

Alaska Mental Health Trust Authority
Trust Land Office
Notice under 11 AAC 99.050 of
Decision of Negotiated Sale of Land in Meyers Chuck
MHT #9100853

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 sale of certain Trust land to Tim Pine. 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 Meyers Chuck, and is more particularly described as: Lot 43B of Alaska Land Survey No. 85-93, Meyers Chuck Subdivision containing 0.780 acres, located within Section 5, Township 071 South, Range 086 East, Copper River Meridian; MH Parcel CRM-2546.

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, November 14, 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, 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.


for John Morrison
Executive Director

10/12/16
Date
Published Ketchikan Daily News: 10/14/2016

The Alaska Mental Health Trust Authority Trust Land Office

BEST INTEREST DECISION Negotiated Sale – Tim Pine (Meyers Chuck)

MHT #9100853
MH Parcel(s) CRM-2546

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. A negotiated land sale of Trust parcel CRM-2546 (Meyers Chuck), to purchaser Tim Pine at a price 15% above the appraised value of \$39,000.00.

II. Applicant/File #. Tim Pine/MHT 9100853.

III. Subject Property.

A. Legal Description. Section 5, T.071 S, R. 086 E, Copper River Meridian; Lot 43B of Alaska State Land Survey No. 85-93, Meyers Chuck Subdivision containing 0.780 acres, more or less.

B. Settlement Parcel Number(s). CRM-2546.

C. Site Characteristics/Primary Resource Values. Parcel CRM-2546 is a waterfront lot located on Meyers Island in the small community of Meyers Chuck. The parcel is forested, with undulating terrain, small hills, and moss-covered rocks and boulders. Its waterfront attributes consist of a bedrock shoreline facing the public dock which is just a short distance across calm water. Considering the size of the lot, and the fact that it’s within a subdivision, its primary resource value would be disposal through a land sale. As a general note, access to the parcel is via boat or floatplane.

- D. Historical and Existing Uses of the Property.** The property is vacant and there are no known uses currently taking place on the land. Any historical uses of the area were likely associated with the fishing and timber industries, and the subdivision survey work.
- E. Adjacent Land Use Trends.** The parcel is located in the community of Meyers Chuck, and is adjacent to protected marine waters. Residential land use in the community is a mix of year-round and seasonal living. Commercial use is associated with the fishing and tourism industry.
- F. Previous State Plans/Classifications.** Central/Southern Southeast Area Plan, Adopted November 2000 (AS 38.04.065 and 11 AAC 55.010-55.030).
- G. Existing Plans Affecting the Subject Parcel.** Meyers Chuck lies within the City and Borough of Wrangell, and is subject to borough zoning requirements and the 2010 Wrangell Comprehensive Plan.
- H. Apparent Highest and Best Use.** Disposal through negotiated sale.

IV. Proposal Background. Tim Pine participated in the Spring 2016 Land Sale and was the highest bidder for parcel CRM-2547; the minimum bid was \$32,500.00, and Mr. Pine's winning bid was \$35,900.00 (approx. 10% above appraised value). On June 9, 2016 the TLO received a letter from Mr. Pine explaining that he inspected the parcel and found remains of a structure and some old pieces of machinery and metal drums, etc. which he thinks may have potential of being hazardous. Thinking that the parcel may be contaminated, Mr. Pine, in writing, declined to complete the "Contract for the Sale of Real Property", in effect forfeiting his deposit of \$3,590.00. In his letter to the TLO he mentions that he is still interested in purchasing property in Meyers Chuck, and believes that "some or all of the deposit would be refundable or possibly applied to a future purpose" since the Trust did not disclose the debris that he found on site. Based on his letter, we requested to see photos, which he provided by email. We subsequently held a meeting with him on July 6 to discuss his options. During the meeting he expressed interest in purchasing the adjacent parcel to the north, similar in size and attributes, but not offered in the Spring 2016 Land Sale. We explained that we would consider selling him the parcel through a negotiated sale, and explained to him the process, including the fact that we are required to sell land on a competitive basis. We also explained that our premium is typically anywhere from 20-30% above appraised value, and we would need to order an appraisal of which the purchaser is required to cover the cost. He was amenable to moving forward with the process and a letter was drawn up outlining the process and sent to him for review and signature. The TLO received the signed letter on July 14, 2016, and an appraisal was ordered through Ramsey Appraisal Resource. The appraisal was completed on August 9, 2016 for a cost of \$1,900.

V. Terms and Conditions. On July 14, 2016, Mr. Pine signed and returned an agreement letter sent to him by the Trust outlining the process for purchasing property through a negotiated sale. If Mr. Pine decides to purchase the parcel, his down payment of \$3,590.00 will be applied to the final sale price, and he will have the option to enter into a land sale contract or pay the entire sale price, at which point a Quit Claim Deed will be issued to him.

VI. Resource Management Considerations. The proposed negotiated sale 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 non-performing asset, while generating revenue.

VII. Alternatives. Mr. Pine has declined to enter into a contract for the parcel (CRM-2547) he was high bidder on. As proposed in this decision, the TLO is willing to sell Mr. Pine parcel CRM-2546 at 15% above appraised value. In the event Mr. Pine is not in favor of our proposed decision, the following alternatives exist:

- A.** The TLO has the option to terminate negotiations for the sale of parcel CRM-2546, and retain Mr. Pines deposit of \$3,590.
- B.** In the event that Mr. Pine isn't satisfied with the terms and conditions of the negotiated sale and purchase of CRM-2546, he can reconsider his decision not to purchase CRM-2547.
- C.** Another option is to sell CRM-2546 to Mr. Pine at a different premium percentage than what is currently being proposed, but the price would need to be in the best interest of the Trust.

VIII. Risk Management Considerations.

- A. Performance Risks.** In present condition the parcel is not generating any revenue for the Trust. The parcel is considered a non-performing asset.
- B. Environmental Risks.** There are no known environmental risks associated with the proposed sale. There is no history of the Trust authorizing any land uses on the parcel.
- C. Public Concerns.** There are no known public concerns. The Trust has previously sold land in Meyers Chuck and does not have any history of public concerns pertaining to Trust land sales in the community. Trust land sales in Meyers Chuck have occurred in 2007, 2009, 2012, 2013, and 2015.

IX. Due Diligence.

- A. Site Inspection.** TLO staff visited the site on Wednesday, August 10, 2016. Staff walked the property boundary, and found three of four survey monuments. Staff also met on site with Mr. Pine. An appraiser visited the parcel on August 6, 2016.
- B. Valuation.** An appraisal was performed using a sales comparison approach. The market value of parcel CRM-2546, as of August 9, 2016, is \$39,000.00. Since 2007 parcels sold by the TLO in Meyers Chuck have averaged 9% above appraised value. I propose adding a premium of 15%, bringing the sale price to \$44,850.00. The purchaser is also responsible for covering the cost of the appraisal, which was \$1,900.00, for a total cost of \$46,750.00.
- C. Terms and Conditions Review.** After meeting with Mr. Pine on July 6, 2016, TLO staff determined that since he placed a down payment (\$3,590.00) on parcel CRM-2547, and is now interested in purchasing the neighboring lot, CRM-2546, if he agreed to pay for the appraisal then we would move forward with

adjudicating a negotiated sale, and would apply his down payment toward the negotiated sale price.

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. 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. That consultation is noted at the end of this decision.

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 (see notice for specific dates), this best interest decision will be affirmed and the proposed action taken.


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

9-15-16

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

9-16-16

Date

