

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision of Negotiated Land Sale
MHT #9100674

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 sale of certain Trust land to the Community of Elfin Cove. 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 or near to Elfin Cove, and is more particularly described as:

Parcel CRM-1444: T. 042 S., R. 055 E., COPPER RIVER MERIDIAN, ALASKA
SECTION 25: LOT 3 OF US SURVEY NO. 2946. CONTAINING 1.090 ACRES, MORE OR LESS, ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT IN WASHINGTON, D.C. ON NOVEMBER 17, 1953.

Parcel CRM-1456: T. 042 S., R. 055 E., COPPER RIVER MERIDIAN, ALASKA
SECTION 36: LOT 32 OF US SURVEY NO. 2949. CONTAINING 0.650 ACRES, MORE OR LESS, ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT IN WASHINGTON, D.C. ON OCTOBER 20, 1953.

Parcel CRM-1457: T. 042 S., R. 055 E., COPPER RIVER MERIDIAN, ALASKA
SECTION 36: LOT 33 OF US SURVEY NO. 2949. CONTAINING 0.600 ACRES, MORE OR LESS, ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT IN WASHINGTON, D.C. ON OCTOBER 20, 1953.

Parcel CRM-1458: T. 042 S., R. 055 E., COPPER RIVER MERIDIAN, ALASKA
SECTION 36: LOT 34 OF US SURVEY NO. 2949. CONTAINING 0.580 ACRES, MORE OR LESS, ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT IN WASHINGTON, D.C. ON OCTOBER 20, 1953.

Parcel CRM-1459: T. 042 S., R. 055 E., COPPER RIVER MERIDIAN, ALASKA
SECTION 36: LOT 35 OF US SURVEY NO. 2949. CONTAINING 0.620 ACRES, MORE OR LESS, ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT IN WASHINGTON, D.C. ON OCTOBER 20, 1953.

Parcel CRM-1460: T. 042 S., R. 055 E., COPPER RIVER MERIDIAN, ALASKA

SECTION 36: LOT 36 OF US SURVEY NO. 2949. CONTAINING 0.680 ACRES, MORE OR LESS, ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT IN WASHINGTON, D.C. ON OCTOBER 20, 1953.

Persons who believe that the written decision should be altered because it is not in the best interests 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 6, 2016. Comments should be submitted to the TLO at 2600 Cordova Street, Suite 100, 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 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 www.mhtrustland.org. 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.



John Morrison
Executive Director

5-5-16

Date
Published Sitka Sentinel: 05/06/2016

The Alaska Mental Health Trust Authority Trust Land Office

BEST INTEREST DECISION ELFIN COVE NEGOTIATED SALE

MHT #9100674

MH Parcel(s): CRM-1444; CRM-1456; CRM-1457; CRM-1458; CRM-1459; CRM-1460

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 sale of six parcels in Elfin Cove.

II. Applicant/File #. Elfin Cove Negotiated Sale/MHT 9100674.

III. Subject Property(s).

A. Legal Description.

CRM-1444: T. 042 S., R. 055 E., COPPER RIVER MERIDIAN, ALASKA SECTION 25: LOT 3 OF US SURVEY NO. 2946. CONTAINING 1.090 ACRES, MORE OR LESS, ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT IN WASHINGTON, D.C. ON NOVEMBER 17, 1953.

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B. Settlement Parcel Number(s). CRM-1444; CRM-1456; CRM-1457; CRM-1458; CRM-1459; CRM-1460.

C. Site Characteristics/Primary Resource Values.

Parcel CRM-144 is a waterfront lot with a portion of the lot falling within the tidal flood plain. It is relatively flat, with a few large trees. The lot is mostly buildable and has most of its water on the west side of the lot. The lot wraps around the fuel storage area and has a small amount of water frontage on the northeast side of the lot. There is public water and electricity available to the site. The lot is also subject to a public access and utility easement issued to DOT/PF (ADL 50682).

Parcels CRM-1456, CRM-1457, CRM-1458, CRM-1459, and CRM-1460 adjoin each other near the head of the cove. A portion of each lot falls within the tidal

flood plain. These lots are situated at the base of a very steep slope, and there are examples of large boulders that have dislodged higher up, rolled down the hill, and are now lodged against trees and/or stumps. The topography of the parcels share similar characteristics as other parcels in the cove. The parcels are encumbered with a pedestrian trail, and unauthorized electrical and telecommunications lines.

As a general note, access to the parcels in Elfin Cove is via private or chartered boat or float plane. There is no road access to Elfin Cove from the mainland or any part of Chichagof Island. The town has a public dock, harbor, fuel dock, and wood plank boardwalk which provides access to most of the homes, stores, and lodges in the area.

- D. Historical and Existing Uses of the Property.** Of the six parcels, CRM-1444 receives the highest amount of use due to its proximity to the fuel tank farm, boat docks, and the fact that there is a public access and utility easement on the parcel. The other five parcels located near the head of the cove receive some foot traffic along the shoreline, and two unauthorized utilities, electric and telecommunication, are in existence.
- E. Adjacent Land Use Trends.** The parcels are located in the community of Elfin Cove, and are adjacent to marine waters and a mixture of seasonal housing. Most land use in the area is tied to the fishing and tourism industry.
- F. Previous State Plans/Classifications.** Unknown.
- G. Existing Plans Affecting the Subject Parcel.** Northern Southeast Area Plan (Alaska Department of Natural Resources, Division of Mining, Land & Water; October 2002).
- H. Apparent Highest and Best Use.** Disposal through negotiated sale.

- IV. Proposal Background.** The Community of Elfin Cove submitted an application to purchase Trust Parcel CRM-1444 on November 20, 2010. At the time of the request the parcel contained a small building that housed a library and some playground equipment. The small building has since been removed. For a variety of reasons the purchase request submitted by the Community of Elfin Cove was placed on hold, including but not limited to the fact that the Trust was interested in returning this parcel, as well as the other five parcels (CRM-1456, CRM-1457, CRM-1458, CRM-1459, and CRM-1460), back to DNR for replacement lands, reason being, CRM-1444 had two DOT/PF encumbrances on them (ADL 50682 and 50683; 50683 has since been closed); and the other five parcels are situated at the base of a steep slope that is prone to rock slides, causing the value of the parcels to be low, and creating a liability for the Trust due to the potential hazard.

As proposed, the Community of Elfin Cove will purchase CRM-1444, as well as the other five parcels (CRM-1456, CRM-1457, CRM-1458, CRM-1459, and CRM-1460), so

that the Trust will dispose of all its interest in Elfin Cove. The five parcels at the head of the cove contain an unauthorized trail, and unauthorized electrical and telecommunication transmission lines.

V. Terms and Conditions. The Community of Elfin Cove signed and submitted a purchase sale agreement that was signed by the TLO on March 31, 2016. The Trust will receive a single payout for all six parcels. Upon receipt of payment, the TLO will issue Quit Claim Deeds to the Community of Elfin Cove.

VI. Resource Management Considerations. The proposed action is consistent with the Goals and Objectives of the TLO Land Resource Management Strategy, which are to: maximize long-term revenue by increasing development opportunities over time; manage Trust land prudently, efficiently, and with accountability to the Trust and its beneficiaries; and protect and enhance the inherent value of the surface lands through stewardship obligations.

The proposed sale will alleviate the Trust from managing a group of non-performing assets, while generating revenue.

VII. Alternatives. One alternative would be to dispose of Parcel CRM-1444 (1.09 acres), for \$108,000 (includes a 20% markup), and place the other five parcels in the spring land sale, with bidding starting at their market appraisal price of \$12,000 per lot.

VIII. Risk Management Considerations.

A. Performance Risks. In present condition the parcels are not generating any revenue for the Trust. The parcels are considered non-performing assets.

B. Environmental Risks. There are no known environmental risks associated with the proposed sale.

C. Public Concerns. Board members representing the Community of Elfin Cove have expressed positive feedback of the proposed sale for the fact that the parcels will provide the community with a small land base to serve the need to have public gathering space.

IX. Due Diligence.

A. Site Inspection. The TLO has not performed a site inspection within the past 10 years, however, an appraiser visited the parcels in December of 2015.

B. Valuation. The appraised values for the parcels totaled \$153,000, and are listed as follows: CRM-1444 (1.09 acres), \$90,000.00; CRM-1456 (0.65 acres), \$12,000.00; CRM-1457 (0.60 acres), \$12,000.00; CRM-1458 (0.58 acres), \$12,000.00; CRM-1459 (0.62 acres), \$12,000.00; CRM-1460 (0.68 acres), \$12,000.00.

Based on negotiations with the Community of Elfin Cove and their desire to only obtain CRM-1444, coupled with the knowledge that they had \$143,000 to secure the purchase, the TLO felt it made the most sense to sell all the parcels under one agreement, which allows disposal of our entire asset in the community. The TLO

felt that the five parcels at the head of the cove were a liability due to the slide hazard, plus the area contains a trail used by the public, and two unauthorized utilities. Through negotiations it was decided to sell the five cove parcels \$10,000 under the total appraised value. The reduction is listed here: CRM-1456 (0.65 acres), \$10,600.00; CRM-1457 (0.60 acres), \$10,600.00; CRM-1458 (0.58 acres), \$10,600.00; CRM-1459 (0.62 acres), \$10,600.00; CRM-1460 (0.68 acres), \$10,600.00.

C. Terms and Conditions Review. A R.E.D. (Review. Encourage. Develop.) Team review was conducted on February 18, 2016. The team was in agreement that the time was right to move forward with liquidating the Trust assets in the community due to the stewardship obligations, liability, hazards, and unauthorized uses.

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).

XI. Trust Authority Consultation. The Alaska Mental Health Trust Resource Management Committee was consulted on April 14, 2016.

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). 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 100, 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:



John Morrison
Executive Director
Alaska Mental Health Trust Land Office

5-04-18

Date