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**BULLETIN NO. 6
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FORECLOSURE GUIDELINES**

TO: Assessing Officers and County Equalization Directors

FROM: State Tax Commission

RE: Guidelines for Foreclosure Sales

Market sale transactions for real property are used by Michigan assessors and equalization directors to compare the assessor's assessments of particular properties that have sold in arms-length transactions with the actual sale prices for those same properties. The average ratio between the assessments and the sale prices should be 50%, since the assessment of the property should be at 50% of true cash value, as required by MCL 211.27a. However, since the market for real estate constantly changes, the average ratio actually found will usually not be 50%. In such cases, the county equalization director will require the assessor to adjust his or her level of assessment the next year so that the 50% ratio is reestablished. Further, within each local assessment jurisdiction, the assessor must conduct similar ratio studies to determine the levels of assessment in the various neighborhoods or sub-markets in the jurisdiction.

The proper selection of sales for inclusion in these ratio studies is critically important to the development of uniform and accurate assessments. The State Tax Commission has established guidelines to be used when reviewing sales for sales-ratio studies. The purpose of the guideline is to provide direction when compiling a "desk-reviewed" sales study. Desk-review means determining whether a particular sale will be used in a study based on transfer documents and other information in the office without additional investigation or field inspection.

Deviation from the guidelines should be based on investigation of the transaction beyond the normal steps of a desk review process. The recent increase in foreclosures has caused those transactions to have an impact on the real estate market in some parts of the state. While the following guidelines are specifically addressed to foreclosure sales, similar steps should be used in determining the use of any sale that would normally be excluded from study in a sales study.

GUIDELINES FOR FORECLOSURE SALES

- Sales to financial institutions are excluded from a sales ratio study unless the financial institution is using the property for its operations and it was not previously held as collateral.
- Sheriff's deeds are not typically included in sales ratio studies.

- If it is determined that sales from financial institutions are open market transactions the sales may be used if they have been verified.
- All sales must be analyzed and verified to ensure they are arms-length transactions. The appropriate verification process contains but is not limited to:
 1. A determination as to whether the type of sale being reviewed is a measurable portion of the market.
 2. A determination that the sale property was properly exposed to the market. For example, by listing with a real estate company.
 3. A physical inspection of the property to make a determination that the assessment reflects the condition of the property at the time of sale unless the condition can be verified by other means.
 4. Receipt of a properly completed real property statement to determine the terms and conditions of the sale unless adequate alternative statistical procedures are utilized to ensure the sales are an adequate part of the market.
 5. A determination that the parties to the transaction were not related and each was acting in their own best interest.
- Additional analysis specific to foreclosure transactions:
 1. Was a market value appraisal obtained before listing?
 2. Did the seller have the right to refuse all offers?
 3. Did the property have full market exposure after governmental intervention?
 4. Was the property marketed for an adequate period of time?
 5. Whether the seller was obligated to prorate taxes in accordance with local custom and provide evidence of title and a warranty deed to the purchaser.
 6. Was property purchase “as is” and was property well maintained during the marketing period?
 7. Was purchaser supplied with a disclosure and/or lead paint statement?
 8. Did seller help with financing? If yes, then the sale must also be treated as a creative financed sale and be treated under the same rules established for adjusting creatively financed sales.
 9. Were concessions involved and if so, are they typical of market?
 10. Were sale conditions affected by the financial institutions requirement to dispose of the foreclosed property within 1 year to avoid the uncapping of taxable value or because of banking regulation conditions requiring special treatment of property owned by the institution?
- If a sale is used in the sales ratio study, it is also used to help determine land values and Economic Condition Factor’s.
- Counties and local units using “usually excluded sales” in a sales study for a particular period must maintain documentation of the verification process for each sale included in the study.

- Once verified for use in a study, a sale is included in the study in the appropriate year in the same manner as all other sales used in the study.
- Please note that if the foreclosing institution is also financing the sale for the new owner, the property is subject to analysis for creative financing as outlined in State Tax Commission Bulletin 11 of 1985.