

The Alaska Mental Health Trust Authority
Trust Land Office
BEST INTEREST DECISION AFFIRMED
Denardo & Fahrenkamp Disposal

TLO Project 2017-147
MH Parcel(s) F20213

Action: Adopt the Best Interest Decision dated March 10, 2017 regarding the above referenced disposal as final, without modification. This decision document, combined with the Best Interest Decision dated March 10, 2017, constitutes the final decision on this matter, in accordance with 11 AAC 99.040.

Notice under 11 AAC 99.050. The Trust Land Office (TLO) published the public notice of the decision to sell or lease the Denardo and Fahrenkamp Centers at fair market value in the Fairbanks Daily News-Miner on March 12, 2017, and distributed the notice to other interested public and private parties.

Summary of Comments: The TLO received one letter supporting the decision and one letter in opposition to the project. The comments opposing the decision or requesting modification are summarized below and the TLO's responses are as follows:

Comment 1: Commenter requested an indefinite extension of the deadline for public comment and postponement of related decisions to lease the Denardo Center.

TLO Response: The TLO manages Trust land to generate revenue, which is used by the Alaska Mental Health Trust Authority ("AMHTA") to improve the lives of Trust beneficiaries. This management responsibility means that TLO decisions must be consistent with trust responsibilities accepted by the State of Alaska under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)). These responsibilities, as outlined in regulation, require that management of Trust lands be conducted "solely in the best interest of the Trust and its beneficiaries" and not based on specific private interests. Moreover, the TLO is authorized by regulation (11 AAC 99.110) to specifically grant the use of Trust land to beneficiary-serving organizations, following consultation with the AMHTA, in fulfillment of this broader mandate.

The TLO's duly promulgated disposal regulations provide for an ample, 30-day comment period (11 AAC 99.505(a)) during the pendency of which stakeholders may investigate disposal actions by the TLO and comment on the best interest findings of the TLO. The notice period appears to have been effective in that the commenter in opposition received notification and has availed itself of this provision. However, the commenter has failed to demonstrate that the postponement of the lease or sale of the Denardo Center at fair market is not in the best interest of the Trust or its beneficiaries. Therefore, the TLO believes that extending the comment period before affirming this decision would not be in the best interest of the Trust or its beneficiaries.

Ultimately, the lease or sale of the Denardo Center at fair market value will generate revenue in satisfaction of the AMHTA's mandate. Further, the recent application by a beneficiary-serving organization, Tanana Chiefs Conference ("TCC") to lease the Denardo Center for use as a sobering center at fair market value further reinforces the decision as being in the best interest of the Trust and its beneficiaries. Further delay in leasing or selling the Denardo Center at fair market value will result in on-going drain on AMHTA resources, removing important money from the grant-making pool and, if the application by TCC is not approved, leaving a vulnerable

beneficiary population without crucial, life-saving services. As such, the requests to indefinitely extend the public comment period and related business decisions to lease the Denardo Center to TCC or others are denied.

Comment 2: Commenter expressed general concern that leasing of Denardo Center for use as a sobering center will detrimentally affect operations of senior center and safety of senior center patrons as well as other adjacent stakeholders.

TLO Response: The TLO directs the commenter to TLO's response to Comment 1 as being responsive to Comment 2. The TLO's mandate to serve Trust beneficiaries is absolute and it would be inconsistent with these fiduciary duties to consider outside private interests over the interests of the Trust.

Moreover, the tract of land in question is zoned as "General Commercial" under the Fairbanks North Star Borough Code ("FNSBC") and TCC's applied for use is permitted (*See* FNSBC 18.64.020). A final decision to lease the Denardo Center to any applicant has not been reached, but should the TLO proceed to lease the Denardo Center to TCC at fair market, TCC will be required to comply with all relevant zoning and building codes, which are necessarily in place to protect the property rights of others. The opposing commenter's concerns relate to zoning and land use regulation and are more appropriately addressed by those administrative bodies or perhaps an earnest conversation with the potential occupant/operator, TCC, to address those concerns.

Comment 3: Commenter requested, if notice period not extended, that the TLO or lessee's of Denardo Center provide various security measures to it and other adjacent landowners.

TLO Response: The TLO directs the commenter to TLO's responses to Comment 1 and 2 as being responsive to Comment 3. Should the TLO proceed to lease the Denardo Center to TCC, there is no evidence to suggest that the individuals housed at the facility will pose any specific danger to adjacent property owners. Moreover, those held at the facility under a Title 47 hold (*See* AS 47.37.010 et. seq.) will be taken off the streets and their ability to inflict harm on themselves or others will most likely be reduced..

Finally, improving and protecting the property of others with Trust funds would remove valuable funding from the AMHTA's grant pool and therefore detrimental to Trust beneficiaries.

Because the TLO finds the commenter's concerns to be speculative and the proposed solutions to not be in the best interest of the Trust and its beneficiaries, the requests to provide alternative security measures in lieu of a longer comment period are denied.

Trust Authority Consultation: The Alaska Mental Health Trust Authority was consulted on this matter on February 28, 2017.

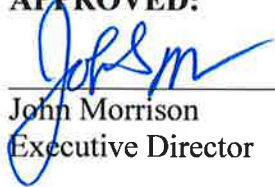
Modifications: As no comments were received suggesting that the Best Interest Decision dated March 10, 2017 should be substantively modified in any way to better serve the interest of the Trust and its beneficiaries, the Executive Director has determined that no change shall be made to that document.

Final Decision of the Executive Director: Considering all of the above, the Executive Director of the Trust Land Office hereby adopts the Best Interest Decision dated March 10, 2017 as final.

Reconsideration: Persons who submitted timely written comments during the notice period that ended April 14, 2017, are eligible to request reconsideration of this final best interest decision under 11 AAC 99.060(b) within 20 calendar days after publication of the notice or receipt of the final decision, whichever is earlier. A request for reconsideration must be submitted in writing to the Executive Director. Before filing an appeal to the Superior Court under AS 44.62.560, a person must be eligible to request and must actually request reconsideration within the time specified above.

The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the written request for reconsideration. If the Executive Director takes no action during the 20-day period following the request, 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.

APPROVED:



John Morrison
Executive Director

4-27-17

Date