

January 25, 2011

Honorable Chair and Members of the Senate Taxation Committee

Thank-you for this opportunity to explain why I urge you to vote in favor of SB 22.

Over the past 30 years I have been a real estate broker and certified and licensed appraiser. For twenty of those years I worked as a staff appraiser for three different State agencies. The conditions I have outlined below reflect my experience as both a State staff appraiser and a private contract appraiser.

I believe the comments below are **compelling state interests in disclosure of real estate sales prices.**

- **State agencies tasked with real estate acquisitions and dispositions (MDT, DNRC, FWP, and others) need efficient access to real estate market data to complete State business.** State agency real estate management staff are tasked with reviewing and approving the values provided by contract appraisers as well as sometimes doing internal appraisals. They have no access to the real estate sales data recorded on Realty Transfer Certificates (RTCs). In many cases, they also lack access to privately owned Realtors Multiple Listing Services (MLS), the primary source of real estate sales data for **licensed** real estate and appraisal professionals.

State government agency staff are typically not required to be licensed real estate agents or licensed appraisers. A professional real estate or appraisers' license is usually required for MLS access.

When Realtor MLS members share sales data with State real estate management staff, they may be breaking an MLS requirement that sales data be kept confidential. Sales information used by State agencies (other than DOR) often becomes public information.

MLS sales data today is accessed by a password to an online database limited to a defined geographic area including one or more counties. Passwords are issued to members who are disallowed from sharing the services with non-members except for very restricted confidential purposes.

A State agency staff member may also happen to be a licensed real estate agent or a licensed appraiser. If the State relies on the staff member's professional license for access to MLS, issues arise on whether or not the State agency should pay for the staff member's annual license fee and costly MLS membership(s). If the agency covers the costs, the State could be subsidizing the staff member's private business. If the staff member pays those costs, s/he cannot be obligated to provide the information for State purposes. In either case the required MLS member commitment to

confidentiality is broken if the State agency allows the sales data to be used for State purposes where the information becomes public information.

State agencies manage properties across the State. It may be that a given State agency has only a few projects per year requiring one or more appraisals. Each project is likely to be in a different part of the State. Each MLS service covers only a few counties. It is impractical for a licensed State agency staff real estate professional to belong to all of the several urban based MLS services. It would cost several thousand dollars per year and most years, most of the services would not be used.

Joining an MLS typically requires membership in the National, State, and local Realtor's association and a long term financial commitment.

Relying on privately gathered confidential MLS sales data is precarious for State real estate appraisal purposes. Legally sanctioned disclosure of real property sales data would reduce these obstacles to development of State real estate appraisals available for public scrutiny.

- **Realtor's MLS data, relied upon by contract appraisers and market analysts may be incomplete.**

- MLS Data is limited to sales which involved a Realtor, and to data which a Realtor chooses to post.

- Rural areas don't have compiled MLS data

- **Data gathered by Appraisers from Lenders is Confidential Under the Federal Gramm Leach Bliley Act.**

If it is provided to a State agency in an appraisal made available to the public, the promised confidentiality is broken.

- **Meeting today's economic and financial challenges requires the availability of complete and reliable market studies.**

Today's weak and volatile real estate market has a significant impact on the Montana economy overall. The availability of accurate and timely local real estate market data is especially important. State, as well as private purchasing decisions should be supported by unbiased and complete market information. Sellers, lenders, and investors are as much at risk as purchasers, when information is unavailable.

- **Comprehensive data analysis could reduce State litigation costs.**

State valuations for eminent domain and condemnation purposes often apply to commercial property. Highway projects involve highway frontage property. Those appraisals are likely to be more accurate under disclosure conditions. When sales data is of public record, both sides have access to the same market evidence. Reducing litigation would conserve scarce public resources.

For the reasons listed above, the state has a compelling interest in disclosure of real property sales data as public information. While the sales price and identity of the property would be available, the owner would retain the option of keeping confidential, the terms of the sale and other details regarding the property and the transaction.

This proposed legislation does not require disclosure of agricultural land, as agricultural land sales are exempt from filing the sale price within a RTC.

Currently, 80% of the States have passed legislation that identifies real estate sale prices as non-confidential data and therefore available to the public. Only ten states continue to prohibit public disclosure of the real estate sales data collected from sales participants as part of deed filing.

Therefore, I strongly urge you to support SB 22.

Respectfully,

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