

September 9, 2015

THREE ISSUES MONTANA STATE LEASEHOLDERS ARE FACING AND ARE UNRESOLVED:

1. SB369 – Cabin Site Sale Bill, 2013 Session

Cabin Site Improvements Given \$0.00 value by appraiser, and signed off on by the DNRC. This has happened to 2 Leaseholders who have nominated their Lot for sale. Both appealed and the hearings examiner gave a value to both Leaseholder Improvements.

Both appraisals should have been unacceptable to the DNRC—NOT approved—the Appraisals were faulty. The Leaseholder should not have had to come to Helena—spending time and money—for a hearing.

This should not happen again. We are asking the DNRC to provide a copy of the language of SB369 and the appraiser should be instructed to provide a value separately for both the land and the improvements. (Letter to DNRC attached.)

2. SB369 – Cabin Site Sale Bill, 2013 and 2015 Sessions.

We were told by the DNRC that we would have input in to how the cabin sites are selected for sale. We have written a letter with recommendations (attached), but so far we have received no response to our letter, nor been invited to discuss further, nor know how the DNRC is planning to proceed. We are asking to be involved in the decisions.

For example, we believe that not more than 5% of the Lots put up for sale should be vacant lots. The intent of the Cabin Site Sale bill was to sell those Cabin Sites that are currently leased or with current Improvements that can be sold with the proceeds going to the Owner.

3. SB409 – Market Based Lease Rates for Cabin Sites – 2011 Session

This bill was passed during the 2011 Session MonTrust (made up of 4 people, including the attorney) filed a lawsuit against the legislature and DRNC and asked for an injunction to stop the implementation of the bill, which was granted. The Legislature was dropped from the lawsuit. The Regents and the Leaseholders were both granted intervener status into the lawsuit.

Now a Settlement Agreement has been drafted by the DNRC, the Regents, and the group called Montrust. The Leaseholders have completely been left out of any discussions regarding the Agreement. It is scheduled to go before the Sep 21 Land Board for Approval.

We are asking for approval to be held up until the MSLA has the opportunity to be involved in the Settlement. We have the same status as the Regents.

Montana Code Annotated 2014

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77-2-317. Valuation of cabin or home site and improvements -- rulemaking. (1) (a) Prior to the board's approval of any sale of state land leased as a cabin or home site or state land with a vacant cabin or home site as provided in [77-2-318](#), the board shall separately determine the full market value of the land and the value of the cabin site improvements existing on the land and the value of any necessary access easement across existing state lands from the nearest public road. The appraisal to determine these values must be based upon comparable sales of nearby existing properties with the hypothetical condition that the state parcel to be sold is accessible for all lawful purposes. **The appraisal must determine the raw undeveloped value of the parcel and the value of the cabin site improvements.**

(b) (i) In determining the value of state land leased as a cabin or home site pursuant to subsection (1)(a), the department shall establish a list that is acceptable to the board of no fewer than two third-party independent appraisers that are available to conduct the appraisal of the land and the cabin site improvements. The department shall provide a copy of the list to the cabin site or home site lessee. The lessee shall provide the department with a list of at least 50% of the appraisers from the department's list. The department shall select the appraiser to conduct the appraisal from the list provided by the lessee.

(ii) The department shall assume the proportionate cost of the appraisal of the state land valuation. The lessee shall assume the proportionate cost of the appraisal of the valuation of the cabin site improvements.

(c) The board shall disclose the results of the appraisal to the cabin site or home site lessee of the land for sale and shall give that lessee notice and opportunity for an administrative hearing before the department to contest those valuations. The department shall review the arguments and evidence received at the hearing to make a recommendation of the values of the land and the cabin site improvements to the board. The board shall make a final determination on the values of the land and cabin site improvements.

(2) (a) If the lessee consents to the terms and conditions of the proposed sale and the valuation of cabin site improvements, the sale must proceed utilizing the board's final determination of the values, and the lessee is obligated to transfer its interest in the cabin site improvements existing on the cabin or home site lease according to the board's final determination of their value.

(b) Nothing in this section prohibits the lessee from accepting a price for the cabin site improvements existing on the cabin or home site that is less than the board's final determination of value.

(3) For purposes of [77-2-318](#) and this section, "cabin site improvements" includes but is not limited to:

- (a) a home or residence;
- (b) outbuildings and structures;
- (c) sleeping cabins;
- (d) utilities;
- (e) water systems;
- (f) septic systems;
- (g) docks; and
- (h) landscaping.

(4) The board may adopt rules to implement the provisions of this section.

History: En. Sec. 6, Ch. 422, L. 2013.

Montana State Leaseholders Association (MSLA)

370 Blacktail Rd
Lakeside, MT 59922

July 7, 2015

Shawn Thomas
Trust Lands Division DNRC
PO Box 201601
Helena, MT 59620-1601

Dear Mr. Thomas:

Re: Appraisals Assigning Zero Value to Improvements

The Montana State Leaseholders Association (MSLA) is extremely concerned about the recent two appraisals that were returned giving the Improvements on Cabin Sites a \$0.00 value.

In reviewing the "Scope of Work for Appraisal" for the Cabin Site Sale program, the document uses the term "highest and best use" for consideration by the appraiser. This language does not appear in the SB369 which is the Cabin Site Sale bill passed by the 2013 Legislature—nor was there any intent in that legislation that the Land and the Improvements were to be considered as one piece of property.

That bill reads in 77-2-366, Section 6 (1)(a): "the board shall separately determine the full market value of the land and the value of the cabin site improvements existing on the land and the value of any necessary access easement across existing state lands from the nearest public road. The appraisal must determine the raw undeveloped value of the parcel **and** the value of the cabin site improvements."

That Section later goes on to list the "cabin site improvements" and what they include, but are not limited to. We do not believe that the law has been followed in these appraisals. The Scope of Work provided to the Appraiser lists assignments outside the language and intent of SB369 and the Appraiser is not provided with the language in the bill.

In the Land Banking Sale Procedure Disclosure form it states in Article 11: "the Land Board will then set the minimum bid for the land and the maximum value of the improvements under consideration for sale." MCA 77-2-317 talks about the separation of the land value and the value of the improvements. There is no mention of "highest and best use."

We are disappointed that the DNRC would "sign off" on the appraisals that occurred. The Montana Department of Revenue in their appraisal obviously thinks that the Leaseholder improvements have a value as the Lessees have been paying taxes on these improvements.

Over the years that Leaseholders were encouraged by the DNRC to improve the properties. As Leaseholders invested money and time in to the Cabin Site improvements, the DNRC had recommendations and requirements for those improvements. It is difficult to believe that the DNRC now agrees that the improvements are worth nothing.

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370 Blacktail Rd
Lakeside, MT 59922

The current situation of the two \$0.00 value appraisals for Lessee improvements has the potential to jeopardize a successful Cabin Site Sale program. We ask that the DNRC re-examine their "Scope of Work for Appraisal..." and take another look at the language in SB369.

We would be willing to meet with you to discuss this further. Thank you for your consideration.

Sincerely,

Margaret Morgan
Representing MSLA
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Montana State Leaseholders Association (MSLA)

370 Blacktail Rd
Lakeside, MT 59922

July 7, 2015

Shawn Thomas
Trust Lands Division DNRC
PO Box 201601
Helena, MT 59620-1601

Dear Mr. Thomas:

Re: Choosing Cabin Sites for Sale Moving Forward

The Montana State Leaseholders Association (MSLA) would like to make some suggestions to the DNRC in how Cabin Site Lots will be chosen for sale in the next two years.

1. Not more than 5% of the 80 Lots chosen for sale should be vacant lots that have never been leased. Leased lots and those that have improvements on them are the priority for the Cabin Site Sale program.
2. A percentage of the Lots chosen for Sale could be Trust specific, but not all of the Lots. If they are all trust-specific, the opportunity is removed for many Lessees in outlying areas.
3. We recommend DNRC use "buyer beware" statements for some easement issues. These types of documents are used frequently and successfully in the private sector. Easement issues such as in the Placid Lake area should not be holding up Sales.
4. If a Lessee nominates their Lot for sale, and it is not chosen, they should be told why the Lot was not chosen. With awareness can come efforts to correct any issues that might have prevented a Lot from being chosen and make the sale easier in the future.
5. There may be some opportunity for DNRC to move several lots if Lessee neighbors get together and all nominate their Lots. We encourage DNRC to consider these circumstances if they were to happen.

There are many Lessees who are barely able to continue to afford their Leases. The MSLA worked very hard in the 2015 Legislative Session to help the DNRC obtain funding for an FTE for the Cabin Site Sale program. We hope that the DNRC will seriously consider our suggestions and continue to communicate with us to work on any problems/topics/issues that arise in getting these Lots sold.

Sincerely,

Margaret Morgan
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