

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 42.20.173, 42.20.454, and)
42.20.455 pertaining to deadlines for)
classification and appraisal reviews)
and consideration of sales price and)
fee appraisals as market value)
indicators)

TO: All Concerned Persons

1. On August 18, 2017, the Department of Revenue published MAR Notice No. 42-2-975 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1374 of the 2017 Montana Administrative Register, Issue Number 16.

2. On September 11, 2017, a public hearing was held to consider the proposed amendment. Bob Story, Montana Taxpayers Association, appeared and testified at the hearing. The Montana Forest Owners Association provided written comments stating they have no concern with the amendments as proposed.

3. The department amends ARM 42.20.173 and 42.20.454 as proposed.

4. Based upon the comments received, the department amends ARM 42.20.455 as proposed, but with the following changes from the original proposal, deleted matter interlined:

42.20.455 CONSIDERATION OF INDEPENDENT FEE APPRAISALS AS AN INDICATION OF MARKET VALUE (1) remains as proposed.

~~(2) If the fee appraisal submitted for consideration was for class four property, as defined in 15-6-134, MCA, but not completed for a federal related transaction or commercial lending institution, the fee appraiser must determine and perform the scope of work necessary to develop, disclose, and report credible assignment results in the Appraisal Report.~~

(3) and (4) remain as proposed, but are renumbered (2) and (3).

5. The department has considered the comments received. A summary of the comments received and the department's responses are as follows:

COMMENT 1: Bob Story, Executive Director of the Montana Taxpayers Association, asked why the department is requiring the recertification of an appraisal in ARM 42.20.455 to be completed by the original fee appraiser. He commented that he understands the logic for it, but doesn't know if it is practical. A property owner might have difficulty tracking down the original fee appraiser. He stated that he questions whether or not allowing an appraisal to be updated by an equally

qualified appraiser was the intent of the law or not, and asked the department to reconsider whether that is a necessary requirement.

RESPONSE 1: The department appreciates Mr. Story's comments and understands his question and concern for the property owner. The department follows the Uniform Standards of Professional Appraisal Practice for appraisal recertification, which requires the original appraiser to complete any recertification of their own work. The original appraiser is in possession of their personal work files, any documents they may have used to conduct their initial valuation, and the analysis methods they used to arrive at and certify their assessment at the time. A licensed/certified appraiser can amend or recertify their own work, but cannot amend or recertify work completed by another individual. If the original appraiser is not available to provide the recertification, the property owner would need to order a new, retroactive, appraisal to be conducted by another appraiser licensed or certified by the Montana Board of Real Estate Appraisers, as referenced under Title 37, chapter 54, MCA. A retroactive appraisal is performed when the effective date of the appraised market value determination is in the past. In this situation, the appraiser would determine the property's market value with an effective date that is consistent with the department's valuation date for the specified valuation cycle.

COMMENT 2: Mr. Story asked whether the proposed language in ARM 42.20.455(2) is necessary. He commented that it seems redundant with the language proposed for (1)(b)(ii), which states that an independent fee appraisal submitted to the department must be conducted in accordance with the current Uniform Standards of Professional Appraisal Practice (USPAP), as set forth for licensed or certified real estate appraisers under 37-54-403, MCA; or completed for federally related transactions or commercial lending institutions. Mr. Story stated he believes that an independent fee appraisal completed in accordance with USPAP requires the appraiser to determine and perform a scope of work necessary to develop, disclose, and report credible assignment results in the appraisal report that are the same whether or not the appraisal is completed for a federal related transaction or commercial lending institution.

RESPONSE 2: The department appreciates Mr. Story's input on the rule and agrees that the proposed language in (2) is redundant with (1)(b)(ii) and unnecessary. The department has further amended ARM 42.20.455 to remove the language that had been proposed in (2).

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Eugene Walborn
Eugene Walborn
Deputy Director of Revenue

Certified to the Secretary of State October 30, 2017.