

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to issue Negotiated Land Sale - Petersburg
MHT 9101079

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 Wade J Washke. 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 within the Borough of Petersburg, within the South Mitkof Subdivision, and is more particularly described as: Lot 7 and Lot 8, Block 1, Trust Land Survey 2021-02, South Mitkof Subdivision preliminary plat, located within Section 14, Township 60 South, Range 79 East, Copper River Meridian, containing approximately 2.637 acres (MH Parcel CRM-2284-02).

Persons who wish to submit a qualified competing offer as described in Section XIII of the best interest decision, 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, April 24, 2023**. **Qualified competing offers and/or 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 Warner

Jusdi Warner
Executive Director

3/16/2023

Date
Published Petersburg Pilot: 03/23/2023

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION
Negotiated Land Sale – Petersburg – 2.637 Acres

MHT 9101079
MH Parcel CRM-2284-02

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 #. Wade J Washke / MHT 9101079.

III. Subject Property.

- A. Legal Description.** Located within Copper River Meridian, Township 60 South, Range 79 East, Section 14: lot 7 and lot 8 of Block 1, Trust Land Survey 2021-02, South Mitkof Subdivision, aggregating to 2.637, more or less, according to the preliminary plat.
- B. Settlement Parcel Number(s).** A portion of CRM-2284-02.
- C. Site Characteristics/Primary Resource Values.** Lot 7 and lot 8 of the South Mitkof Subdivision preliminary plat are upland residential parcels with dedicated access. The parcels are composed muskeg and upland characteristics. The terrain is relatively flat and level with sparsely populated bull pine trees, indicating muskeg and wetland on the parcels. The primary resource values of these parcels are for disposal through land sale.
- D. Historical and Existing Uses of the Property.** Since 2018, the Trust Land Office has been evaluating the development of the parent parcel, CRM-2284-02, for subdivision design and subsequent land sale. The South Mitkof preliminary plat, which these

- parcels are a part of, is anticipated to be submitted to the platting authority for review in 2023.
- E. Adjacent Land Use Trends.** The adjacent land use is subdivision development and residential use. Adjacent to the subject parcels within the South Mitkof Subdivision preliminary plat is the Menish subdivision, Goldeneye Subdivision, Heimdahl Subdivision II, and Seaduck Subdivision.
 - F. Previous State Plans/Classifications.** None.
 - G. Existing Plans Affecting the Subject Parcel.** As the subject parcels are outside the boundaries of the City of Petersburg, there are no existing plans affecting the subject parcel.
 - H. Apparent Highest and Best Use.** In consideration of the site characteristics, primary resource values, historical and existing uses, and adjacent land use trends, the highest and best use is land sale for residential development. A negotiated land sale with a 30% premium maximizes the return to the Trust and its beneficiaries, therefore is the highest and best use of the subject parcels.
- IV. Proposal Background.** On June 2, 2022, the applicant applied to purchase the subject property via negotiated land sale. The applicant owns adjoining lots in the Menish Subdivision and negotiated a land sale of the subject property with previous TLO staff.
- V. Terms and Conditions.** On January 27, 2023, the TLO and the applicant entered into a purchase and sale agreement outlining the process for purchasing the property through a negotiated sale at a price of \$61,000.00. A 10% down payment has been received. When Trust Land Survey 2021-02 South Mitkof Subdivision is completed and recorded, and the purchase price is paid in full, a Quit Claim 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. Past experience has demonstrated that this parcel will not appreciate at a rate that would justify holding it for a later sale. It is not cost effective for the TLO to hold the parcel and incur the associated management costs and potential future liabilities.
- VII. Alternatives.**
- A. Do nothing or offer in the future.** This alternative would result in a loss of revenue or delay receipt of revenues from a future sale. It would also delay receipt of income revenue from interest associated with the sale. Lastly it could result in additional costs and risks to the Trust without significant increases in value.
 - B. Competitive Land Sale.** This alternative doesn’t guarantee the asset turns from non-performing to performing this year. Further it doesn’t guarantee the 30% premium obtained by processing a negotiated land sale. Historical revenue returns for this area have not met or exceeded the negotiated sale premium of 30% above the appraised fair market value.

- C. Alternative Development.** This alternative isn't feasible as the highest and best use is for land sale.
- D. Proceed as Proposed.** The current proposal is the preferred alternative as it enables the TLO to turn this nonperforming asset into a performing asset this fiscal year. The current proposal is consistent with the adjacent land use trends, the highest and best use of the parcel, and maximizes the return to the Trust and its beneficiaries.

VIII. Risk Management Considerations.

- A. Performance Risks.** Performance risks are mitigated through the TLO Purchase and Sale Agreement, Land Sale Contract, and Quitclaim Deed. In present condition, the parcel is not generating revenue for the Trust and is therefore considered a non-performing asset.
- B. Environmental Risks.** There are no known environmental risks associated with the proposed sale.
- C. Public Concerns.** Subject to the comments resulting from the public notice, there are no known public concerns regarding the proposed action.

IX. Due Diligence.

- A. Site Inspection.** Previous TLO staff inspected the property in February 2017 and began to evaluate the property for subdivision potential. A certified appraiser inspected the property in September 2022 and his analysis concluded that the highest and best use of the parcels are for residential subdivision. No trespass was identified.
- B. Valuation.** On September 8, 2022 Southeast Appraisal Services, LLC completed appraisal reports of the subject properties. It was in the best interest of the Trust and its beneficiaries to appraise the lots separately in order to independently evaluate the highest and best use, and fair market value, of each parcel. This independent evaluation supports the TLO in fulfilling its fiduciary responsibility to the Trust and its beneficiaries.

The completed appraisal reports determined the highest and best use of both properties to be for residential use. The completed appraisal reports determined the fair market values of the properties by the sales comparison method. Several nearby recent sales were analyzed to determine the fair market value of Lot 7 as \$20,000 and Lot 8 as \$25,000, aggregating to \$45,000.00. To compensate for not selling the land competitively, the TLO required a premium of 30%, or \$13,750 above the appraised fair market value, in addition to the \$2,250.00 appraisal fee, for a final negotiated sale price of \$61,000.00.
- C. Terms and Conditions Review.** On January 27, 2023 a purchase and sale agreement for the subject parcels was executed. The agreement outlines the terms and conditions of the sale. The standard TLO land sale documents have been reviewed by the Department of Law.
- D. Other.** Title Report RPT-21907 was completed on June 10, 2021 for the South Mitkof Subdivision. The title report certified that title for the subject property is vested in the Alaska Mental Health Trust Authority for the surface and subsurface estates of the project area.

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 land 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.

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 30% premium above the appraised fair market value to compensate for not disposing of the land through a competitive sales process. This 30% premium offer exceeds the historical average of competitive sales in the immediate area. Given the 30% premium on the sales

price, the lack of developed access, the muskeg/wetland characteristics of the property, and the net-present value of money, a non-competitive disposal is in the best interests 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://alaskamentalthrust.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 \$61,000.00 for the parcel, and a deposit of 10% of the offered price in certified funds. In the event that 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 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). 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 Warner

3/16/2023

~~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:



~~Steve Williams~~

3/16/2023

Date

Chief Executive Officer (CEO)
Alaska Mental Health Trust Authority

Exhibit A – Parcel Location Map

Lot 7 and Lot 8, Block 1, Trust Land Survey 2021-02, South Mitkof Subdivision, Preliminary Plat

