

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision to Add Three Trust Properties to the Annual Land Sale Program
TLO Project 2016-121

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 add three Trust lots to the TLO's Annual Land Sale program. 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 Ester, and is more particularly described as: Lots 1, 2, and 3 in Block 4 of Alaska State Land Survey 84-20, Aspenwood Subdivision, located within Section 26, Township 1 South, Range 3 West, Fairbanks Meridian, containing approximately 11.203 acres (portion of MH Parcel FM-0992).

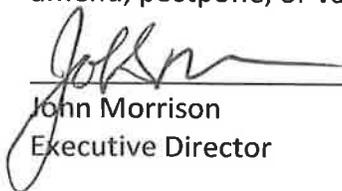
Persons who believe that the written decision should be altered because it is not in the best interests of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020, or any other provision of 11 AAC 99, must provide written comments on or before **4:30 PM, December 28, 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 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 www.mhtrustland.org. If you have any questions concerning this action, 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



Date
Published Fairbanks Daily News Miner: 11/25/2015

The Alaska Mental Health Trust Authority Trust Land Office

BEST INTEREST DECISION

Decision to Add Three Trust Properties to the Annual Land Sale Program

TLO 2016-121
MH Parcel: FM-0992

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.** The proposed action is to offer three Trust lots located in the Aspenwood Subdivision near Ester, Alaska through the TLO's Annual Land Sale Program. The lots will be initially offered in the 2017 Spring Land Sale but if not sold, the lots may be re-offered in future TLO land sales.

Trust properties in the Annual Land Sale Program are offered through one of the following scenarios:

- A. A sealed bid auction and awarded to the highest qualified bidder,
- B. An outcry auction, and awarded to the highest qualified bidder, or
- C. Offered through an over-the-counter sale.

- II. Applicant/File #.** Trust Land Office / TLO Project No. 2016-121.

- III. Subject Property.**

- A. **Legal Description.** Township 1 South, Range 3 West, Fairbanks Meridian, AK Section 26: Lots 1, 2, 3 in Block 4 of Alaska State Land Survey 84-20, Aspenwood Subdivision, containing 11.203 acres more or less. According the survey plat filed in the Fairbanks Recording District on 01/29/1985 as Plat 85-20.

- B. Settlement Parcel Number(s).** A portion of FM-0992.
- C. Site Characteristics/Primary Resource Values.** The lots are located within Aspenwood Subdivision, approximately two miles west of the community of Ester and about 10 miles west of Fairbanks. Site characteristics are typical of residential and recreational properties in the area and the primary resource value is real estate.
- D. Historical and Existing Uses of the Property.** The Trust holds fee title to the lots. There are no known historic or existing uses.
- E. Adjacent Land Use Trends.** Adjacent lands to the north and east of the lots are within the Aspenwood Subdivision. The TLO has been selling lots within the subdivision since 2011. Adjacent lands to the south and west are undeveloped State lands within the Tanana Valley State Forest.
- F. Previous State Plans/Classifications.** The lots were included in the Department of Natural Resources's 1990 updated Tanana Basin Area Plan and located within Subunit 1D1. Settlement is designated as the primary use in Subunit 1D1. Lands designated as Settlement are intended to be offered for private ownership.
- G. Existing Plans Affecting the Subject Parcel.** The lots are located within the Fairbanks North Star Borough and are zoned RE-2 (Rural Estate), which prohibits commercial and industrial uses but recreational and residential uses are legally permissible.
- H. Apparent Highest and Best Use.** These properties are in their "best market" as individual vacant lots to be sold for residential use.

IV. Proposal Background. Since 1998, the TLO has held land sales to generate revenues for the Alaska Mental Health Trust. The properties offered in these sales are mostly from pre-existing subdivisions designed and platted by the Department of Natural Resources in the 1970's and 1980's, subdivisions recently developed by the TLO, or parcels under 10 acres in size that do not lend themselves to other resource development. The TLO recently has received interest to offer these three lots through the land sale program.

V. Terms and Conditions. Properties not offered in an over-the-counter sale will be offered to the highest qualified bidder over the set minimum bid. Some properties that have unique values will use a two-step auction process. In the event that more than one sealed bid is received for one of these unique properties, an outcry auction will be held among the three highest qualified bidders.

Unless paid for fully in cash, the properties will be sold via a land sale contract administered by the TLO. The principle terms and conditions include the following:

- A. Minimum bids are based on an appraisal or other acceptable valuation approach.** At least 5% of the bid amount is to be submitted with the bid. Another 5% is required with the signed Declaration of Intent. The TLO's financing term is a maximum of twenty (20) years based on the amount financed with a likely interest rate of approximately 6.5% based on the Wall Street Journal published prime rate plus 3%. Often, properties with values below \$5,000 are immediately paid off.
- B. Installment payments may be made monthly, quarterly, or annually.**

- C. Properties will be sold “as is” with no guarantees as to suitability for any intended use.
- D. The sale agreement allows for minimal clearing and use of materials within the property for development of a residential site. No commercial use of resources (timber or materials) may be made until the property is paid in full and recording of the quitclaim deed.
- E. To protect the interest of the Trust, the TLO reserves the right to postpone or cancel any land offering. Individual parcels and lots may be withdrawn from the sale process at any time prior to the TLO signing the final conveyance document.

VI. Resource Management Considerations. The proposal is consistent with the “Resource Management Strategy for Trust Land” (RMS), 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. Past experience has demonstrated that it is unlikely that these lots will appreciate at a rate that would justify holding them for a later sale. It is also not cost effective for the TLO to hold these lots and incur the associated management costs and liabilities.

VII. Alternatives.

- A. Do nothing or offer sometime in the future. These alternatives would delay receipt of revenues from sales and income from interest payments and could result in additional costs and risks to the Trust without significant increases in value. In addition, not offering these lots now might wane the recently expressed interest in the lots.
- B. Leasing the Lots. Most residential lots are purchased, rather than leased; therefore, it is not likely that there would be much interest in leasing the properties. Management costs to the Trust will generally decrease on the properties through a sale.
- C. Alternate Development. The lots are in an existing subdivision which by local zoning regulation prohibits commercial and industrial uses thus limiting other resource development. The TLO also has received no immediate feasible alternate development interests or proposals.

VIII. Risk Management Considerations.

- A. **Performance Risks.** Performance risks will be mitigated through the TLO’s bid forms, land sale contract, and quitclaim deed. These documents include contemporary language to limit risks to the TLO and The Trust, ensure performance by the buyer, and allow for termination in the case of default.
- B. **Environmental Risks.** There are no known environmental risks associated with this action.
- C. **Public Concerns.** Subject to comments resulting from the public notice, there are no known concerns that suggest the proposed transaction is inconsistent with Trust principles.

IX. Due Diligence.

- A. Site Inspection.** A site inspection was performed by a TLO contractor.
- B. Valuation.** Appraisals meeting the Uniform Standards of Professional Appraisal Practice (USPAP) standards was completed on June 15, 2016. The Spring 2017 Land Sale minimum bid values for the lots will be based on these appraisals.
- C. Terms and Conditions Review.** Contract documents were reviewed by the Attorney General's Office and an independent law firm.
- D. Other.** The lots will have a title report completed prior to issuing a sale contract or quitclaim deed.

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 sales are 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). Other provisions of law the TLO deems inconsistent with Trust responsibilities include:
 - i.** 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.
 - ii.** 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.
 - iii.** AS 38.05.065(g), Appeal of director's decision to commissioner is in direct conflict with 11 AAC 99.060 and therefore does not apply to the transaction pursuant to 11 AAC 99.060(d).

- 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.

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

11-28-16

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.



Russ Webb
Chair, Board of Trustees
Alaska Mental Health Trust Authority

11/22/16

Date