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Public Disclosure of Real Estate Sales Price August 2010

Introduction

At the April 29, 2010 meeting of the Revenue and Transportation Interim Committee (RTIC), the Department of Revenue (DOR) was asked to report on the status of public disclosure of real estate prices in Montana and other states. This report is presented in response to the committee's request.

This brief report is intended to provide background for the RTIC in response to the inquiry and information request at the April meeting. This memorandum is informational in nature and does not constitute a policy recommendation of the Department.

Executive Summary

Across the United States varying levels of government oversee property tax assessment; examples range from Montana (where the property assessment is conducted at the state level) to Connecticut (where individual townships oversee assessment). A result of this assortment is varying degrees and definitions of public disclosure with regard to real estate sales price. For the purpose of this report, public disclosure is defined as **the ability of a citizen or business to readily access realty sales price information, as a matter of public record.**

According to a 2006 article *Chronicles of Data Collection II: Non-Disclosure States*, Zillow Business Development Specialist, Drew Meyers, considered the following twelve states non-disclosure: Alaska, Idaho, Kansas, Louisiana, Mississippi, Missouri (some counties), *Montana*, New Mexico, North Dakota, Texas, Utah, and Wyoming.

Additional research, conducted by DOR, found New Mexico recently allowed public disclosure and within Missouri, both St. Louis County and St. Charles County - accounting for 70% of the state's population - require public disclosure. Additionally, a 2008 survey conducted by the International Association of Assessing Officers (IAAO) Technical Standards Committee found the District of Columbia to provide public disclosure.

This report relies on Zillow's 2006 definition of states with non-disclosure, with the removal of two states, New Mexico and Missouri. This accounting provides that **Montana is one of ten states prohibiting public disclosure of real estate sales price to its citizens**, while forty other states and the District of Columbia allow public access to this information.

What is “Public Disclosure”?

Essentially, public disclosure of real estate sales price means that when realty is transferred, the sales price is disclosed, in some manner, and made available to the public as a matter of public record, enabling citizens or businesses to readily access this information.

Around the country, states have varying degrees and methods of public disclosure ranging from the sales price being recorded on the deed, to the sales price being printed in the local newspapers, to allowing only government full access to the information (like Montana). In some places, laws vary between the different levels of government, as in the case of Missouri where roughly 70% of its citizens are required, by county ordinance, to submit sales price information which is then made available to the public.

Montana code requires the collection of Realty Transfer Certificates (RTC) which includes the sales price and related information but, the county clerk and recorder and the Department of Revenue are required to hold the information confidential, effectively blocking public access to this information.

Current Montana Law

The relevant portion of Montana code is section 15-7-308, MCA, specifically stating the information contained in the Realty Transfer Certificate (RTC) must be held confidential by the county clerk and recorder and by the Department of Revenue (DOR).

15-7-308, MCA. Disclosure of information restricted -- exceptions. (1) Except as provided in subsection (2), the certificate required by this part (realty transfer certificate) and the information contained in the certificate **is not a public record and must be held confidential by the county clerk and recorder and the department.** This is because the legislature finds that the demands of individual privacy outweigh the merits of public disclosure. The confidentiality provisions do not apply to compilations from the certificates or to summaries, analyses, and evaluations based upon the compilations.

Who Discloses and Who Doesn't?

As discussed above, forty states and the District of Columbia allow public disclosure (80%) while, ten states, including Montana, do not allow citizens to access this information (20%). A table tabulating real estate public disclosure by state is appended to this memorandum.

Why Not Disclose?

Among the reasons often cited for restricting public disclosure include an individual's right to privacy and maintaining *proprietary* information collected by the Multiple Listing Service (MLS).

As indicated by the second sentence in 15-7-308, MCA, public disclosure of real estate sales information in Montana appears to be seen as a balance of the demands of individual's privacy versus the merits of public disclosure.

Another, often cited, concern of public disclosure is the reduction of the value of information held by the Multiple Listing Service (MLS) and real estate sales and assessment professionals.

Why Disclose?

The most often cited benefit of public disclosure is providing citizens and businesses access to accurate and timely data, in turn, allowing for current property and market information to be analyzed. This leads to related benefits including:

- enabling property owners to compare their property tax assessment to actual sales and to better understand their own property valuation;
- enabling property owners to easily track their properties' appreciation and potentially reducing "sticker shock" when reappraisal occurs;
- adding confidence in the property valuation system, as assessments can be easily compared to independent sources; and
- enabling property owners to determine whether they should exercise their property valuation appeal rights.

Currently in Montana, when a taxpayer receives their assessment and has 30 days to file for a review, their options for analyzing their DOR assessed valuation include:

- comparing their property and assessment to similar property assessments by looking up tax information on the cadastral system (gis.mt.gov);
- looking up information on their county's website, if available (itax.csa-inc.net);
- hiring a professional appraiser, at an estimated cost between \$300 and \$500 per property; and
- visiting their local DOR office to sign a confidentially agreement that allows them access to the confidential comparable sales data used to value their property.

During the 2009 statewide reappraisal process, many Montana taxpayers expressed concerns to legislators and DOR staff about, what they consider to be, an overly burdensome process of receiving the comparable sales information used to access the valuation of their property.

In places allowing public disclosure, it is relatively easy for both professionals and non-professionals alike to directly access actual sales information. For example, **Zillow.com** - an industry leader in collecting, analyzing, and disseminating real estate valuation information - produces a web-based tool providing free access to: recent real estate sales, current valuation estimates, historical trends, and a variety of other related information.

Businesses like Zillow collect information on real estate location, characteristics, and sales price and then analyze this information in a fashion similar to how the DOR conducts assessments. Access to better data (timely and accurate) assists Zillow and other businesses in producing better (more accurate) products.

Similarly, if Montana taxpayers have access to real estate sales information, they too would be able to conduct their own property valuation analysis and potentially be better informed of market trends and changes in their taxes due to property appreciation and depreciation.

How Could Montana's Restriction on Disclosure be Changed?

If the legislature wishes to publically disclose Realty Transfer Certificate information, it could amend the current statute, 15-7-308, MCA, to read:

15-7-308, MCA. Disclosure of information. (1) The certificate required by this part (realty transfer certificate) and the information contained in the certificate, with the exception of social security numbers and FEIN, **is a public record**.

Summary

Montana is one of ten states prohibiting public disclosure of real estate sales prices (please see the attached chart: Real Estate Price Disclosure by State). The applicable statute, 15-7-308, MCA, specifically states, the information contained in the realty transfer certificate must be held confidential by the county clerk and recorder and by the Department of Revenue.

Among the reasons often cited for restricting disclosure include the demands of individual privacy and the ability of real estate professionals to maintain proprietary information.

An unintended consequence of restricting public disclosure is the creation of an artificial monopoly on real estate and market information.

Reasons often cited for public disclosure include: public access to free information, reduction of reappraisal "sticker shock", increased ability to understand and plan for property appreciation and depreciation, increased confidence in the property valuation system, additional transparency of the state's property assessment practice, and empowering property owners with the information to determine whether they should exercise their right to appeal DOR's property valuation.

Real Estate Public Disclosure by State

	<u>Public Disclosure</u>	<u>Prohibit Disclosure</u>
1	Alabama	Alaska
2	Arizona	Idaho
3	Arkansas	Kansas
4	California	Louisiana
5	Colorado	Mississippi
6	Connecticut	Montana
7	Delaware	North Dakota
8	Florida	Texas
9	Georgia	Utah
10	Hawaii	Wyoming
11	Illinois	
12	Indiana	
13	Iowa	
14	Kentucky	
15	Maine	
16	Maryland	
17	Massachusetts	
18	Michigan	
19	Minnesota	
20	Missouri	
21	Nebraska	
22	Nevada	
23	New Hampshire	
24	New Jersey	
25	New Mexico	
26	New York	
27	North Carolina	
28	Ohio	
29	Oklahoma	
30	Oregon	
31	Pennsylvania	
32	Rhode Island	
33	South Carolina	
34	South Dakota	
35	Tennessee	
36	Vermont	
37	Virginia	
38	Washington	
39	West Virginia	
40	Wisconsin	
41	District of Columbia	

Notes and Supplementary Material

1. Zillow Blog: Chronicles of Data Collection II: Non-Disclosure States
<http://www.zillow.com/blog/chronicles-of-data-collection-ii-non-disclosure-states/2006/05/11/>
2. Zillow.com
 - a. An easy to use real estate valuation estimator
 - b. <http://www.zillow.com/wikipages/What-is-a-Zestimate/>
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 - a. A discussion of asymmetric information, agent's viewpoint, and market efficiency.
 - b. <http://realestate.msn.com/article.aspx?cp-documentid=13107736>
4. Real Estate Sales Information Not Public in All States – Mortgage News Daily - June 7, 2007
 - a. A simple discussion of public real estate information
 - b. http://www.mortgagenewsdaily.com/672007_Real_Estate_Records.asp
5. More Dallas Home Sales Prices Kept Secret - The Dallas Morning News – June 18, 2009
 - a. Discussion surrounding costs and benefits of disclosure and the breakdown of MLS and asymmetric information
 - b. <http://www.dallasnews.com/sharedcontent/dws/dn/latestnews/stories/061809dnbusmlsprices.42e728f.html>
6. State and Provincial Ratio Study Practices: Results of 2008 Survey – Technical Standards Committee of the International Association of Assessing Officers – Journal of Property Tax Assessment & Administration, Volume 6, Issue 2 – Post 2008
 - a. The results of a US and Canadian Survey regarding state assessment practices
 - b. http://www.iaao.org/uploads/Ratio_Survey_Article.pdf