fair market value. The cost of any form of alternative development of the parcel, or developing other means of access, given the constructible access issues with the ADOT managed ROW and platting requirements, is very likely to be greater than the benefit to the value of the parcel if developed in another manner. Given the price offered, along with the challenging characteristics of the parcels, and development cost considerations, this method of disposal is in the best interest of the Trust and its beneficiaries.

Comment: A number of comments suggested these parcels should be developed into a public green space or wildlife conservation area for the benefit to the mental health of Sitkans and visitors as a natural green space and beach.

Response: The Trust Land Office has a fiduciary responsibility, by law, to maximize revenue generation from Trust land assets and does so by selling and developing its land and resources. All decisions pertaining to the use of Trust lands must be made solely in the best financial interest of the Trust and all of its beneficiaries across the entirety of the state.

Comment: A number of comments expressed concern and felt the sale was not a public process.

Response: The Trust Land Office followed the decision making and public processes under 11 AAC 99, under the authority of AS 37.14.009 and AS 38.05.801, including consultation with the Trust Authority; a 30-day public notice published in the local newspaper, posted to the State of Alaska’s Public Notice website, and posted to the Trust Land Offices Public Notices website; direct notification to the City and Borough of Sitka; and direct notification to the Alaska Mental Health Trust Authority.

Comment: One comment stated there is a plaque placed on the parcels by a WWII veteran’s family, but that it was not of “particular significance”. The commentor suggested that the plaque be removed, saved, and an archeological survey be completed of the parcel.

Response: The comment has been sent to the State Office of History and Archaeology for review. This parcel is being sold “As is” and “Where is” and the property owner should work with the State Office of History and Archaeology if, or when, that is necessary.

Comment: One comment stated a request for a perpetual access easement to access their lot that was purchased from the Trust Land Office in 2003, serialized as MHT 9100329. They state

their use (walking and kayak storage), mostly within the ADOT managed ROW, of the subject parcels to access their lot.

Response: MHT 9100329 was sold without warranty and under the following terms: "The seller makes no warranty, express or implied, nor assumes any liability whatsoever, regarding the social, economic, or environmental aspects of the parcel, including, without limitation, the soil conditions, water drainage, access, natural or artificial hazards that may exist, the appropriateness of land classification, cloud of title, or the profitability or fitness of the parcel for any use. The purchaser represents that the purchaser has inspected the parcel and determined that the parcel is suitable for the use intended, or has voluntarily declined to do so, and accepts the parcel "as is" and "where is." Furthermore, the majority of the commentor access use is within the ADOT managed ROW, which the Trust Land Office does not control or manage.

Trust Authority Consultation: The Alaska Mental Health Trust Authority was consulted on this matter on May 5, 2022.

Modifications: As one comment was received suggesting that the Best Interest Decision dated May 5, 2022, should be substantively modified to better serve the interest of the Trust and its beneficiaries, the Executive Director determined that the qualified competing offer of \$160,000.00 should be accepted and an outcry auction between the two parties was held June 21, 2022, to determine final sale price. The highest bid received during the outcry auction was a bid from Richard Riggs for \$315,000.00; being the highest bidder the parcel was awarded to Richard Riggs for a sale price of \$315,00.00.

Final Decision of the Executive Director: Considering all of the above, the Executive Director of the Trust Land Office hereby adopts the Best Interest Decision dated May 5, 2022, as modified above, as final.

Reconsideration: Persons who submitted timely written comments during the notice period that ended June 15, 2022, are eligible to request reconsideration of this final best interest decision under 11 AAC 99.060(b) within 20 calendar days after publication of the notice or receipt of the final decision, whichever is earlier. A request for reconsideration must be submitted in writing to the Executive Director. 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. Before filing an appeal to the Superior Court under AS 44.62.560, a person must be eligible to request and must actually request reconsideration within the time specified above.

The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the written request for reconsideration. If the Executive Director takes no action during the 20-day period following the request, 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.

APPROVED:



Jusdi Warner
Executive Director



Date