

OFFICE OF THE GOVERNOR
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR



JOHN BOHLINGER
LT. GOVERNOR

April 26, 2011

The Honorable Mike Milburn
Speaker of the House
State Capitol
Helena, MT 59620

EDUCATION AND LOCAL GOV'T
September 15, 2011
Rm 102, Capitol Bldg, Helena
EXHIBIT 5

Dear Speaker Milburn:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill No. 494 (HB 494), **"AN ACT REVISING PROVISIONS GOVERNING EXEMPTION FROM SUBDIVISION REVIEW FOR THE SALE, RENT, LEASE, OR OTHER CONVEYANCES OF BUILDINGS, STRUCTURES, OR OTHER IMPROVEMENTS; AMENDING SECTION 76-3-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

House Bill 494 would permit the sale, rent, or lease of one or more parts of one or more buildings, structures, or other improvements, whether they are existing or proposed, on a parcel of land without any review or approval by a local government under the provisions of the Montana Subdivision and Platting Act.

I have proposed amendments to HB 494 to accomplish five things.

The first amendment eliminates the provision in the bill that would permit the *sale or conveyance* of multiple buildings, structures, or improvements on a single tract of record without subdivision review. Exempting such sales or conveyances to different individuals would constitute defacto divisions of land that effectively would swallow the entire Subdivision and Platting Act. My understanding is that the intent of HB 494 is to provide property owners with the ability to earn additional income through *rent or lease*, not to circumvent the Act in its entirety. The ability to legally transfer undivided interests within a single property can only be achieved through the subdivision of a tract of record to create condominiums or through the use of the exemption for condominiums found under § 76-3-203, MCA. Therefore, the ability to sell or otherwise convey buildings, structures and improvements should be removed from the bill.

The second amendment limits the exemption for renting or leasing to a maximum of four buildings, structures, or improvements. Placing this "sideboard" on the exemption will accomplish the primary objective of the bill without jeopardizing the ability of local governments to provide services and protect public health and safety. Currently, the bill would permit an unlimited number of buildings, structures, or improvements upon a tract

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of record without any local government review or approval. Permitting this unlimited development would be contrary to the purposes of the Montana Subdivision and Platting Act, as codified at § 76-3-102, MCA.

The third amendment deletes the section of HB 494 discussing the applicability of zoning regulations to the exemption established under the bill. Zoning regulations apply independent of subdivision regulations or exemptions to subdivision regulations addressed in the bill. Therefore, the language I propose to delete has no effect anyway and is unnecessarily confusing.

The fourth amendment grandfathers youth camps, as defined in § 50-52-101, MCA, that are under construction or already in operation, into the exemption provided under § 76-3-204, MCA. The amendment also clarifies that youth camps that only lease or rent their property as camps are not subject to subdivision review.

The final amendment would "grandfather" in existing buildings, structures, or improvements that are currently being rented or leased and those under construction as of the Act's effective date. This step will provide predictability to those individuals who have previously invested time and money into their rental and lease developments and those who are currently in the process of doing so.

To that end, I believe my amendments are good for the residents of Montana and keep control of land use issues in the hands of local governments. I have discussed these amendments with the sponsor, Representative Edmunds, and he has indicated his support. I ask for your support of the amendments, as well.

Sincerely,



BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Amendments to House Bill No. 494
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Susan Byorth Fox
April 26, 2011 (4:42pm)

1. Title, line 5.

Following: "THE"

Strike: "SALE,"

Following: "RENT"

Strike: ", "

Insert: "OR"

Following: "LEASE"

Strike: ", OR OTHER CONVEYANCES"

2. Title, line 6.

Following: "IMPROVEMENTS;"

Insert: "EXEMPTING YOUTH CAMPS FROM SUBDIVISION REVIEW;"

3. Title, line 7.

Following: "DATE"

Insert: "AND A RETROACTIVE APPLICABILITY DATE"

4. Page 1, line 12.

Strike: "conveyances"

Insert: "rent or lease"

5. Page 1, line 13.

Strike: "(1)" through "sale,"

Insert: "The"

Following: "rent"

Strike: ", "

Insert: "or"

Strike: ", or other conveyance"

6. Page 1, line 14.

Strike: "one or more"

Insert: "up to four"

7. Page 1, line 18 through line 19.

Strike: line 18 through line 19

8. Page 1, line 20.

"NEW SECTION. Section 2. Exemption for youth camps. A youth camp, as defined in 50-52-101, is not subject to the requirements of this chapter."

Insert: "NEW SECTION. Section 3. {standard} Codification instruction. [Section 2] is intended to be codified as an integral part of Title 76, chapter 3, part 2, and the provisions of Title 76, chapter 3, part 2, apply to [section 2]."

Renumber: subsequent section

9. Page 1, line 22.

Insert: "NEW SECTION. Section 5. {standard} Retroactive applicability. (1) [Section 1] applies retroactively, within the meaning of 1-2-109, to the rent or lease of one or more parts of buildings, structures, or other improvements existing or under construction prior to [the effective date of this act].

(2) [Section 2] applies retroactively, within the meaning of 1-2-109, to youth camps under construction or in operation prior to [the effective date of this act]."

- END -