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Research Brief

TO:
FROM: Susan Haymes, Legislative Analyst
DATE: July 22, 2014
RE: Disclosure Requirements for Real Estate Transactions
LRS Report 15.005

You asked what makes Alaska a non-disclosure state for the purpose of real estate transactions. Additionally, you asked about disclosure and non-disclosure requirements in other states.

Estimating the value of real property is important for various activities including real estate financing, listing real estate for sale, property assessments and taxation, investment analysis, and property insurance. In most states, documents must be filed with local officials, including the local property tax assessor, after a real estate transaction. In states that have laws requiring full disclosure, the sales price is recorded on the deed, or similar document and/or it is listed on the real estate transfer tax documents, which are then filed with the local assessor's office. At least 39 states and the District of Columbia require public disclosure of this information, which means that when realty is transferred, the sales price is disclosed and made available to the public as a matter of public record.¹ Typically, that information is available to the public from the local or state assessor's web site and/or office.

Alaska is one of six states that do not have a law that requires price information to be provided to a municipal, county or state government taxing entity as part of a real estate sales transaction.² Because of the absence of such a law, these states are known as non-disclosure states. Another five states require that the sales price be given to a government entity, but the information must be kept confidential and is not available to the public. These states are also sometimes referred to as non-disclosure states because they do not mandate public disclosure of real estate sales prices to the public.³

Recognizing that property owners may have an interest in obtaining sales price data from similar properties for the purpose of comparing their property tax assessment, Kansas, Montana, and Wyoming allow property owners a limited opportunity to view market data on such properties.⁴ In Wyoming, property owners who want to appeal their assessment have 30 days to review similar properties that the county assessor used to determine their property values (Wyo. Stat. § 34-1-142). Montana law also allows property owners 30 days to analyze comparable sales data, but the owner must visit the local Department of Revenue office and sign a confidentiality agreement (§ 15-7-308 MCA).⁵

¹ Disclosure laws vary somewhat among the states. Most states require that the sales price is entered on the deed and the information is public. A few states make public the amount of taxes paid on a real estate transaction. Since most transfer taxes are calculated as a percent of sale price, this information can be used to calculate the sales price.

² The six states are Alaska, Idaho, Louisiana, Mississippi, Texas, and Utah.

³ The five states are Kansas, Missouri (some counties), Montana, New Mexico, and Wyoming. In Missouri, certain counties prohibit disclosure of real estate prices. However, St. Louis County and St. Charles County, which account for 70 percent of the state's population, by county ordinance, do require public disclosure. In 2013, North Dakota, switched from a non-disclosure state to a full disclosure state (ch 95, HB 1225). The following article contains additional information, "North Dakota No Longer Clouded in Secrecy," *Bakken Construction News*, September/October 2013, <http://bakkenconstructionnews.com/ArticlePrint/North-Dakota-No-Longer-Clouded-in-Secrecy>.

⁴ We include the relevant laws from the three states as Attachment A.

⁵ Many Montana taxpayers have expressed concerns to legislators and DOR staff about what they consider to be an overly burdensome process to access the valuation of their property. In a recent news article, the Director of the Montana Department of Revenue announced that the department will ask the 2015 Legislature to change the law to allow real estate sales prices to be publicly disclosed. Charles S. Johnson, "Director Says Real Estate Sales Prices Should be Public," *Billings Gazette*, July 16, 2014. The article can be accessed at http://billingsgazette.com/news/state-and-regional/montana/director-says-real-estate-sales-prices-should-be-public/article_c4c795fa-84ef-59f6-be81-93df9f23e64a.html.

Many real estate agents are members of a Multiple Listing Service (MLS), a proprietary network operated by the local board of realtors. Typically, realtors who are MLS members enter the sales price into the system after a real estate transaction. Thus even in non-disclosure states, licensed real estate agents who are MLS members have access to sales prices that are entered into the MLS. However, the MLS only includes real estate transactions that involve a licensed realtor who is a member of the MLS and does not, for example, include private sales, or sales through non-member brokers. In addition, realtors may also opt not to disclose sales data. This is more common after the sale of more expensive properties such as custom-made homes or commercial properties. Additionally, some communities do not have an MLS.

In Alaska, as in other states, local assessors are required to uniformly value all property within their jurisdiction. Under AS 29.45.110, they must ensure that all values on the assessment role represent *full and true value*, which is defined as the “estimated price that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer.” According to Ron Brown, Alaska State Assessor, because local and state assessors do not have access to real estate sales data from the deed or some other transfer document, they must rely on other means to collect as much information as possible.⁶ One such method is a letter that is sent to the buyer and seller asking them to voluntarily supply information about the sale. Some people, but not all, supply the requested information. Mr. Brown notes that some buyers and sellers purposefully supply incorrect information, which must be discarded. The assessors also obtain sale prices from realtors and appraisers, and through the appeals process. Alaska assessors are able to collect a fair amount of data on residential sales, but only limited information on commercial sales. Basically, the higher the value of the property, the less likely the assessor is to get it. In practice, this means assessors are less likely to get sale prices on large custom homes and commercial transactions. Because assessors collect less information on commercial property transactions, these properties are often assessed at lower than market value. The lack of sales data makes it difficult for Alaska assessors to always determine an equitable and uniform valuation of all residential and commercial properties. Mr. Brown notes that the lack of access to real estate sales prices is the number one complaint from local assessors. In 2012, the Alaska Municipal League adopted a policy statement that, among other things, supports the “mandatory reporting of real estate transfers to assure more equitable property assessments.”⁷

Proponents of full disclosure argue that making sales price data public enables property owners to compare their property tax assessments to actual sales to better understand their own property valuation; adds confidence in the property valuation system, as assessments can be easily compared to independent sources; enables property owners to determine whether they should appeal their property valuation; and allows for more reliable and equitable appraisals and assessments. On the other hand, the main reason cited for restricting public disclosure of real estate prices is to maintain individual privacy. Given the importance of privacy to Alaskans and many others, Mr. Brown suggests an approach more similar to Kansas, Montana or Wyoming, in which local assessors can obtain real estate price data, but the information is kept confidential with some limited exceptions.⁸

We hope this is helpful. If you have questions or need additional information, please let us know.

⁶ Mr. Brown can be reached at 907.269.4605.

⁷ Alaska Municipal League, “2013 Policy Statement,” adopted November 16, 2012, p.2.

⁸ Jan Buchholz and Tricia Lynn Silva, “Push for Property Sales-Price Disclosure Will Face Stiff Opposition in Texas Legislature,” *San Antonio Business Journal*, December 28, 2012, <http://www.bizjournals.com/sanantonio/print-edition/2012/12/28/push-for-property-sales-price.html>; Laura Hancock, “Wyoming to Remain Real Estate Non-Disclosure State,” *Casper Star Tribune*, June 2, 2014, http://trib.com/news/state-and-regional/govt-and-politics/wyo-to-remain-real-estate-non-disclosure-state/article_7b967577-a1ac-5994-981a-db35ea994516.html; Montana Department of Revenue, “Public Disclosure of Real Estate Sales Price,” August 2010, http://revenue.mt.gov/Portals/9/committees/LocalGovernment_WorkingGroup/Oct13_2010/PublicDiscRealEstateSales.pdf.