



Revenue and Transportation Interim Committee

61st Montana Legislature

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April 29, 2010

TO: Residential and Commercial Property Reappraisal Subcommittee

FROM: Lee Heiman, Staff Attorney

SUBJECT: Implications of sales assessment ratio studies on possible legislation

A sales assessment ratio study can be used as information by the Legislature to amend property tax laws to provide better tax equity, valuation, and taxable market values, but cannot be used as a tool to adjust values for all taxpayers or a particular group of taxpayers on an across-the-board basis under the Montana Constitution.

Section 15-7-111(4), MCA, enacted as a part of House Bill No. 658, 2009 session, reads:

(4) During the end of the second and fourth year of each revaluation cycle, the department shall provide the revenue and transportation interim committee with a sales assessment ratio study of residences to be used to allow the committee to be apprised of the housing market and value trends.

Sales assessment ratio data resulting from the studies required under section 15-7-111(4), MCA, are to be used by the Revenue and Transportation Interim Committee to study market trends. When the provision was amended into HB 658, the housing market was very unstable with a pronounced nationwide reduction in sales prices and a fall in prices in Montana. There was no way to know at that time whether or not Montana housing prices were hovering at the edge of a cliff with an impending plunge in prices or whether they would buck national trends and stay unaffected or even rise. The sales assessment ratio study was a method for providing data on prices versus assessed value in time for legislative action for the 2011 and 2013 sessions.

The results of a sales assessment ratio study may not be used to directly change property values. In 1987 the Legislature amended 15-7-111, MCA, to provide for a "stratified sales assessment ratio study" of class four land and improvements. The state was partitioned into as many as 100 residential areas and 20 commercial areas. Each area was to be studied based on actual sales prices and appraised values. If the average appraised values of the properties in the study compared to the average of the actual sales amounts were less than 95% or more than 105%, the assessments in each area were to be rescaled to bring all ratios to common value 1. This resulted in the case of Department of Revenue v. Barron, 245 Mont. 100, 799 P2d. 533 (1990). An area of Great Falls had a 30% difference between the assessed values and the sales amounts. In that

case, the Court looked at what happened when the 30% was applied to the properties that were in the study. The use of a fixed percent against the same properties used in the study actually increased the disparity. (See attached sheet). Overassessed properties become even more overassessed, properties that had the same sales price as assessed value became overassessed, and properties that were grossly underassessed, after the application of the adjustment, actually experienced a relatively lower tax burden. The Montana Supreme Court said that use of a sales assessment ratio study could reduce the amount of inequality between areas, but when applied to specific properties would not provide the uniformity and equalization required by the Montana Constitution.

The 1991 Legislature attempted to amend the sales assessment ratio law to conform to the Barron decision. It provided that in cases where the percentage of difference was widely disparate, the Department of Revenue was to actually reappraise the area, allowing the sales assessment ratio to adjust values in the other areas. The Montana Supreme Court determined in Department of Revenue v. Sheehy, 262 Mont 104, 862 P.2d 1181 (1993), that this solution still violated the Montana Constitution in the same manner as set forth in Barron. The use of a 4% rather than 30% difference did not change the fact that inequalities between properties would continue to exist.

The Court added "The DOR did not include in its study a representative sample relating to age, condition, size, design, construction materials, location, utilities, city or county services, or other factors that determine market value." Sheehy, at 107. Perhaps an appraisal system utilizing a more detailed sales assessment ratio determination could pass constitutional muster.

The results of the sales assessment study required of the Department of Revenue provides data for the Revenue and Transportation Interim Committee and the Legislature to consider, but cannot be directly used to affect property taxation.

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