

# FREQUENTLY ASKED QUESTIONS

Updated  
October 26, 2015

## Cabin Site and Home Site Sales

*\*Responses are based on Administrative Rules of Montana (ARM) effective January 1, 2014.*



### **Basics**

**1. Why is the DNRC selling Cabin/home Sites?**

*During the 2013 Regular Legislative Session, Senate Bill 369 (SB369) was passed. The bill allowed for the sale of cabin/home sites at the request of the lessee (or owner of improvements upon a cancelled lease), if the sale is approved by the Land Board and is consistent with the Board's fiduciary duty of attaining full market value.*

**2. Will my cabin/home site lot be sold out from under me?**

*No. The cabin/home site sale program is voluntary. You will not be required to nominate your cabin/home site for sale if you wish to continue leasing.*

**3. How many cabin/home sites lots will be sold per year?**

*The department plans to sell 40 cabin/home site lots per year in 2016 & 2017.*

**4. How long does the sale process take?**

*The estimated timeline for a cabin/home site sale from selecting which sales will move forward, up to the time of closing will take approximately 10-12 months.*

**5. Why does the land have to be sold at a public auction?**

*The sale of all state lands must be sold by public auction as required by state statute and the Enabling Act of 1889. <http://courts.mt.gov/content/library/docs/enablingact.pdf>.*

### **Getting Started**

**6. How do I request to purchase my cabin/home site lot?**

*The department sent a letter to all lessees and improvement owners in August 2015 inviting them to indicate whether or not they are interested in participating in the 2016 & 2017 sale program.*

Responses to this request were due by October 1, 2015. The department will evaluate those cabin/home sites that indicated interest in participating in the sale program and select a total of 80 lots to participate in 2016 & 2017 sale programs.

Those cabin/home site lots that meet the preliminary sale criteria, and are selected for the sale program, will be notified by the department with further instructions. Instructions will include submitting a Cabin Site Sale Nomination Form along with payment of a non-refundable \$100 nomination fee.

**7. What are the preliminary sale criteria?**

The department may consider the following factors in the preliminary review:

- Whether sale is consistent with the board's constitutional fiduciary duty;
- whether the improvements possess clear title and whether any mortgage holder consents to sale;
- whether there are any outstanding lease violations on the parcel;
- whether, and to what degree, the sale of the parcel would affect access to other public lands;
- the extent of infrastructure, such as roads, utilities, power, telephone, water, or sewer availability;

**8. What if my cabin/home lot does not meet the preliminary criteria?**

You can work with local DNRC staff to address the issues.

**9. How do I find out if my cabin/home site lot has been surveyed? What if it has not been surveyed?**

You may contact a DNRC office in your area to see if your lot has a current survey useable to convey title. The lot will **not** be saleable until it has been properly surveyed. DNRC will work to complete surveys as funding is available.

**10. Who can nominate a cabin/home site lot for sale?**

Cabin/home sites can be nominated for sale by the current lessee, improvements owner, DNRC or the Land Board.

**11. How will DNRC prioritize sale requests?**

Lots that have requested to participate in the sale program will be screened through the preliminary sales criteria. The department will then select nominations from the pool of qualified sales.

**12. What if my cabin/home site lot is not selected for the current sale year(s)?**

The department will send out a letter to lessees and improvement owners in the fall of the preceding year of the sale selection informing them of the anticipated sale activity for the upcoming year(s).

**13. What if my cabin/home site lot is denied for sale entirely?**

You may appeal the denial to the Land Board, choose to continue leasing, or work with the department to correct any issues if possible.

## **Risks/Cost**

### **14. Can someone outbid me if I own improvements on the cabin/home site lot?**

*Yes, but if you are the current lessee you have the preference right to match the high bid in accordance with 77-2-324, MCA. If you are only the improvements owner, and not a current lessee, you do not have the same right to match the high bid; you must bid higher.*

### **15. What happens to my improvements if someone outbids me?**

*You must sell the improvements to the winning bidder, and the winning bidder must purchase the improvements from you for the value determined by the appraiser and set by the Land Board prior to the public auction. The owner of the improvements will be required to complete an Agreement to Sell Improvements Form agreeing to sell their improvements for the amount set by the Land Board.*

### **16. What are the costs involved?**

*The lessee or improvements owner is responsible for Processing Costs associated with preparing a cabin/home site lease lot for sale. These costs are non-refundable and must be paid up front. They include but are not limited to:*

- *A one-time non-refundable \$100 nomination fee that must be paid for each cabin/home site nominated for sale;*
- *Cost of the appraisal attributable to the improvements;*
- *Legal advertisement of sale;*
- *Environmental review (if required);*
- *Document recording fees; and*
- *Water rights transfers*

## **During the Process**

### **17. How is the sale price determined for the cabin/home site lot?**

*A Montana Certified General Appraiser will complete a market value appraisal of both the lease site and the improvements under consideration for sale. The department then takes the appraiser's determination of values to the Land Board for their approval. The Land Board sets the minimum bid for the lease lot and sets the maximum amount that the improvements owner can be compensated for the sale of the improvements.*

### **18. How will the sales price for my improvements be determined?**

*A Montana Certified General Appraiser will complete a market value appraisal of both the lease site and improvements under consideration for sale. The appraisal will include separate values for the land and the improvements. The Land Board sets the maximum asking price for the improvements associated with the sale of the land will be the appraised value of the improvements as determined by the appraiser.*

**19. Who does the appraisal?**

*The department will contract with a Montana Certified General Appraiser to appraise both the cabin/home site and all improvements under consideration for sale. The appraisal must comply with Uniform Standards of Professional Appraisal Practices (USPAP) as adopted by the state Board of Real Estate Appraisers in ARM 24.207.402. The department will review or contract the review of the appraisal conducted by the contract appraiser.*

**20. What if I don't agree with the appraised value?**

*You may request an informal administrative hearing before the department to contest those valuations by submitting a Notice of Appeal of Value Form within 10 days of the department's notification of the appraised value of the land and improvements. The department shall appoint a Hearing Examiner who will review the arguments and evidence received at the hearing and make a recommendation of the values to the Land Board. A current lessee may also choose to withdraw the parcel from the sale process and continue to lease.*

**21. What if I don't want to sell my improvements?**

*The owner of any improvements located on the lease site must complete an Agreement to Sell Improvements Form agreeing to sell their improvements to the highest bidder on the land for the amount set by the Land Board.*

**22. Do I still need to pay my lease fee while my cabin/home site lot is going through the sale process?**

*Yes. All lease fees must be paid as the sale goes through the sale process.*

**23. What if my lease expires before my lot is selected for sale?**

*In order to maintain a preference right to match high bid, the lease must be in good standing. In order to maintain the preference right, and the priority status, the lease would have to be renewed upon expiration.*

**24. Can I withdraw my cabin/home site lot from sale?**

*Yes, if you are the current lessee. The lessee must send written notice by certified mail to the department, postmarked no later than 10 days before the date of the auction.*

**25. Will I know if there are any other people interested in bidding on my lot?**

*Each bidder wishing to participate in the auction as a qualified bidder must submit an Offer to Purchase Agreement along with a bid deposit equal to 5% of the minimum bid amount for the cabin/home site lot, no later than 20 days before the date of the auction. You may contact the department after the date that the bids are due and inquire whether or not there are any qualified bidders for the sale.*

**26. Where will the auctions take place?**

*Auctions must take place in the county seat for the county where the parcel is located. Typically this is at the county courthouse or in some instances, the local DNRC office, if one is located in the county seat.*

**27. Do I have to be present for the auction?**

*Yes. All qualified bidders wishing to participate in the auction must appear in person or be represented by a legal representative at the auction.*

**28. What is the process for bidding on auction day?**

*DNRC staff will hold a public oral auction for the sale of the land. All qualified bidders wishing to participate in the auction must appear in person or be represented by a legal representative at the auction to present an oral bid. All bidding will be for the land only. Only qualified bidders will be allowed to bid. The minimum bid amount will be set by the Land Board based on the appraised value of the land. Bids for less than the minimum amount will not be accepted. If there are multiple qualified bidders, the bidding will continue until no one wishes to offer a higher bid. If one of the qualified bidders is a current lessee, they will be allowed to match the highest bid until such time that there is no longer a higher bid, or the current lessee does not wish to match the highest bid. The land will be sold to the highest bidder who consummates the terms of the sale. All improvements owners will have signed an Agreement to Sell Improvements Form prior to the auction. The closing of the sale of the improvements is conducted separately between the improvements seller and the purchaser and must be completed prior to or simultaneously with the closing of the land sale. The successful bidder will sign a Real Estate Buy-Sell Agreement for the Sale and Purchase of State of Montana Cabin/Home Site Sale Form at the close of the auction*

**Closing**

**29. What happens after the auction?**

*The sale of the land must be taken to the Land Board for Final Approval. Upon approval, the department will prepare closing documents, including settlement statements and drafting of deeds and any necessary easements.*

**30. How is title transferred?**

*The department conveys title to the land by Patent, Grant Deed or Quitclaim Deed. The state does not warrant title, but you have the option to purchase title insurance at your own expense. Transfer of the improvements happens between the seller and the purchaser.*

**31. How long will the winning bidder have to close on the sale of land and improvements?**

*The department will allow 60 days from the sale's Final Approval from the Land Board for closing. An extension of time may be granted on a case by case basis for good cause.*

**32. How will closing occur on the sale of the land?**

*Closings may occur by mail or with a Title Company, Closing of the improvements happens between the seller and the purchaser and must be completed prior to or simultaneously with the closing of the land.*

**33. What are my financing options?**

*Sales of state land are on a cash only basis. Purchasers will need to seek financing from a lending agency if necessary.*