

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision for Denardo & Fahrenkamp Disposal
TLO Project 2017-147

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 fair market lease or sale of certain Trust land to the highest bidder or negotiated purchaser. 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 in Fairbanks, Alaska, and is more particularly described as: Tract A of Alaska State Land Survey No. 86-29 according to the plat filed in the Fairbanks recording district on February 14, 1989 as plat 89-18. The Denardo Center, built in 1986, is a single-story building consisting of approximately 6,300 square feet. The Fahrenkamp Center, built in 1986, is a single-story building consisting of approximately 10,150 square feet. The property is located within Section 9, Township 1N, Range 1W, Fairbanks Meridian, containing approximately 8.544 acres (MH Parcel(s) **F20213**).

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, April 14, 2017. 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, 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

3/10/17
Date

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The Alaska Mental Health Trust Authority Trust Land Office

BEST INTEREST DECISION DENARDO & FAHRENKAMP DISPOSAL

TLO Project 2017-147
MH Parcel(s) F20213

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.** This proposal is for the disposal of all or a portion of the subject property through a negotiated or competitive sale or lease at fair market value to a tenant or purchaser consistent with the TLO's Resource Management Strategy ("RMS") and all applicable regulations and laws.
- II. Applicant/File #.** TLO, Project File 2017-147
- III. Subject Property.**
- A. Legal Description.** Tract A of Alaska State Land Survey No. 86-29 containing 8.544 acres more or less, according to the plat filed in the Fairbanks recording district on February 14, 1989 as plat 89-18. The Denardo Center, built in 1986, is a single story building consisting of approximately 6,300 square feet. The Fahrenkamp Center, built in 1986, is a single story building consisting of approximately 10,150 square feet.
 - B. Settlement Parcel Number(s).** F20213.
 - C. Site Characteristics/Primary Resource Values.** The subject property has frontage on controlled-access commercial thoroughfare Airport Way between downtown Fairbanks and Fairbanks International Airport.

- D. Historical and Existing Uses of the Property.** The Denardo and Fahrenkamp Centers, the two buildings on the subject property, are currently vacant. In the past they have been used as residential and non-residential mental health treatment centers.
- E. Adjacent Land Use Trends.** To the East, a residential subdivision containing mostly single family homes known as Mooreland Acres occupies approximately ten acres. Vehicular access to the Denardo Center is through this neighborhood. The northern property line is bounded by Airport Way, to which vehicular access is restricted. To the East lies vacant Trust parcel F20213, containing approximately 5.5 acres. Directly south of the subject property is the Fairbanks Pioneer Home and Moore Street Senior Housing. Access to the Fahrenkamp Center is by way of Peger Road, which runs north to south adjacent to F20213.
- F. Previous State Plans/Classifications.** None known.
- G. Existing Plans Affecting the Subject Parcel.** The subject property is zoned as General Commercial (GC) (See FNSB Code Chapter 18.64). This zoning designation is established to “provide a wide variety of retail, office, wholesale, personal service and other general services uses for the consumer population of large segments of the community.”
- H. Apparent Highest and Best Use.** The primary resource value is as commercial real estate and the improvements, as built, are best suited for use as a residential treatment facility.
- IV. Proposal Background.** The TLO has received specific inquiries as to the availability of the subject property both for sale or lease. The subject property buildings are special-purpose built for the purpose of providing residential mental health care. Without significant alterations, disposal of the properties by competitive sale would not represent an effective or efficient disposal method. As such, the TLO anticipates disposal to be via negotiated sales or leases. However, the TLO may conduct competitive sale or lease if interest in the subject properties warrants. This decision will allow the TLO to move forward with proposals in a commercially reasonable manner as they are presented.
- V. Terms and Conditions.** Final terms and conditions to be negotiated through execution of a commercial lease or purchase and sale agreement, as appropriate.
- VI. Resource Management Considerations.** The proposal is consistent with the “Resource Management Strategy for Trust Land” (RMS), which was adopted January 2016 in consultation with the Trust, which provides for negotiated land sales, land leases, and the general application of the real estate resource management strategy on land which is not currently being used for Trust programmatic purposes.
- VII. Alternatives.** The alternatives evaluated for this proposal are:
- A. Do Nothing –** this alternative would place the Trust and TLO at a strategic disadvantage to negotiate sales or leases as it would inappropriately extend transaction time in an industry for which aggressive timelines are the norm.

- B. Reserve for Programmatic Purposes – at this time, a consortium of service providers is proposing to use Denardo as a sobering center. The consortium’s grant requires that the sobering center be operational by June of 2017. Approval of this proposal does not preclude further evaluation of offering the subject property to Trust beneficiary organizations at less than fair market value at a later date.

VIII. Risk Management Considerations.

- A. **Performance Risks.** Leases of the subject property are subject to defaults by obligors and could result in loss of Trust funds invested in tenant improvements or other lease incentives. Sales will be upon either cash terms or land sale contract terms with little to no risk to Trust principal. Subdivision of the subject property resulting in retained interests by the Trust may result in risks to retained interest by deleterious adjacent uses, but these concerns may be mitigated by development restrictions such as restrictive covenants.
- B. **Environmental Risks.** None known.
- C. **Public Concerns.** None known. Potential occupancies are not expected to generate more traffic than prior occupancies and the public will benefit from the elimination of the attractive nuisance of vacant buildings.
- D. **Other.** Leases for 5 years or longer or sales of portions of the subject property may require a platting action under the FNSB code.

IX. Due Diligence.

- A. **Site Inspection.** The site has been inspected on many occasions by numerous employees of the TLO. Additional inspection(s) as required to confirm suitability of the land for the offeror’s intended use remains as the responsibility of the offeror, and the offeror’s own due diligence.
- B. **Valuation.** Sales price or rent will be based upon appraisals, broker’s opinion of values, and review of comparable sales or leases in the market.
- C. **Terms and Conditions Review.** Final terms and conditions remain to be established through the completion of a Purchase and Sale Agreement or negotiated lease to be developed and approved by the Executive Director. The TLO has authored and executed similar agreements in the past.

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 or lease 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 Full Board of Directors was consulted on February 28, 2017 and the board of trustees concurred with the fair market lease and/or sale of all or part of the subject property subject to the outcome of the notice process.
- 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 based on 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:

Gen 

John Morrison
Executive Director
Alaska Mental Health Trust Land Office

3/10/17

Date