

Nowakowski, Sonja

From: Sankey, Laura
Sent: Wednesday, April 06, 2016 8:34 AM
To: Nowakowski, Sonja
Subject: Print for EL G meeting

From: Harold Blattie [mailto:hblattie@mtcounties.org]
Sent: Thursday, March 31, 2016 11:58 AM
To: Kurtz, Leanne
Subject: Disposal of County Property

Leanne,

I will not be able to attend the Education and Local Government Interim Committee on April 6, 2016 for the Local Government agenda items due to a scheduling conflict that cannot be avoided. Could you provide this information to the committee members for the Disposal of County Property agenda item?

MACo and the County Treasurers Association have been working on a project to determine how the delinquent property tax lien and deed process could be improved. During the research and discussion of that subject, a side-bar issue became apparent, that being the glaring lack of uniformity for the disposal of county-owned real property that may no longer be needed for county purposes, or perhaps could be put to a better use. In order to dispose of real property it is necessary to determine how the property was acquired because the process for disposal is dependent on the method of acquisition. If the property was acquired by tax deed, one process is used. If it was acquired by purchase or gift another process is used and if acquired as parkland, yet another is used. All of those various processes have been enacted by the legislature at different points in time, with apparently little regard toward coordinating or unifying those processes.

I have attached a document that includes the applicable statutes for the disposal of county property that I have identified; there are probably more. I have also attached a DRAFT MACo Resolution that will be presented for consideration to our members. If approved by our members at the MACo Annual Conference in September, MACo would then seek a sponsor to carry legislation on our behalf. An alternative would be if the Education and Local Government Interim Committee would consider this as a subject to take up for research into the practicality and/or feasibility of legislation to provide a generally uniform process, while preserving any specific processes that may need to be retained.

In order to make a point why I believe the processes for counties to dispose of property are overly cumbersome and burdensome, I note the statute (*not statutes*) applicable to the disposal of property for municipalities.

7-8-4201. Disposal or lease of municipal property -- election. (1) Subject to the provisions of subsection (2), the city or town council may sell, dispose of, donate, or lease any property belonging to the city or town.

(2) (a) Except for property described in subsection (3), the lease, donation, or transfer must be made by an ordinance or resolution passed by a two-thirds vote of all members of the council.

(b) Except for property acquired by tax deed or property described in subsection (3), if the property is held in trust for a specific purpose, the sale or lease must be approved by a majority vote of the electors of the municipality voting at an election called for that purpose. The election must be held in accordance with Title 13, chapter 1, part 4.

(3) If a city or town owns property containing a historically significant building or monument, the city or town may sell or give the property to nonprofit organizations or groups that agree to restore or preserve the property. The contract for the transfer of the property must contain a provision that:

(a) requires the property to be preserved in its present or restored state upon any subsequent transfer; and

(b) provides for the reversion of the property to the city or town for noncompliance with conditions attached to the transfer.

(4) This section may not be construed to abrogate the power of the board of park commissioners to lease all lands owned by the city that were acquired for parks within the limitations prescribed by 7-16-4223.

(5) A city or town may donate land or sell the land at a reduced price to a corporation for the purpose of constructing:

(a) a multifamily housing development operated by the corporation for low-income housing;

(b) single-family houses. Upon completion of a house, the corporation shall sell the property to a low-income person who meets the eligibility requirements of the corporation. Once the sale is completed, the property becomes subject to taxation.

(c) improvements to real property or modifying, altering, or repairing improvements to real property that will enable the corporation, subject to the restrictions of Article X, section 6, of the Montana constitution, to pursue purposes specified in the articles of incorporation of the corporation, including the sale, lease, rental, or other use of the donated land and improvements.

(6) Land that is transferred pursuant to subsection (5) must be used to permanently provide low-income housing. The transfer of the property may contain a reversionary clause to reflect this condition.

If the law for municipalities can be in one section of statute, I just have to think the sections of law applicable to counties can be simplified.

Thank you,

Harold Blattie, Executive Director
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