MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Lawrence Stimatz, on March 15, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Lawrence Stimatz, Chairman (D)
John Jr. Anderson (R)
Esther Bengtson (D)
Don Bianchi (D)
Steve Doherty (D)
Lorents Grosfield (R)
Bob Hockett (D)
Thomas Keating (R)
John Jr. Kennedy (D)
Larry Tveit (R)

Members Excused: Cecil Weeding, Vice Chairman (D)

Staff Present: Deborah Schmidt (EQC).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None.

HEARING ON HJR 17

Presentation and Opening Statement by Sponsor:

Representative Larson, District 65, presented HJR 17 to the committee. The resolution requests the Environmental Quality Council to conduct an interim study on lakeshore regulations in Montana. Larson stated six different studies had been conducted throughout the state and urged the committee to adopt a resolution that would standardize lakeshore regulations.

Proponents' Testimony:

Steve Herbaly, Planning Director for Flathead County, stated he welcomed the opportunity to work with the interim study group.

Janet Ellis, Montana Audubon Legislative Fund, stated "lakeshore areas are often very fragile environmentally. It makes sense to do some planning around these areas for the state."

Opponents' Testimony:

There were no opponents' to HJR 17.

Questions From Committee Members:

Senator Hockett asked Herbaly to define his position with Flathead County.

Herbaly stated he administered the county lakeshore regulations within Flathead County, Whitefish, Kalispell and Columbia Falls. There are over two dozen lakes in Flathead County that qualify for the lakeshore protection regulations.

Senator Bengtson told Larson she was concerned that a statewide study may not be appropriate for all areas of the state. "If the study is not adequate for a particular lakeshore area," Bengtson said, "would the lakeshore take their concerns somewhere else?"

Herbaly said there was a commonality of regulations such as dock construction and size, septic placements, setbacks of houses, etc. Some counties, even though they were ordered to do so, have not adopted or enforced regulations, Herbaly said. Missoula County, for example, has a 100 page document they have chosen not to enforce, he said.

Closing by Sponsor:

Representative Larson asked that HJR 17 BE CONCURRED IN.

HEARING ON HB 671

Presentation and Opening Statement by Sponsor:

Representative Gilbert, District 22, presented HB 671, "the most talked about bill this session," Gilbert told the committee. "For years, some people in Montana have been selling off their heritage, 20 unreviewed acres at a time and after that, they're selling it off little chunks at a time through things like occasional sales, which are also unreviewed. Plus family gifts which are also unreviewed. We have created major subdivisions in this state that have never been reviewed for anything...public safety, public health or anything that concerns the public. Some subdividing has been pretty well done but not all. But unfortunately, there have been some real bad ones. Septic systems have failed, roads are inadequate, people are buying twenty acres. If you buy a 20 acre lot that doesn't meet the standards of the Department of Health and Environmental Sciences, you're stuck. If it were reviewed, prior to purchase, then you can rest assured that piece of land will be suitable to live on. my major concern with the twenty acres. Last summer I had the chance to fly over Paradise Valley in Livingston and unfortunately, it isn't paradise anymore...twenty acre subdivisions scattered all over. Gallatin County, Hamilton, the Bitteroots all have the same problems..everywhere with expanded growth. Unfortunately, counties do not have the chance to handle

that influx spread over such a great area. People are not getting the services that they want. There's a lot of damage being done to the environment, too..dust, creeks are being polluted. It isn't the people buying lots that are the problem, it's the people selling lots because it's easy to do. If we were to change that system, that's what HB 671 does, all property in the state of Montana that's for sale would be reviewed with the exception of agricultural property," Gilbert said. Gilbert urged the committee to adopt the amendments and "move forward." (EXHIBIT #1).

Gilbert stated the committee would hear a lot of testimony "about what we're doing to private property rights in the state of Montana. The ironic thing about this is that no one compared HB 671 to current law. They compared it to HB 671 when I introduced it. I guarantee this committee and everyone in the audience that HB 671 today is a better bill than current law. It gives you more rights. This is the first time that we have ever put into code personal property rights. The bottom line is we must, if we want to take care of the state we live in... we've got to do away with the 20 acre exceptions, we've got to do away with the occasional sales and family gifts without reviews. I don't care what the government thinks and I don't care what the developers think, I care what the citizens of Montana think and that's why this bill is here."

Proponents' Testimony:

Monte Cooper, real estate broker from Bozeman, stated that Skunk Creek Road, Horse Creek Road and Stagecoach Trail were developed when a subdivision was created. "The developer sold these parcels to property owners and ten years after the fact, the roads still aren't brought up to standard," Cooper said "and everyone's arguing who will bring the roads up to standard."

Rick Smith, Century 21 in Polson, testified in support of HB 671. "People are flooding into Montana because we have what people want. If we lose that, we will lose that part of our economy," Smith said. Well planned subdivisions are "just good business." (EXHIBIT #2).

Joel Shouse, sales associate from Western Land Brokerage in Bozeman, testified in support of the bill. Shouse told the committee he was familiar with the "weaknesses and failings of our present subdivision law in Montana. Madison County has horrendous problems today with roads built through subdivisions. I am very pleased to see this bill before you."

Candace Durran, Helena real estate agent, offered support for HB 671. Durran said she favored the bill because it "gets rid of the 20 acre exemptions and the occasional sale provision which proved to be a remarkably bad combination."

Guy Robbins, Helena, stated he was in favor of HB 671 as amended by the House of Representatives. Robbins said he felt the bill

was "a reasonable compromise among the various vested interest groups."

Chris Kaufman, Montana Environmental Information Center, submitted testimony supporting HB 671 as amended. (EXHIBIT #6).

Lisa Bay, member of the Montana Association of Planners, asked the committee to imagine they had just bought their dream home. "You've bought into a subdivision that has been reviewed and the cost of it has been passed on to you. Then one of your neighbors decides to sell and divide the parcel into 5 20 acre parcels. A few years later, you find your irrigation ditch is disrupted, your roads are impacted by increased traffic and you have no way of recruiting the cost of that maintenance outside of the subdivision. I ask you, whose property rights are we protecting with unreviewed subdivisions?" Bay said all divisions of land are brought under an umbrella through HB 671 and urged the committees passage of the bill.

Thomas Lee, District 49, stated the Flathead Basin has one of the highest rural densities in the state. "However, most of the land divisions within the state are not reviewed and the negative impacts in the water quality are now being able to be felt in the Basin," Lee said. Lee asked the committee to "look ahead for all of Montana" and support HB 671.

Tonia Bloom, League of Women Voters of Montana, submitted testimony supporting HB 671. (EXHIBIT 7).

Mary Kay Peck, Planning Director of Gallatin County, told the committee she appeared in support of the bill at the request of the Gallatin County Commissioners. There are over 40,000 acres created within Gallatin County that have not been reviewed, Peck said. "In my job, I see the people who have problems because they live on unreviewed acres. I see people who have spent \$4 and \$5 and \$10,000 because they've had to drill their wells deeper and deeper and deeper and I see the people who lived on a generator and without telephones for a year and a half because they can't get a utility easement to their homes because their neighbor's mad at them and he doesn't have to give them a utility easement to their home because it wasn't a reviewed division of land. For that reason, I support this House Bill," Peck said.

Deb Berglund, Gallatin County Commissioner, testified in "unanimous support of HB 671. Gallatin County has been undergoing extensive problems servicing unreviewed subdivisions. From a local government perspective, we just can't afford to do it anymore." Berglund asked the committee to "please ... do not make any changes on the 20 acre exemption or the occasional sale. This what's causing the problem and why the bill is in front of you today and please...don't make any changes on the limitations on the public hearing to be held for public review." Berglund said the commissioners could support a lower penalty for violation.

Julia Page, Bear Creek Council, Gardiner, submitted testimony in support of HB 671. (EXHIBIT #8).

Robert Rasmussen, Lewis and Clark County Planning Department, said the Department supported "the concepts in Representative Gilbert's bill." The bill implies there are two types of hearings, Rasmussen said, informational and public. One type of hearing would eliminate confusion, Rasmussen said. Rasmussen asked the committee to consider two principal thoughts that describe the bill: balance and compromise.

Gordon Morris, Executive Director of the Association of Counties, said he "was very pleased on behalf of the Association to support the effort contained in HB 671." Morris asked the committee to resist any amendments to the bill other than those offered by the sponsor.

Kathy Macefield testified in support of the bill on behalf of the city of Helena. (EXHIBIT #9)

James Lofftus, testified in support of the bill on behalf of the Montana Fire District Association. Lofftus said fire districts are having difficulty getting equipment into the subdivisions.

Jerry Sorensen, Lake County Planning Director, testified in support of the bill. (EXHIBIT #10).

Gerald Newgard, Lake County Commissioner and former real estate broker, stated he felt it was important the word "accountability be emphasized. The bill offers a chance to enhance professional standards within the real estate community and the government, Newgard said.

Mona Jamieson, representing the Montana Association of Planners, stated: "The issue before you as a matter of public policy is this...is there any rational basis, whatsoever, to justify not reviewing divisions of land in acres greater than 20 acres? Or is there any rational basis for the state of Montana to justify in not having occasional review of sales? I submit there is none," Jamieson said. These loopholes have caused Montana's heritage to be divided and "sold down the river", Jamieson added.

Janet Ellis, Montana Audubon Legislative Fund, submitted testimony in support of the bill. (EXHIBIT #12).

George Kurkowski, Custer County, told the committee he had first hand knowledge of the abuses of the 20 acre plus exemptions. Kurkowski cited examples of the abuses in Rosebud and Custer Counties. "People were enticed here and now there are no roads and no water, they've invested their live savings and they're destitute," Kurkowski said.

Steve Herbaly, Planning Director for Flathead County, stated a good friend of his, a developer, told him there was a need for

"an even playing field. I can't build the Grouse Mountains...I can't build the Lion Mountains when the opportunity for mediocre substandard land divisions is in the same competitive market. We have an opportunity within HB 671 to create a level playing field."

Dorothy Eck, District 40, told the committee she had been a member of the Environmental Quality Council when the subdivision study begun. "Those concerned about planning the future of Montana, felt we should put aside our differences, the confrontations we had faced and come up with compromises," Eck said.

Blake Wordal, Lewis and Clark County Commissioner, said the County joined with Gallatin County in support of HB 671.

Ted Doney, Montana Dairymen's Association, stated the Association supported the bill, if, and only if, amendments were adopted.

Lorna Frank, Montana Farm Bureau, concurred with Doney's testimony in support of the bill. Frank said she "sincerely hoped the bill would help control noxious weeds."

David E. Bowman, Montana Association of Registered Land Surveyors, submitted supporting testimony. (EXHIBIT #13).

Jane Jelinski and A.D. Pruitt, Gallatin County Commissioners, submitted testimony in "unanimous support of HB 671." (EXHIBIT #14).

Judy Williams, asked that HB 671 BE CONCURRED IN. (EXHIBIT #15).

Tony Schoonen, Ramsey, Skyline Sportsmen's Club, submitted testimony supporting the bill. (EXHIBIT #16).

William Diehl, Diehl Appraisal Services, East Helena, told the committee he felt HB 671 was "one of the most important pieces of legislation in the past two decades." (EXHIBIT #17).

Opponents' Testimony:

Representative Mary Ellen Connelly, District 8, told the committee that initially, she felt HB 671 "could be worked with." The amendments added by the House no longer protect the rights of property owners, Connelly said, and added that she hoped the proposed amendments would clarify these problems. Connelly said she objected to the "subjective review process."

Tom Hopgood, Montana Association of Realtors, said the Association felt the bill, when originally drafted, was a "compromise." Hopgood said the amendments have made the bill unworkable. Hopgood said he believes that, at times, "the Subdivision and Platting Act had been used to stifle development and deny subdivisions that are in the best interest of the people

of Montana." Hopgood asked the committee to "kill the bill."

Steve Marks, Helena, told the committee he was opposed to the bill because "it clearly ties the hands of landowners for what he or she can do with their property." Marks said he questioned the bill's definition of "agricultural producers."

Virginia Bompart stated she felt there had been "a steady decline in the rights of taxpayers to use and sell their land." Bompart stated she felt the bill was not democratic as it "gives powers to regulate to non-elected officials." Bompart said she felt HB 671 should be called the "Cemetery Lot Bill, where private rights are put to rest."

David Bowman, Montana Association of Land Surveyors, stated that when HB 671 was introduced originally, the Association testified in support of the bill "with reservations." Bowman stated their concern for HB 671 as introduced is "the lack of accountability of the review authority and the effective dates as well as a few other minor item." Bowman said HB 671 did not address the problems concerning the Association and will force local governments to increase their planning staff.

Wayne Joyner, President, Rocky Mountain Timberlands, submitted testimony opposing HB 671. (EXHIBIT #18).

Stephen Ries, land surveyor from Helena, opposed HB 671. (EXHIBIT #19).

Ray Myers, Bozeman, testified he did not believe there were additional burdens on water and sewer systems under the current subdivision law. (EXHIBIT #20).

Jim Lane, Deer Lodge Realty, expressed "strong" opposition to HB 671. (EXHIBIT #21).

Frank Shaw, Deer Lodge, told the committee he felt people buying subdivision land were not "babes in the woods. If we apply the full disclosure on our present laws, that should take care of it." Shaw said he was not in favor of creating more public roads, "hoping someone will maintain them. The worst pollution, as far as weeds are Interstate 90 between Deer Lodge and Missoula and Burlington Northern Railroad." Shaw said he believed "the more socialistic country's try to get away from their problems, the nearer the capitalistic country's are moving toward socialism."

John Jepson, Jepson Realty, Townsend, opposed HB 671. (EXHIBIT #22).

John Buchanan, Great Falls, submitted a line by line itemization of his opposition to HB 671. (EXHIBIT #23).

Marvin Brown, Rocky Mountain Ranch Realty, Billings, "adamantly opposed" passage of HB 671. (EXHIBIT #24).

Dean Stanchfield, Wise River, stated HB 671 would "effectively take away our right to make decisions on how to run or expand our business." (EXHIBIT #25).

Frank Norman, Jr., Belgrade, told the committee that HB 671 is "51 pages of mass confusion and reads like I imagine Russian law would." (EXHIBIT #26).

A spokesman for Sands Surveying, Kalispell, testified against HB 671. (EXHIBIT #27).

Ken Peterson, Lincoln County Department of Environmental Planning, testified that "although certain aspects of this bill we would be in support of, such as the attempt to make the park land requirement more fair, the major part of this bill would be confusing, subjective, and unnecessary." (EXHIBIT #28).

Ralph Holman, Sweet Grass County rancher, stated HB 671 "is restrictive, damaging to our economy, anti-population growth and anti-business." (EXHIBIT #29).

Bill Bischoff, Deputy Clerk and Recorder, Lincoln County, stated that the bill, as amended, "contains procedures and review requirements that will adversely effect both local governments and property owners.) (EXHIBIT #30).

A.F. Litter, Billings Association, Billings, testified in opposition to HB 671, noting that local Associations would be willing to participate in a study to "help bring back a modified bill that has a more broad-based acceptance." (EXHIBIT #31.

Bruce Nelson, Great Falls, (EXHIBIT #32) and Jerry Hambin, Helena, (EXHIBIT #32a) opposed the bill.

A 44 page petition opposing passage of HB 671 was submitted for the record. (EXHIBIT #33).

"A Bill Summary: Subdivision Reform" as requested by Representative Gilbert and prepared by the Environmental Quality Council staff, submitted as EXHIBIT #34.

Chairman Lawrence Stimatz submitted a listing showing length of time used by proponents' and opponents' for HB 671. (EXHIBIT #35).

Testimony to committee members received regarding HB 671 is listed as: Opponents,' EXHIBIT #36; Proponents,' EXHIBIT #37 and those favoring Tabling of the bill, EXHIBIT #38.

Questions From Committee Members:

Senator Grosfield stated he felt there could be "trouble" between realtors and planners regarding the \$5,000 fine to be levied against a subdivider.

Senator Hockett asked Gordon Morris if it was true that all county commissioners supported HB 671?

Morris replied that the Association has an adopted policy that addresses the issue of subdivisions.

Senator Grosfield asked Deb Berglund if she preferred having review authority delegated by the county commissioners?

Berglund stated that, in Gallatin County, she was "100% certain that it will remain in the hands of the county commissioners." Berglund added that she felt the authority should come from elected officials.

Senator Grosfield asked Representative Gilbert if he understood that the review officer could not make the final decision on a major subdivision.

Gilbert stated that decision would come from the county commissioners.

Senator Bianchi asked Gilbert if realtors were involved in the drafting of the bill?

Gilbert stated that, yes, they were involved.

Senator Doherty asked Tom Hopgood, Montana Association of Realtors, if they could support the bill if the amendments were removed from the bill?

Hopgood replied, yes, and added that the Association of Realtors "would like nothing more than to stand before the committee in full support of Representative Gilbert's bill."

Senator Bengtson inquired how the hearing process would be handled.

Representative Gilbert stated that hear-say evidence would be allowed at the subdivision hearings as approved by the realtors. Hearings are paid for by the government and can only be called by the subdivider if they feel they would be substantially injured, Gilbert said.

Senator Bianchi asked Mary Kay Peck what would be done to review subdivision in Gallatin County if HB 671 passed? Would the bill be workable in Gallatin County, Bianchi asked.

Peck replied she would hire "some" additional staff to work on implementation of the new subdivision laws and added she felt the bill "could" be workable.

Senator Hockett asked Representative Gilbert to explain how property rights would change with the passage of HB 671.

Representative Gilbert stated that both opponents' and proponents' are concerned with property rights. "If we're going to protect property rights in the state, we need to protect both the rights of the buyer and the seller," Gilbert said.

"Is it true, that under HB 671, I wouldn't be able to build a house for my children on my property or did I misunderstand?" Senator Hockett asked.

Representative Gilbert said that the land would have to be reviewed before it could be sold to anyone. Gilbert pointed out to the committee that Representative Cobb's amendments (EXHIBIT #39) addressed the sale of subdivided land.

Closing by Sponsor:

Representative Gilbert told the committee that HB 671 would provide better guidelines for subdivisions and promote environmentally sound subdivisions as well as protecting the rights of property owners. Gilbert stated that the bill redefines subdivisions and removes the misdemeanor offense for subdivision law violation and changes criminal penalty to civil penalty for each person committing the violation. The bill clarifies the review process in special minor subdivisions, Gilbert explained.

HB 671 would provide for park land dedication based on density of subdivision. Gilbert said that "the bill is telling local governments that cash-in-lieu-of is no longer a fair tax on developers." The bill would remove the family sale exemptions except for agricultural producers, Gilbert said. "The bill does not say you can't sell your land, it simply states it has to be reviewed," he said. Between 1974 and 1979, 90% of all subdivisions in Gallatin, Missoula and Ravalli County, "escaped any review because they were exempt because of the 20 acre exemption," Gilbert said. Between 1986 and 1989, 1,000 20 acre parcels of land in Lewis and Clark County were not reviewed by local government, Gilbert added.

"What realtors have given up in this bill is the 20 acre exemption, the occasional sale exemption, and the family gift. What they've gained is an expedited review process on specified criteria and additional subjectivity...more say in dedication of park land...the bill would take effective July 1, 1991...every track record is open for minor subdivision no matter what you've done to it in the past. I guess I've stirred up a lot of interest in subdivisions in Montana. I've been working on this particular bill for six years. We've held public hearings... in 1987 the bill was tabled because we didn't have a compromise.. I urge Representative Cobb's amendments. Madison County has 50,000 acres without review. The bill will not do anything against farming. I think this bill will prevent the Lawyer's Relief Act. We're not violating anyone's rights to sell...we're trying to give other people some rights...the rights of the purchaser. To those of you in our state who put profit before public safety and health, I

say shame, shame, shame...realtors talked about property rights today but they only talked about their property rights...not once did I hear them talk about someone else's property rights. People do have a right to make a profit on their land but you have to be mature about the people you work with and who you sell the property to. Realtors need to sell service in their product. This bill addresses this motto," Gilbert concluded

ADJOURNMENT

Adjournment At: 8:05 p.m.

Lawrence Stimatz Chairman

Roberta Opel, Secretary

LS/ro

ROLL CALL Natural Resources COMMITTEE

DATE 3-15-9

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LEGISLATIVE SESSION

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Senator Bengtson			
Senator Bianchi			
Senator Doherty			
Senator Grosfield	J		
Senator Hockett			
Senator Keating			
Senator Kennedy			
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Vice Chairman, Weeding			
Chairman Stimatz			

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TOM SANDS SELF 671	
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STABLE HALLING MEDICAL

BAHAIT NO

Amendments to House Bill No. 67 Third Reading Copy

Requested by Rep. Gilbert For the Committee on Natural Resources

> Prepared by Deborah Schmidt March 14, 1991

1. Page 2, line 14. Following: "LAND;"

Strike: "TO PREVENT OVERCROWDING OF LAND;"

2. Page 2, line 16. Following: "ADEQUATE" Strike: "LIGHT, AIR"

3. Page 2, lines 18 and 19. Following: "REQUIREMENTS;" on line 18

Strike: "TO REQUIRE DEVELOPMENT IN HARMONY WITH THE NATURAL ENVIRONMENT;"

4. Page 3, line 1. Following: "AND TO" Strike: "promote" Insert: "require"

5. Page 10, line 17.
Following: "4"

Strike: "." Insert: "; or"

6. Page 10.

Following: line 17

Insert: "(xiv) a division created to provide security for construction mortgages, liens, or trust indentures."

7. Page 19, line 24. Following: "SPACES FOR"

Strike: "TRAVEL, LIGHT, AIR, AND"

8. Page 20, line 2.

Following: "CONGESTION"

Insert: "of streets and highways"

9. Page 21, line 10. Following: "<u>values</u>"

Insert: "financial incentives for developments that accommodate public values; (g)"

10. Page 28, line 5. Following: "actions."

Insert: "Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it is not sufficient in itself to support a finding unless it would be admissible over objection in civil actions."

11. Page 30, lines 4 through 8.

Following: "(4)" on line 4

Strike: the remainder of lines 4 through 8

Insert: "A public hearing may be held on a minor or special

subdivision only if:

- (a) the subdivision would be located in an area having unique cultural or historical resources, or environmental or ecological resources that are susceptible to substantial adverse effects from subdivision development; or if the subdivision would cause substantial adverse fiscal costs to local government; and
- (b) the subdivider or a citizen who demonstrates that he would be adversely affected by the proposed subdivision requests the governing body for a hearing within 15 days following submission of the complete application."
- 12. Page 31, lines 17 through 20.

Following: "probable" on line 17

Strike: the remainder of lines 17 through 20

Insert: "the factors listed in subsection (4) are probable,"

13. Page 31, line 25.

Following: "in" Strike: "THIS"

14. Page 32, line 1.

Following: "(4)"
Insert: "(4)"

15. Page 32, lines 7 through 9.

Following: "impacts."

Strike: the remainder of lines 7 through 9

16. Page 32, line 20.

Following: "(b)"

Insert: "In reviewing a subdivision under subsection (4), a governing body must be guided by the following standards:

(a) Mitigation measures imposed should not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat.

(b)"

17. Page 40, lines 21 and 22.

Following: "hazards,"

Strike: "INCLUDING BUT NOT LIMITED TO"

Insert: "such as"

18. Page 42, line 10.

Following: "(B)"
Insert: "unique"

19. Page 42, lines 11 and 12.

Following: "RESOURCES"

Strike: ", INCLUDING WILDLIFE AND WILDLIFE HABITAT"

20. Page 43, lines 15 through 17.

Following: "impacts."

Strike: the remainder of lines 15 through 17

21. Page 44, line 3.

Following: "(ii)"

Insert: "In reviewing a subdivision under subsection (1), a governing body must be guided by the following standards:
(i) Mitigation measures imposed must not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval the plat.
(ii)"



SENATE NATURAL RESOURCES

BIL 10 48 61

March 15, 1991

Senator Larry Steimatz, Chairman Senate Natural Resource Committee Montana Legislature State Capitol Helena, Mt. 59601

Dear Senator Steimatz:

In addition to my oral comments I wanted to put in writing my support of ${\sf HB}$ 671.

I am a top producing broker in Montana. I was the top producing broker in the Century 21 system for 1991. I have served two terms as president of the Lake County Board of Realtors.

It is my opinion that it is good business to ensure quality development in the state of Montana. Unfortunately, every valley in Montana has many examples of poor development.

HB 671 is a balanced approach to subdivision in the state of Montana. It will help to ensure we have a quality product for customers. This is good for business.

HB 671 is good for business. I urge your support.

Ric Smith

Sincerely

Broker/Manager

RS/rc

SENATE NATURAL RESOURCES

March 14, 1991

RE: HB671

TO WHOM IT MAY CONCERN:

I want to express my support of HB671 in that it will better insure that indiscriminate subdivision does not continue in Montana. Being in the real estate business, I have learned that one of Montana's most valuable assets is its undivided open lands. My background as a land planner has convinced me that the "occasional sale" loopholes in the subdivision laws have been the source of considerable unplanned subdivision.

Although I do not want to see any restrictions placed on agriculture, I do believe that limited review of virtually any type of land use intensification is both appropriate and desirable. It is with these provisoes that I would urge the Committee to structure proposed HB671. In the long run, this will make Montana's real estate more valuable, which should benefit everyone in the State. Thank you for your consideration.

Sincerely,

Douglas 5. Hart

Real Estate Broker

SENATE NATURAL RESOURCES

EXMIDIT NO. 15-91

BILL NO. 186

March 13, 1991

Senator Larry Steimatz, Chairman Senate Natural Resource Committee Montana Legislature State Capitol Helena, MT 59601

Dear Senator Steimatz,

I am writing to support HB 671 which I understand will soon be heard by your committee. I recommend that this bill be passed in your committee and sent on for approval and enactment.

Please copy this letter to all members of your Natural Resource Committee.

My perspective is from a private real estate business which only works with the conservation of lands in Montana. In that we are working to protect the traditional forms of ranching and agriculture and to maintain open spaces. These and the wildlife values which open space and ranching support, are most important to Montana.

I think that we should review all development of Montana lands and that developers of lands should bear the true cost of that process. I do not want the legislature to be caught up in a financing posture for this proposed legislation.

Sincerely,

Lane E. Coulston, Broker

60 WEST MAIN STREET _AMILTON, MT 59840

PUS (406) 383-3151 AX (408) 363-3515

H. B. 671

Mond Realtons including myself support HB 67/0 and thing that protects the environment and slows up Interponsibe Sob division will obtimately increase ou quality was of like and preserve land valueso this is controly to what the mortong assn. of Realtons are currently fixing to promote

Whom C. Bearlt



The Montana Environmental Information Center Action Fund

• P.O. Box 1184, Helena, Montana 59624

(406)443-2520

ENATE NATURAL RESOURCES

EXHIBIT NO. # 3 - 15 - 9 |

Testimony in support of HB 671
by Chris Kaufmann
of the Montana Environmental Information Center

The intent of the Montana Subdivision and Platting Act is to improve the quality of land development and provide for public review. The law not working. Fewer than 10% of land divisions are reviewed. The rest fall under some exemption. You've seen the billboards all over Montana advertising 20-acre ranchettes for sale. Most of those 20-acre plus subdivisions turn out to be one acre of lawn and 19 acres of weeds or over-grazed pasture.

Yellowstone Basin Properties says in its brochure "All of our property is in parcels of at least 20 acres in size. We feel that owning a large parcel of land is an important part of the 'Big Sky Country' experience." What it fails to mention is the more likely reason for the size of the parcels--they are not subject to review. Entire subdivisions of parcels greater than 20 acres are built without oversight of construction of roads and bridges, the effects of development on the natural drainage patterns, provisions for storm runoff, plans for failed septic systems, the effects of development on local services, or environmental resources.

All of this is perfectly legal under what may be the biggest loophole in one of Montana's most ineffective environmental laws--the Subdivision and Platting Act.

In addition to the 20-acre exemption, the occasional sale exemption allows a property owner to make one division every year, and the family conveyance exemption allows for gifts or sale to members of the owner's immediate family, all without review. An owner of 20 acres, created by an exemption, could sell 18 acres on an occasional sale. The owner of the 18 acres could then use an occasional sale to sell 16 more. A whole subdivision of small parcels could be created without any review in a matter of months, because each new owner is entitled to an occasional sale. A year later each of the owners could make another occasional sale. At any time they could give a small parcel to one or all of their five children, who can sell them off or take advantage of more occasional sales.

MEIC has been working for 15 years to close those loopholes. HB 671 will do it. And we

SENATE NATURAL RESOURCES

EXHIBIT NO.

BILL NO 130 L

March 15, 1991

To: Senate Natural Resources Committee From: League of Women Voters of Montana

Re: In support of HB 671

The League of Women Voters of Montana would like to rise in support of HB 671. We urge the committee to pass this bill on to the Senate unamended.

HB 671 would strengthen the review process for land divisions by eliminating the most frequently used exemptions, namely the 20 acre exemption, the occasional sale and the gift to family members. These divisions, which constitute the vast majority of land divisions in the state, would be brought under review for the first time since Montana subdivision laws were established.

It is important to note that review does not mean denial of a property owner's right to subdivide land. It simply means that such divisions will need to meet local standards. Such standards do not exist to harrass property owners, but to protect all taxpayers, now and in the future, from the costs of poorly designed development.

The review process set out in HB 671 is a responsible compromise between the needs of the public and the rights to compromise between the needs of the public and the rights to compromers. Land divisions would be reviewed in a timely manner, efforts would be made to mitigate potential hazards, and public comment would be limited to those who would be substantially affected. Various land divisions, including divisions made exclusively for agricultural purposes and divisions created to provided security for construction

mortgages, liens, or trust indentures, are exempted from review as subdivisions. Protection is provided for water user entities by ensuring that plats will be reviewed for accuracy in describing ditches and other water user facilities. Expedited review is provided for minor subdivisions and special subdivisions which conform to a master plan and zoning regulations.

Subdivision laws in Montana have long been plagued by the existence of major loopholes, which have allowed the vast majority of development in the state to take place essentially without review. The resulting scattered and often poorly designed developments have increased the cost to local governments of providing services, further straining local budgets. In many instances very large developments have come into existence totally through the use of various exemptions in the law and have escaped review.

Each legislative session there is an attempt to remedy this situation and each session that attempt fails. In light of this legislative history it is disturbing to see the publicity and lobbying campaign that is being mounted to kill a bill which is a reasonable compromise. There seems to be an attempt to frighten people into believing that this legislation will shut down all land division in the state. Nothing could be farther from the truth. Under HB 671 there will probably be just as much land division as there is now, but it will be done better and in a manner that will protect buyers and taxpayers from the costs of ill-conceived and poorly designed subdivisions.

The League of Women Voters hopes that this is the year that legislation will finally be passed to remedy the deficiencies in Montana's subdivision laws. Good land use planning and orderly growth will not be possible until the law is reformed. In this time of financial difficulty for local governments, it is more important than ever that development not be unecessarily costly to the public.

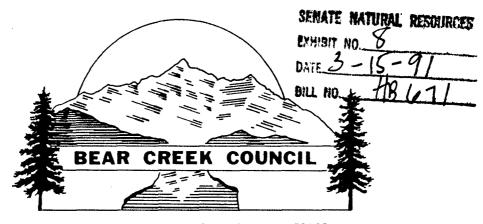
ENATE	MATURAL	RESOURCES

EXHIBIT NO.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.
Dated this 15 day of March, 1991.
Name: Tonia Bloom
Address: Co Rocks Juty Lab
Hamilton, let 59840
Telephone Number: 363-3485
Representing whom?
League of Women Voter of Montana
Appearing on which proposal?
HB 671
Do you: Support? Amend? Oppose?
Comments:
Prepared testimony submitted to secretary

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY



P. O. Box 448 — Gardiner, Montana 59030

Testimony in favor of HB. 671

3/15/51

Mr. Chairman, members of the (immittee:

My name is Julia Page. I live and work in Gardiner, montana. I am a member of Bear Crack. Council, on affiliate of Northern Plains Reservice Council, for whom I am Speaking today. I am also President of the Upper Yellowstone Defense Fund. Both an articles groups addicated to protecting and enhancing the natural resources of our area. The largely unrestrained development of the Church Universal & Triumphant in Paraduse Valley, in particular at their inversewood sechdicisions at glaston burn North and South and at their long-established, but in some cases introduced work camps in the Corum Springs area, has demonstrated a number of deficiencies and loophotes in the present subclassion law which need to be corrected.

HB 671, as it came out of the House, goes a long way toward correcting these deficiencies.

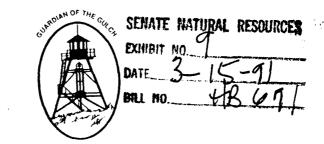
In particular it eliminates the

i) occasional sale and the

a) 20 acre exclusion. This, in ponticular, was abused by cut. The other major abuse by cut was the placement of many awelling units (trailers, bomb shelters; an occasional house) on an undivided 20 + acre parcel. This looplyte is also closed by HB 671 additionally it will require review for work camps that will be established for longer than I your.

Commissioners Russell J. Ritter, Mayor Margaret A. Crennen Tom Huddleston Mike Murray Blake J. Wordal

William J. Verwolf City Manager



City-County Administration Building 316 North Park Helena, MT 59623

Phone: 406/442-9920

City of Helena

March 15, 1991

Senator Lawrence Stimatz Senate Natural Resources Committee State Capitol Building Helena, Montana 59620

Dear Senator Stimatz and Members of the Senate Natural Resources Committee:

My name is Kathy Macefield, Planning Director for the City of Helena. I am appearing on behalf of the City of Helena in support of HB 671.

This bill began in 1985 with an EQC study, and is the result of many different groups working together to develop a compromise for effective and streamlined subdivision legislation. Good subdivision laws encourage good quality development which protects everyone's property rights.

A home represents a substantial financial investment. When people buy land to build their homes, they have a right to expect, at a minimum, that they will have access to the property, that the land can adequately support a septic system or that sanitary sewer service is available, and that a water supply with both good quality and quantity is available. The subdivision review process in HB 671 includes these considerations.

Cities are affected by land development that occurs outside its boundaries. Unreviewed land divisions presently occur around a city's perimeter without considering how water and sewer services can be connected in the future. This restricts a city's ability to grow, effectively limiting its potential for future economic development. This restriction on cities affects the overall economic well-being of the entire state.

The problems of the past 18 years that have been created by the various exemptions continue to be perpetuated. This continuing legacy is evident as we look at the Helena Valley, Flathead Valley, Gallatin Valley, Paradise Valley and all over the state. It is time to encourage quality subdivision development in a manner that also protects people's investments in their property.

It is time to revise the Subdivision and Platting Act.

I urge your support of HB 671. Thank you.

Sincerely,

Kathy Macefield

Kathy macefield

LAKE COUNTY LAND SERVICES

PLANNING AND SANITATION

106 Fourth Avenue East Polson, Montana 59860-2175 Telephone 406-883-6211 SENATE NATURAL RESOURCES

EXHIBIT NO.

JAIR 3-15-9/

March 15, 1991

Senator Lawrence Stimatz, Chairman Senate Natural Resources Capitol Station Helena, MT 59620

Re: H.B. 671

Dear Senator Stimatz:

My name is Jerry Sorensen, and I have been employed as Planning Director for Lake County for the last ten years. During that time I have been involved in the review of over 180 subdivisions and have seen over 4000 certificates of survey recorded in Lake County. I am very familiar with the Montana Subdivision and Platting Act.

I worked closely with the Environmental Quality Council in their interim study on this law leading up to the Legislative Sessions in 1985 and in 1987. During those efforts, it became apparent that the existing law does not work well because of the liberal use of exemptions to the law. In fact, most land division in Montana that has occurred since the law was enacted in 1973 has been done by exemption from the law.

I commend Representative Gilbert for his fortitude in trying to create a better subdivision law in our state. H.B. 671 is the culmination of many very difficult discussions and compromises between folks with different opinions. Since the bill has passed the House, I have heard criticisms of it from some planners and realtors. To me, this indicates that the bill has achieved a balance and offers fair trade-offs to both parties.

In conclusion, H.B. 671 is certainly better than the existing law. I urge that it be passed because it will enhance good land development in our state.

Sincerely,

Jerry Sorensen

Planning Director

Juny Somoun

JS/1c

c: Representative Bob Gilbert Senator Ether Harding Senator Dick Pinsoneault Mar 15, 1991

SENATE NATURAL RESOURCES

BILL NO

To: Larry Stimatz, chart.

Senate Natural Resources Committee

Re: HB 671

From: Harriett C. Meloy, 40000

My name is Harriett Meloy. I am a member of the League of Women Voters of Montana board, a member of the City/County Planning Board for Helena/Lewis & Clark County, a member of the Helena/Lewis & Clark County Historic Preservation Commission and president of the Lewis & Clark County Historical Society.

The above organizations have at least one interest in common and that is approval of H B 671.

While not perfect, HB 671 legislation is an improvement over the existing law because it gives greater latitude for planners and citizen boards to address problems up front. For instance, for the first time we can even consider review of cultural and historic resources when subdivisions occur. Helena's and Lewis & Clark county's history and its preservation is one of our citizens' prime interest,

Another consideration: Parklands and recreational areas are especially mentioned in detail in the bill. With more leisure time these days, families have need for use of more parklands and picnic places.

Mile attempting to solve development problems on the southern border of Helena, we (the city/county planning board) needed more latitude in providing services such as fire prevention, grading, drainage and road construction. This bill will allow more resources for solving probems and responding to needs of developers and home builders/ owners alike.

We ask that you recommend passage of this legislation.



EATHBIT NO 15-91

BATE 3-15-91

BALL NO 1861

Testimony on HB 671 Senate Natural Resources Committee March 15, 1991

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Legislative Fund. The Audubon Fund is composed of nine Chapters of the National Audubon Society and represents 2,500 members throughout the state.

We support much of this bill. In the early 1970s, a common bumper sticker read "Don't Californicate Montana." In order to get a handle on the uncontrolled development that was occurring, the 1973 Montana Legislature passed the Montana Subdivision and Platting Act. This act may be the single most ineffective statute ever adopted by the state, primarily because most subdivisions are exempt from the law.

Uncontrolled development can hurt local governments and their ability to provide services; displace wildlife and destroy wildlife habitat; spread noxious weeds; and damage and destroy streamside areas that are important to fisheries and water quality. Numerous attempts have been made to strengthen the Subdivision and Platting Act; all have failed. Few statistics have been gathered documenting the extent of the uncontrolled subdivisions because most development is exempt from review by local governments. What is known is that most subdivisions escape any review process:

- Between 1974 and 1979, 90% of all subdivisions in Gallatin, Missoula and Ravalli Counties escaped any review because they were exempt from the Subdivision and Platting Act.
- Since 1981, the Church Universal and Triumphant has been able to develop a 4,500 acre subdivision just south of Livingston without any review.
- In the Greater Yellowstone area, 10,615 lots covering 134,904 acres have been created without review (Carbon, Madison, Park, Stillwater, and Sweet Grass Counties).
- Between 1986 and 1989 in Lewis & Clark County (Helena), 1028 parcels of land were not reviewed by local government, while 126 subdivisions completed a review.

The main objective of HB 671

The main objective of HB 671 is to "protect public health, safety and welfare" in a way that also "protects the rights of property owners." This objective is met by:

• Providing specific review criteria for three types of subdivisions: major, minor

EXHIBIT NO. 13

PATE 3-15-91

BILL NO. 718-671

March 15, 1991 Senate Natural Resource Committee Senator Stimatz, Chairman

From, the Montana Association of Registered Land Surveyors

Mr. Chairman:

When Representative Gilbert introduced H.B. 671 we, the Montana Association of Registered Land Surveyors, testified in favor of it, with reservations. We recognize there are problem areas in the present Subdivision and Platting Act. We have worked with the E.Q.C., through their hearings, to address those problems. Our concerns with H.B. 671, as introduced, were, the lack of accountability of the Review Authority, the Access Standards, Road Standards, Park Donation for Minor Subdivisions, the Effective Dates, and other minor items.

In the House Natural Resource Sub-Committee none of these concerns were addressed. In fact H.B. 671 was amended to the point of not being recognizable as the introduced bill!

Altho Representative Gilbert's proposed amendments do make H.B. 671 somewhat less distasteful, they still do not address our concerns.

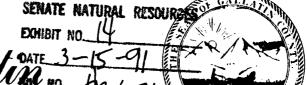
We feel that H.B. 671, even with the proposed amendments, is a shotgun solution to what basically is a zoning problem. As it stands, even with the proposed amendments, it punishes all property owners for the sins of the few. It will create a whole new bureaucracy at the local level and increase the cost to the buyer and seller of property. It will require local governments to increase their planning staff and in some cases, such as low population counties with parttime planning staff, to hire fulltime planning staff. Therefore increasing the cost to the local taxpayer to support the professional regulators, who will make up this new bureaucracy.

Therefore the Montana Association of Registered Land Surveyors oppose H.B. 671 and feel that the only solution at this point is to kill this bill outright.

Respectfully

David E. Bowman, PLS For the Montana Association of Registered Land Surveyors

State of Montana



County of Gallatin no.

Bozeman

Dear Senate Natural Resources Committee:

We hereby voice our unanimous support for HB 671. We have serious concerns about uncontrolled development in Gallatin County. Without review of occasional sales and 20 acre parcels we have experienced huge increases in the cost of roads and their maintenance, law enforcement and other services that we are mandated by law to provide. We cannot continue to expect our taxpayers to carry this burden.

We recognize that there will need to be some minor modifications prior to passage of this bill in the area of minor subdivision review. We request that you do not make substantial changes to the following:

- review for 20 acre parcels and occasional sales for nonagricultural purposes;
- one public hearing be held for a review;
- 3) the inclusion of environmental concerns.

Changes we can support include:

- 1) the final review authority rests with elected officials;
- 2) simpler procedure for review of small land divisions;
- 3) penalty for violation lessened.

Review of land divisions does not mean that they will not occur or that they will be denied; it simply means that taxpayers and land purchasers will be protected from paying hidden development costs.

GALLATIN COUNTY COMMISSION

Jane Jelinski, Chairman

A D Pruitt Member

Deb Berglund Member

GENATE MATURAL RESOURCES

EXHIBIT NO.

WITNESS STATEMENT
To be completed by a person testifying or a person who wants their testimony entered into the record.
Dated this 15 day of March, 1991.
Name: July Willow
Address: 488 Druncau Road
Telephone Number: 363-195
Representing whom?
self
Appearing on which proposal?
N5671
Do you: Support? Amend? Oppose?
Comments:
Une the converted to arrival
this felly recommend passage in the
serate. It strengthers responsible
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for the entire country. It will prevent,
in future hodge polar subdividing
in Pavalle Carette, she planning office, which versels beneficial landuse for the entire country. It will prevent, in future, hodge-police subdividing that has occured because of exemptions.
0"/-

WITNESS STATEMENT

WITNESS STATEMENT 3-15-91
To be completed by a person testifying or a person who wants the their testimony entered into the record.
Dated this 15 day of March, 1991.
Name: Tony Schoonen - Skyline Sportmer's Club
Address: Box Z
1924nsz 177.59748
Telephone Number: $782 - 156$
Representing whom? Sel & 2nd Skyline Sportsmen's Club
Appearing on which proposal?
H.B. 671
Do you: Support? Amend? Oppose?
Comments:
House Bill 671 dees 2 teesment
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in present sub Livision /2005 IT
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Please give 2 do-pass to the
bill.
Land Schoon

SENATE NATURAL RESOURCES

EXHIBIT NO 17

DATE 3-15-91

BILL NO 1861

William D. Diehl, Ph. D., ASA, IFAS Diehl Appraisal Services 2778 Spokane Creek Road East Helena, Montana 59635 406-475-3286

To: Senate Natural Resources Committee

From: William D. Diehl

March 15, 1991

Re: House Bill 671

House Bill 671 by eliminating the exemption from review of all divisions of land is one of the most important pieces of legislation in the past two decades. Property rights in America have been the basis of all economic and political freedom for the past two hundred years. Property rights are deemed to be the most necessary freedom because there must be a way to mount defense of the other freedoms. Ask any of those who have been under the boot of the Soviet System for the past 75 years. The right to use and enjoyment of private property is the foundation of freedom.

House Bill 671 is about to take away one of the most important rights among the sticks in the bundle of rights we have known as private property rights in America. That is the right to sever yourself from it, either by selling it or giving it away. As a matter of fact, if you can't sell your property or give it away or otherwise sever yourself from it, you are it's slave rather than it belonging to you.

The important aspects of House Bill 671 are not it's minute features. The important thing to realize is that this is the final nail in the coffin of private ownership in land in Montana. This law if enacted will impose so much regulation on the private ownership of land and exercising of those property rights, so as to render them null and void. I will be supprised if this Bill is passed it will be overturned because of its unconstitutionality. It involves taking by regulation

adverse condemnation. Land use regulation in Montana has reached the point now that further regulation should be accompanied by a fiscal note designed to reimburse the property owners for rights taken away from them so that some ill-defined public environmental can be achieved. Oliver Wendell Holmes once said, "We are in danger of forgetting that a strong public desire to improve the public condition is not enough to warrant achieving the desire by a shorter-cut than the constitutional way of paying for the change." Let's work for the things we want while keeping those we must have --freedom to own property and to exercise meaningful rights of ownership and if there is a public interest lets make sure that the owners of property don't bear all the burden of that interest. So much for the political aspects of the Bill.

The real issues involved in this legislation are simply that we are here today because we were here discussing Senate Bill 208 in January 1973. There simply wasn't enough regulation of land to protect the public interest in 1973, nor is there enough regulation and control of land to protect the public interest in this year of our Lord 1991. And I must continue, even after this Bill passes if it does, there won't be enough control of land to protect the public interest. What a ridiculous state of affairs. What is going on in this State? And when we get down to the end of all this we will sit back and say, "The real purpose in all this is to control people any way."

Property owners, and at this time in history, resource owners of all kinds, are in an epochal struggle, a struggle too often obscured by slogans and cliches.

The resource industries are in a state of siege. The Sierra Club can't see the forest for the trees. Environmentalism is a cliche in desperate search of definition. Too many people and entire industries in Montana, suffer as a result of the one-dimensional analysis of environmental impact.

Environmentalists repeatedly exhort us to examine the interrelations among all things -- the totality of the ecosystem. They are certainly correct:

But ecological law must be extended to include the great social and economic issues of our time as well. To view it otherwise is to re-inact the tale of the seven blind men and the elephant. House Bill 671 is totally without reference to the economic impact that may be wrought upon property owners nor is it taking account of the impact on the economics of the housing industry.

Planning Commissions where I have done much of my business are the Munichs of our time. Land use regulation was originally intended to exclude uses of land not in the public interest. But now land use regulation is being used to exclude people as nuisances themselves.

No one can predict the final outcome of the struggle here in Montana. It may well be that we are witnessing the final distruction of the great legal and cultural institution of private property, not only in real estate. It is real curious that about one-half of the population of the world are in the process of rediscovering that very thing we in this State are so bent on destroying with legislation such as House Bill 671.

I think Montana is unprepared for this Bill. It should be sent back for a fiscal note for estimates of the value of the taking of one of the most important sticks in the bundle of rights in property -- the right to sever yourself from it. That stick in the bundle may constitute a major portion of the value of the property affected. I am sure no one, yes no one, wants to own anything they can't dispose of readily.

SENATE NATURAL RESOURCES

My name is Wayne Joyner, I am from Bozeman where I am the President of Rocky Mountain 3-15-91 Timberlands. I am opposed to House Bill 671 in its present form for the following reasons:

- It gives too much power to the planners so they can make arbitrary decisions. Whether these decisions are made during the formulation of each county's regulations or during the review process. I have dealt with many planners and planning boards over the last twenty-four years as a developer and it has been my experience that somewhere along the way there is always room for the planner and or planning board to get one more pound of flesh, even though the subdivision may eventually gain approval. If you have the ability for one person to make these decisions and that person is appointed rather than elected what opportunity does a property owner have to change or question the decision.
- It is my opinion that 20-acre parcels come in two kinds. The kind you see right here in the Helena Valley or on the outskirts of most towns, the poorly done projects that the planners point to. That would be the first kind. The second kind would be more rural, usually foothill or mountain type country. I do agree that what you see in the Helena Valley should not go unchecked. I do believe it should be regulated, of course the result will still be people who want to live out of town and maybe a little more messy than the way I would like to see them live, but because of better planning you'll see more of them grouped together than all spread out.

The closest subdivision we have done to a town would be probably ten or more miles from the city limits. My experience in this field is not limited to just a few little mom & pop subdivisions. I quit counting over ten years ago after having subdivided over 400,000 acres in Washington, Idaho, and Montana.

In 1984 we had a marketing study done by Montana State University to determine who our buyers were so we could use our advertising dollars as efficiently as possible. The study was conducted by the School of Business under the supervision of Professor James Brock. Our customers were all sent a survey and an unusually large percentage responded. The results were that the density of our rural property subdivisions was one dwelling per 30 to 35 parcels, or one dwelling to 600 to 700 acres! Further, the use cycle by our customers turned out to be two to three days every two to three years!

I really don't see where this type of subdivision should have the same requirements as a lot-block housing project or condominium project. I respectfully submit that the planners and the proponents of HB 671 simply do not have the experience of reviewing 20-acre tracts, therefore their knowledge in drawing a bill to regulate them is sadly lacking.

In that vain I am submitting to you today a set of regulations that I believe should be applied to all twenty acre subdivisions that are located ten miles or farther from the city limits of an incorporated town or city. I propose that when a developer has met the criteria and the county sanatarian has signed off on the face of the plat that the "perk tests" have been completed and approved and the county planner signs off that all other criteria have been met, the Certificate of Survey may be recorded without further review.

I would also suggest that we look at going back to the older tax situation regarding 20-acre parcels when they were taxed as a subdivision and not as agricultural land. I have tried in the last week to call every county in the state to see just how many 20-acre parcels there are in Montana. Not one county could give me a clear number, but some were willing to estimate. Based on those numbers and my own experience I would estimate 50,000 to 100,000 20-acre parcels state-wide. If each one were taxed at \$150 per year that is 7.5 to 15 million dollars in annual revenue. Now where is Montana going to raise those kinds of revenues with so little impact? Talk about a renewable resource!

EXHIBIT NO. 15-91

DATE 12 18 671

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.
Dated this 15 day of March, 1991.
Name: Strohen J. Ries
Address: BBSO Bleen Meadow Dr.
Helena, Montana 5960/
Telephone Number: 406-458-524.3
Representing whom? Belf - Land owner-Land Burveyo
Appearing on which proposal?
Do you: Support? Amend? Oppose?
Comments:
This is a Environmental Bill for the
Covernment to have total control of our lands
and it will be very exitly to transfor land
if the govering body will let it take place. We need less government mut more.
We need less government nut more.
· · · · · · · · · · · · · · · · · · ·

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 20
DATE 3-15-91
BILL NO. 1861

Chairman Stimatz, Memebers of the Committee: 3/14/91

I am Bill Myers, representing Agriculture Preservation Association. I also am a member of the Bozeman City-County Planning Board, (5 years), and the Gallitan County Planning I wish to go on record opposing House Bill 671. not disagree the need to revise the current Subdivision Laws of the State of Montana, but we disagree that it need be done in such a sweeping scale as H.B. 671 has attempted to do this session. H.B, 671 is a unworkable, a taking of property rights, and just plain confusing. APA would support a interim study and would provide membership and input to such a committee. Representative Gilbert has purportedly spent four (4) years studying and preparing this legislation. I would submit that two, (2), more years would not be an imposition, if the public could be involved and good legislation could be written, which in all probability have support of all interest groups.

Concerns we in A.P.A. baye at this point:

1. All mechanisms for landowners, Farmers and Ranchers, to sell a portion of their property has been taken away. We understand the problems in some areas of the State with 20 acre parcels, but believe that even under current statutes, those counties that have had a problem could have and should have addressed them. The very idea that someone in Agriculture cannot even give a son or daughter a parcel to build a house and live on is certainly antagonistic to say the least. Agriculture might need to sell a parcel to satisfy a loan, resolve an estate, any number of things. The only real equity a farmer or rancher has is land. Generally speaking the land is their home, livelihood, and retirement. Please consider the fundamental property rights and issues when you vote on this proposed legislation.

- 2. The next obvious question that arises is how someone is going to identify and monitor a son or daughter that is going to live on the property and be active forever in the agriculture activity. Times and economics change and along with those changes, intentions and goals change.
- 3. It is perceived that all protections thus far in H.B. 671 are either for the public or for developers. The only protection for agriculture is that they will always be agriculture. H.B. 671 removes occasional sales, 20 acre exemptions and right to convey unless a survey is performed and a hearing conducted. H.B. 671 will take basic property rights to convey property conveniently, thus lowering values.

Question is, who will make up the difference in property values? Protection of good agriculture land is imperative, but when a community such as Bozeman grows out and around an existing agricultural area, some means should be provided for that property owner to move on, and H.B. 671 certainly hinders that opportunity.

- 4. We in APA maintain H.B. 671 will be tied up in lawsuits and courts for years to come. The current laws have been challenged and have survived the test of time, and we do not believe that the chaos that will be created by this legislation is either necessary or needed at this time.
- 5. H.B. 671 could put to much power in staff or hearing officers. We believe that local government should have to review and local <u>elected</u> officials make decisions. Appointed or hired guns are not acceptable.
- 6. Road standards are mentioned in the bill, but no standards are defined.
- 7. Wildlife becomes an issue with divisions of land.

Items of ogreement with M.B. 671:

- 1. One public hearing on a subdivision would expedite the review process. We also liked the original language that required the public to be sworn in before testifying.
- 2. Public interest criteria is revised and the applause rating has been removed. Personally as a member of two planning boards, I have had real problems judging the public need and expressed public opinion criteria.
- 3. Expedited review process on specific criteria.
- 4. Public hearing process is outlined and excludes "hearsay" evidence. Problem is how this is sorted out unless those testifying have been placed under oath.

To summarize, we in APA concur with the need to perhaps amend existing statues. We see no need for complete new law. We support an interim study, with public input. We firmly believe everyone that has an interest should be heard and the legislative process is not the proper forum for public input. We do not enjoy the thought that this session of Montana's legislature is going to pass some kind of subdivision law.

Politically expedient, but not in the public interest. The bottom line, Agriculture should be involved and should have some room to maneuver with their bankers and neighbors. Government review can mean several different things, depending on who you are, and even the county you are in. H.B.571 does not even consider land transfers without review unless the use of the land changes. We feel that if this legislation is passed as written, a civil action against the State under the takings procedures is eminent.

Thank you.

WITNESS STATEMENT

their testimony entered into the record.
Dated this and day of March, 1991.
Name: R.P. Myers
Address: 5+88 Courdough Fel
Bagman Dyort
Telephone Number: 5878513
Representing whom?
Appearing on which proposal?
Do you: Support? Amend? Oppose?_X
Comments: It Where in againstir
Been In the heaving - Lialed don't see
where the burden of water and seven
sigtem a

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE NATURAL RESOURCES

EXCHIBIT NO. 3-15-97

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record. Dated this /5 day of Name: Address: Telephone Number: 80 Representing whom? Appearing on which proposal? Do you: Support? ____ Amend? ____ Oppose? \(\frac{1}{2} \) Comments: vol 671 and related

EXHIBIT NO. 22

Jepson Realty

POST OFFICE DRAWER B • TOWNSEND, MONTANA 59644 • PHONE (406) 266-4223

3/15/51

Senstor Lawrence Stimtz Montana State Senate Cipital Station Helens, MT 57620

RE: 48671

Aux Jemfor;

I am writing this letter in appeartion to 11 B 691.
This bill has the potential to be a tremendous burden

on inclividuals and government.

Brondwater County along with many other counties has
had no abuses of Jubiliusian exemptions. Why subject
everyone; everyoday citizens, county a state planners, developers,
county commissioners of state agencies to the countless addition
of man hours of Exponse that would be required by this
bill. (the fiscal impact of this bill appears to be justily
underestimated)

Please see what you can Go to kill this bill to answer subdivision problems specifically to not with the Shot jun approach.

Sincerely

De Aver



To: Senate Committee Members

Re: HB-671

Pg 2 This goes contrary to the problem of <u>cost</u> because the Line 14 more <u>cost</u> to subdivide and build fancy roads, do environmental impact statements, delay by regulators and all the other requirements in this proposed law change means you need to sell smaller lots with more crowding.

SENATE NATURAL RESOURCE

EXHIBIT NO

Pg 2 This proposed law is meant to subdivide land within a Line 14 metropolitan city and leaves no room for the recreational homes, hunting cabins, fishing and camping lots, etc.

Pg 3 Environmentally sound by whose definition. Line 2

Pg 4 Public hearings would mean defending the rights of a Line 11 property owner to subdivide into more than one parcel of anything less than 640 acres.

Pg 4 In early 1973 the planners decided to gain control over Line 19 any division of land of 5 acres and this was increased to 10 acres and then later to 20 acres. All that happened is that more land was subdivided because of the increase in lot size from 5 acres to 20 acres and raise the cost of Montanans to own their piece of land to use and live on and enjoy in any number of uses.

Pg 5 This law will require 60' wide county roads graveled or Line 15 paved adding thousands of additional roads for each county to maintain and can you imagine a road of that magnitude having to be built to your hunting camp or recreational cabin site and camping site, etc.

Pg 7 Each County will have to pay for and appoint a review
Line 3 authority. This person will have to approve or disapprove
on any subdivision. What a political job this will be.

Pg 8 This law means a full and costly review to do any kind Line 2 of single family condominium adding thousands of dollars and man hours to produce housing for both low income to high income home owners. A commercial building of any size will also suffer from this proposed law.

It also means you cannot use <u>any area</u> for hunting camps, fishing camps or even camping trailers or vehicles on any area that does not go through the subdivision review process. No more taking your camp trailer to your favorite camping spot.

Look at the grief all our do gooder animal rights or environmental groups could do to our recreational values and way of life held so highly by most Montana citizens.

This bill is 53 pages long. I have only outlined some of the problems with this bill through page 8. In my opinion this bill will put the power of development in a very few powerful-all controlling-politically motivated hands. It will increase the cost of development and ultimately the cost to the Montana consumer and take the ability away from many Montana people to own property. Only the rich out of staters will be able to afford to purchase property here.

Please do not pass this bill.

Sincerely yours,

John D. Buchanan

Great Falls, MT.

SENATE MATURAL RESOURCES

WITNESS STATEMENT

To be completed by a person testifying or a person who wants
their testimony entered into the record.
Dated this 15 day of $May(1)$, 1991.
Name: John D. Buchanan
Address: PU Box 1643 Great Falls
MT 59403-1643
Telephone Number: 406 - 76/037) 2
Representing whom?
Heritage Bonk - Buchanou Enterprise
Appearing on which proposal? (\mathcal{G})
Do you: Support? Amend? Oppose?
Comments:
See a Hacked statements
I Want to tesify today.

SENATE NATURAL RESOURCES

EXHIBIT NO

DATE. .

BILL NO.

Natural Resource Senate Sub-Committee

Gentlemen:

I am a real estate broker specializing in large farm and ranch properties here in Montana. I am also an owner of a large ranch in Dawson and Wibaux Counties as well as mountain property near Lincoln.

Since becoming aware of HB 671 and having the opportunity to read the proposed bill, I have talked to a large number of my farm and ranch clients about the ramifications of this bill. I do hereby adamantly oppose the passage of HB 671 in any form whatsoever.

It is the overwhelming opinion of my constituants that government should and must stay out of the private land management business. Freedom, to the rights of property ownership, is a very sacred and dear part of the heritage of our great state.

Increased government involvement in land sales does little more than hinder the movement and business of this state. Turning ownership rights of property into a political game of who knows who, causing price escalation, limits on who may be involved in dividing or occasional sale of property, restriction of buying power, and diminishing the hopes of the great american dream ... to own real estate.

Improperly done subdivisions of land are usually victims of their own demise. We are educated and knowledgeable people, not governed by the old "caveat emptor" or "buyer beware" theory anymore, but secure in the real estate disclosure laws of this state.

On behalf of the large number of property owners that I have spoken to in the last two weeks, I again urge you to oppose HB 671 and protect the rights of the voters, citizens, and property owners of the state of Montana.

MARVIN BROWN, BROKER/OWNER ROCKY MOUNTAIN RANCH REALTY BILLINGS, MONTANA

SENATE NATURAL RESOURCES

EXHIBIT NO 25

DI 3-15-91

BIL 10 48 671

House Bill 671 will restrict your rights as a property owner!

- Eliminates the right to divide and sell a single parcel in a 12-month period without going through government review.
- Restricts the right to divide and give a parcel to a family member (except in very narrow agricultural situations) without government review.
- If you have an agricultural operation, you can only give one gift to each member of your immediate family and only for the purpose of maintaining the agricultural operation.
- Eliminates the ability to divide a parcel of land for the purpose of securing financing without government review.

- Although the violations are decriminalized, the bill increases the penalty from \$500.00 to up to \$5,000.00 against a landowner for violation of act.
- The designated review authority may be given unlimited and undefined discretionary powers.
- A public hearing may be required before you can divide your land.
- The bill leaves no simple, easy way to review small divisions of land.
- Minor subdivision review is expanded to be virtually the same as major review.
- Minor subdivision review criteria is expanded to include wildlife and wildlife habitat, cultural and historical factors.

This bill efectively takes historical factors.

Revay our right to make decisions

On how to sun or expand our business.

My brother and of are in a flanching and fishing the business. To expand the fishing would be under the control not ours business expertice. In not sure this is constitutional, of couldn't even build my am a house of his non on our own property. For these reasons please defeat Bill 671.

Please Rever

TESTIMONY OF FRANK NORMAN, JR.

Re: House bill 671

SENATE NATURAL RESOURCES

EXHIBIT NO. 26

DATE 3-15-91

BILL NO. +136-11

Ladies and Gentlemen, I am Frank Norman, Jr. of Belgrade, Mt., a third generation farmer from the Gallatin Valley with roots there dating back to 1860. I have just come through an 8 year period of dealing with matters of estate and inheritance due to the death of my father, which took us to the Montana State Supreme Court on two occasions and cost us \$350,000.00. I therefor speak on this matter with some experience and authority.

I cannot even comprehend the additional difficulties my family and I would have gone through under a law such as proposed in HB 671--it is 51 pages of mass confusion and reads like I imagine Russian law would.

To point out a few of the major difficulties, this bill would destroy private property rights of the citizens of our fine State, and it would create another round of court action to eclipse all others in history! Should it ever be resolved in court, I fear the resulting process would be so bureaucratic, time consuming, and costly, that might just as well sign the entire state over to the federal government now---for a National Park-the largest in the world. It will take the taxing and spending power of the Federal government to pay for surveying the entire state! Just read Sections 10 and 11 of the bill--they place all divisions of land in the state under the requirement of survey!

All references in the bill to section 76-3-501 for standards are badly misguided--there are no standards in that section of the law! Further, the bill buries the process in the hands of appointed officials-- who cannot be touched by the elective process, which amounts to governmental <u>empire building on a grand scale.</u>

Sections 10 & 11, mentioned a moment ago amount to employment in perpetuity for the legal profession and the influx of surveyors we will need if it is passed and signed into law. The cost of surveying a section of land can run up to as much as \$12,000.00, extend that, if you can, to the volume of private land in this state--overwhelming!

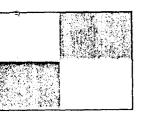
Section 14 refers to an undefined property owner--who is it? Page 21, para (f) refers to a "public value", what is that? The old law had 8 subdivision cirteria in it that this bill removes, then puts back elsewhere, why? Section 19 violates standards of law by allowing hearsay as

evidence in hearings, why? More employment for attorneys? The latest amendments to paragraph 4 of section 19 make it even more confusing, and they foul up the reference to said paragraph in the next one-paragraph 5 which depends on the previous language that was deleted from para (4), why?

The bill promotes movement in circles--you can't escape from the process-why? It is cost prohibitive and will destroy the Agricultural economy of
the State of Montana, and for what purpose? Don't misunderstand me
folks, it does have one redeeming feature--money in lieu of parks! It
shouldn't create any more 19 acre weed patches, but that is all I find in
this bill that I like! Section 22 will open the floodgates of overregulation, and Section 24 is a real clincher--it guarantees review in
perpetuity!

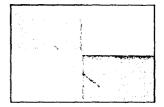
In conclusion, I believe, as many folks do, that there is no balance between the process of review and the rights of property owners. A bill of this magnitude requires 1 to 2 years of very careful study, which I believe would result in a much simpler, understandable, and workably affordable law! Let us please not start another monumental round of court decisions that take the power of decision making and property rights away from those who have worked so long and hard to reap the small benefits thereof.

Front Toumon III



SANDS SURVEYING

1995 Third Avenue East Kalispell, MT 59901 406-755-6481



SENATE NATURAL RESOURCES

EXHIBIT NO.

BALL NO.

Montana Senate Subcommittee March 15, 1991

Re: HB 671

As a Practicing Professional Land Surveyor in the State of Montana I am intimately concerned about House Bill 671. I have tried to read through this bill to discover its ramifications on the landowners of Montana, and am ultimately confused at its contents. I am in the business of Land Use Planning, and am familiar with every aspect of the current subdivision laws and regulations as they relate to landowners.

I cannot agree with HB 671 because it does not address the true problems created by the existing ACT. and will ultimately produce and build a bureaucracy unaccountable to and unreachable by the PUBLIC.

This bill does not address the true problems that apply to the existing Law when a Landowner decides to sell a parcel of property. There are no provisions set forth to enable a landowner to expeditiously and economically dispose of his property. I am not saying that a landowner should be able to sell whatever and whenever he pleases, with no review, but I do strongly believe that a system should be set up that if a parcel of land is proposed to be divided and meets certain REASONABLE, pre-set, known conditions, then that division should be ushered through a SWIFT review process to recording. HB 671 does NOT set forth those standards.

HB 671 sets up a bureaucratic system to review subdivision applications to be approved by an entity called a REVIEW AUTHORITY. This person would have the final say on approvals and disapprovals of a subdivision application. I shudder to think of working under such a law, with no means for a landowner to appeal any decision made by this ultimate authority back to the governing body.

HB 671 in its present form does not address the true problems with the existing law regarding parkland/park-fund extortion, and county road standards for access. These two items are the major reason that people do not choose to proceed through subdivision review and deal with its subsequent regulations when they decide to dispose of their property, and is the ultimate reason for the accusation of evasions of the existing Subdivision and Platting Act.

There should be NO parkland requirement for minor subdivisions, and parkland requirements should be greatly reduced for major subdivisions. There are currently in Montana MILLIONS of acres of parkland, from Glacier and Yellowstone to the National and State forests that are set up for the use of the Public, and we all pay the taxes to manage those lands.

The result of this existing parkland requirement that has been forced on subdivisions over the last eighteen has only produced spotty areas of uninviting weed patches. $\gamma_{eg} r^5$

It is unthinkable that a government agency can force a landowner to build his driveway to county specifications. This is what HB 671 will do. Roads into minor subdivisions are nothing more than a common driveway to be used and maintained by the landowners. They are not County roads. County Government has enough problems trying to maintain their own road system without encroaching onto the private driveways of the taxpayers.

I am not opposed to eliminating certain exemptions of the ACT. However, if those exemptions are eliminated, a system <u>must</u> be available to the Land Owners of Montana to expeditiously dispose of their property. When that review will take five to six months, and will overwhelmingly increase the cost of selling property, which will be the case if this bill is passed, that system is unacceptable.

It is the Montana Dream of anyone who moves to this great State to own a parcel of property, whether it be a half acre, 5 acres, or 20 acres, to call it his own and to enjoy for the rest of his life. It is not up to appointed bureaucrats to dictate to this individual or any other person that he does not have the right to pursue that virtue of happiness.

There is a great difference in definition of the word PLANNING between someone who works for the government and someone who OWNS the land and has lived on it all his life. It is a repugnant thought that someone can move to Montana from another state, call himself a planner, ignore our values, and be given the ultimate decision on what the Landowners of Montana can do with their Property.

Montana is a Great State. I don't have to tell you that, you have chosen to live here. I was born here, I live here and I work here. We need legislation that will protect the rights of Montana Landowners as well as Legislation that sets forth guidelines for a planning procedure for future growth and development. HB 671 sets forth a procedure to STOP growth and development in this State and will ultimately be the reason that people will loose their jobs and be forced to move out of Montana to make a living.

No attempt was made in HB 671 to satisfy these concerns, nor was any attempt made to address other concerns regarding the ACT.

I see no reason that HB 671 should even be debated in the Senate. This bill, if attempted to be amended will end up a detriment to the State, and will in effect shut down all growth and orderly development in Montana. I would rather work with the existing bill, - which we have worked under for the last 18 years, and which I admit needs to be changed - , for another two years, until something workable can be drawn up, than to be forced to comply with confusing, unworkable law.

I urge you to vote against HB 671. If HB 671 passes, we will all live to regret it.

LINCOLN COUNTY DEPARTMENT OF ENVIRONMENTAL PLANNING



418 MINERAL AVENUE LIBBY, MONTANA 59923 PHONE (406) 293-7781

MARIE R. STUDEBAKER PLANNING ASSISTANT

To whom it may concern-

EXHIBIT NO. 28

DATE 3-18-91

BILL NO. HB 671

The Lincoln County Planning Department is issuing this letter in response to the proposed House Bill No. 671. Although certain aspects of this bill we would be in support of, such as the attempt to make the parkland requirement more fair, the major part of this bill would be confusing, subjective, and unnecessary. If I've interpreted it correctly, all divisions of land would be designated as some kind of subdivision and subsequently, subject to review. A hundred acre parcel for sale would be reviewed the same as a one acre lot. In addition to not having the facilities or time to provide a written documented review of every division of land in this county, this bill adds that a public hearing can be called by a citizen for a minor subdivision (everything not a major or special subdivision]. If a citizen called for one 15 days following the subdivision's submission, and it has to appear in our local newspaper two weeks prior to the hearing and considering the paper is weekly, we've effectively run out of our alloted review time.

Other parts that seem unclear and confusing in this bill concern items such as the kind of cultural or historical resources that would be considered significant enough to prevent a land owner from selling part of his property. The difference between a "residential condominium or building" and "sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement"; other than the fact, one is a subdivision and the other isn't. The bill calls for a "review authority" to essentially be the responsible government party up until Section 17, Part [3], then "additional relevant and reasonable information ... may be required by the governing body", the governing body calls a public hearing, the "review authority" makes a decision on the plat, then if the governing body doesn't think it's right, it changes it. It would appear the present system is more efficient and has a more hierarchical structure.

To summarize, this planning department feels that House Bill 671 is confusing, contradictory, and seriously flawed. If it was to become law it would place a great burden on local governments in time and money while accomplishing very little. We would like to recommend it not be passed.

Sincerely,

Ken C. Peterson
Lincoln County Planning

SENATE NATURAL RESOURCE

DATE

SENATE NATURAL RESOURCES COMMITTEE

H.B. 671 is restrictive, damaging to our economy, antipopulation growth and anti-business. I find H.B. 671
restrictive to the point of taking away more of our cherished
freedoms and it restricts the ability to expand our much needed
population. It will restrict the desires and opportunity for a
rancher to retire on a small tract of land near town, or on the
ranch as many prefer, possibly making it impossible. It will
restrict the ability of a town to expand thereby denying the town
the opportunity to expand their economy. It will force more
people to live in already congested towns and restrict the
opportunity for people to live under better atmospheric
conditions in the country.

It will bring upon a hurting economy more government, more taxes, more paperwork, forcing already overtaxed landowners to pay higher taxes to support government employees. Why should the landowner, to their detriment, be severely restricted and forced to provide miles of scenic beauty for those who make no contribution to the cost? Restrictions now in place which the landowner can barely live with are sufficient to provide environmental protection and still allow some room for a progressive economy. The economy of Montana is hurting now, business is in a slump with many bankruptcies, the economy needs help, not H.B. 671. H.B. 671 is not necessary, if landowners want to restrict the use of their land being sold it is a simply matter to attach covenants, an option available at little cost.

People want to own a small tract of land that they can afford, small tracts bring more tax revenue. One of the high points of my life was when I was able to scrape together enough money to make a down payment on a small tract in Montana upon which to build a home. People who build homes spend dollars and pay taxes. Many have invested in land purchases over the years, paid taxes, interest, labor and upkeep all to the benefit of state and county treasuries, or planned on sales income for retirement, and the only way to break even is to sell smaller acreages that will be a boon to the economy and encourage population growth, not discourage it. Some states will establish land values, agriculture versus development, or wildlife habitat, then pay the landowner to leave as is via covenants.

One thing H.B. 671 will do is make existing small tracts of land much more valuable and large tracts less valuable. H.B. 671 will also open the door to collusion, politics and graft.

We advertise Montana as the hospitable, pro-business Big Sky Country where we still have some freedoms left. Help to keep it that way.

Thank you,

Ralph Holman Landowner-Rancher Sweet Grass County, Montana

OFFICE OF CLERK AND RECORDER

EXHIBIT NO 30
DATE 3-15-91

NUL NO 48-512

512 CALIFORNIA AVENUE



COUNTY OF LINCOLN

(406) 293-7781

LIBBY, MONTANA 59923

March 12, 1991

Senator Lawrence Stimatz, Chairman Senate Natural Resources Committee Capital Station Helena, Montana

Dear Senator Stimatz and Committee Members:

I have some major concerns about the proposed revision of the Montana Subdivision and Platting Act as contained in House Bill No. 671. This bill as amended contains procedures and review requirements that will adversely effect both local governments and property owners.

Briefly these concerns are:

- 1. The definition of "Subdivision" has been revised to include parcels over 20 acres. Divisions of land over 20 acres would have to be reviewed as a subdivision including review by the Department of Health and Environmental Sciences. This will greatly increase review time and costs for local governments and property owners alike for unneccessary reviews. A propery owner who creates a division of land of 20 acres, 100 acres, or even 500 acres will basically be subject to the same review criteria as a person who creates a 1 acre tract.
- 2. Local governments will have to review all non-exempt parcels (including tracts over 20 acres) to ensure access to each tract created. This includes legal access and physical access. A similar regulation for parcels over 20 acres was passed in a prior legislative session and subsequently repealed because of the problems it created.
- 3. Subdivisions (including parcels over 20 acres) must be evaluated for hazards including unstable slopes and unsuitable soils. This provision will be very time consuming for already understaffed review departments. It may also increase the local government's liability exposure.
- 4. A review autority may be appointed to make final decisions on subdivision approval. A process should be included to appeal a negative decision to the governing body.

I feel that these amended regulations will greatly slow economic growth in our county at a time when economic development is being promoted. Almost everyone agrees that our existing subdivision regulations need to

Senator Stimatz Page 2

be defined better. Interpretation of the current regulations varies greatly from county to county. Numerous Attorney General opinions and court decisions have been given on the review criteria. House Bill 671, as amended, will not correct this confusion but will only add to it. Therefore, I urge you to oppose this bill.

Sincerely,

Bill Bischoff

Deputy Clerk and Recorder

Lincoln County

cc: Senator Eleanor Vaughn

SENATE NATURAL RE	enipere
EXHIBIT NO. 3	DOONGES
DATE 3-15-9	
BRL MO HBL 7	1
erson who want	
1001	

WITNESS STATEMENT

To be completed by a person testifying or a p their testimony entered into the record. Dated this 15 day of Telephone Number: Representing whom? Appearing on which proposal? Oppose? Amend? Do you: Support? Comments: touched upon so ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY development costs development and/orbigher which the consumer could neither attend or esthetically decine and (3) important

SENATE NATURAL RESOURCES

WITNESS STATEMENT

To be completed by a person testifying or a person who wants by their testimony entered into the record.
Dated this 15th day of March, 1991.
Name: Jerry Handri
Address: 2551 Teakwood Lane
Helena, mt. 59601
Telephone Number: 406-443-2797
Representing whom?
Appearing on which proposal?
48671
Do you: Support? Amend? Oppose?
Comments:

SENATE NATURAL RESOURCES

COMBIT NO 32

WITNESS STATEMENT

ou no. NBUT
To be completed by a person testifying or a person who wants their testimony entered into the record.
Dated this $\frac{15}{}$ day of $\frac{1991}{}$.
Name: NE Son, Bruce A
Address: 8x 2667
Telephone Number: 4539314
Telephone Number: 453 9314
Representing whom? Self
Appearing on which proposal?
Do you: Support? Amend? Oppose?
Comments:

Moon Day

B. C. Myers

We, the undersigned residents of Bozeman, Montana, and of Gallatin County in the immediate vicinity of Bozeman, are opposed to the housing development known as High Ridge Estates, and petition the County Commissioners of Gallatin County to deny the request of Grant Enterprises for approval of this development.

Tthis development.			SENATE NATURAL RESOURCES
			EXHIBIT NO. 33
NAME &	DATE	ADDRESS	DATE 3-15-91
			BILL NO. 418 67/
Down L. Demetrades	10/3/90	147 14.20	nie Pose Rd.
- authory beneticale	10/3/90	147 Hihh	ing Post Rd.
mody Schwender	10/3/90	l .	4 Bozemon
Nonnie Crystal	10/3/90	415 No. 20	./
- Junda Druden	10/3/90	14045	! Montana
Judya Mc Cormus	10-3-90	507 Sta	udoha
Cathy Wood	10-3-90	146 Hitch	ring Post Rd.
Sugarne Colevell	10-3-90	32 annett	e Pask Dr.
Celison Banfield	10-3-90	7610 Net	E Perce Dr.
Julie Mackley	10-3-90	207 Circl	le Dr.
Deblie Dent	10-3-90	602.5.	3rd
Patrisia Valente	10-3-90	8624 Panos	oma Cail
Frie Hongan	10-4-90	Box 239 (PALLATIN GATEWAY 59730
Margo Laguer,	16-4-90	410518	Bozena
Mulisa Wills	10-7-90	7570 Forsu	n// Pd. Belgrade
Mittel Bh	10-7-90	1157 Hell	Hall Wissala MIS980)
Barbara Kapatu	10-10-90	510 W. av	nold Bostman MT59715
Seam Righer	10-10-90	120. S. Bla	ck boyener, MT 5775
Peane Cita	10-10-90	817 S.	Bos 3rd Boz -
Mary British	10-11-90	43 Mit	hing Post Doz.
Layers Thebeden	10-11-90		Tracy # 9- Boy.
Llogita Erde	10-11-90		loza ed
Man J W/	10-11-90	1	2/x R

SENATE NATURAL RESOURCES

EXHIBIT NO.

DATE 3

BILL SUMMARY
HB 671 Second reading Copy

spu na HR 67

Subdivision Reform
Requested by Representative Bob Gilbert

Prepared by EQC Staff, February 23, 1991

Section 1 - Clarifies the purposes of the statute. In addition to existing relevant language, this section adds that the purpose of this chapter is to:

to provide simple clear and uniform guidelines for review of subdivisions; and to promote environmentally sound subdivisions; and protect public health, safety, and welfare in a manner that also protects the rights of property owners. For the purpose of this chapter, rights of property owners include the right to use, enjoy, improve, sell, and convey, in total or in part, real property so long as the exercise of such rights does not deny these rights to other property owners or adversely effect public health, safety, and welfare.

Section 2 -

- 1. Redefines subdivision removing the 20 acre limit;
- Defines minor and special subdivision;
- 3. Provides a family sale exclusion for agricultural producers; and
 - 4. Defines "water user entity".

Section 4 - Removes misdemeanor offense for subdivision law violation and provides for \$5,000 civil penalty for each parcel conveyed in violation of the chapter.

Section 5 - Requires that taxes be paid before division of land.

Section 14 -

1. Requires local governments to adopt subdivision regulations that protect the right of property owners.

2. Requires that subdivision plats located within water user entities be reviewed by the water user entity to ensure that the existence and location of all water user facilities are noted on the plat.

Section 15 -

- 1. Requires that the subdivider either complete required public improvements or bond for their completion.
- 2. Removes public official protection from liability if this section not complied with.

Section 17 - Modifies the information required for environmental assessments.

Section 18 -

Clarifies review process for major subdivisions:

- a. provides 60 day approval time limit
- b. allows no more than 1 informational hearing
- c. allows the subdivider, the review authority, or a substantially adversely affected citizen to call for the informational hearing;
- d. provides guidelines for informational hearing, for example, no irrelevant or repetitious evidence.

Section 19 -

Clarifies review process for minor and special subdivisions:

- a. provides 35 day approval time limit;
- b. allows one public or information hearing;
- c. does not allow the review authority to call for a public or informational hearing;
- d. allows the review authority to impose reasonable mitigation for substantial adverse impacts on on cultural or historical resources, or environmental or ecological resources, including wildlife and wildlife habitat, or if the subdivision would cause substantial adverse fiscal costs to the local government
- e. requires that any mitigation imposed be based on substantial credible evidence.

Section 20 -

Requires written findings and the reasons for review authority decision on all subdivisions.

Section 21 -

- 1. Modifies the park land dedication requirements based on the size of the parcels.
- 2. Provides for park land dedication based on density if subdivision is located is an area that has density requirements pursuant to a master plan or zoning regulations.
- 3. Requires the local government to consult with the subdivider and the local parks board when making decision to require park dedication in land, cash or a combination of both.

Section 22 -

Allows local government to assess reasonable costs of extension of necessary capital facilities related to public health and safety to the subdivider.

Section 23 -

- 1. Removes public interest criteria from subdivision approval consideration.
- 2. Requires local government approval of subdivision if development meets the provisions of the chapter.
- 3. Removes public opinion as basis for review authority decision.
- 4. Removes need criteria from subdivision approval consideration.

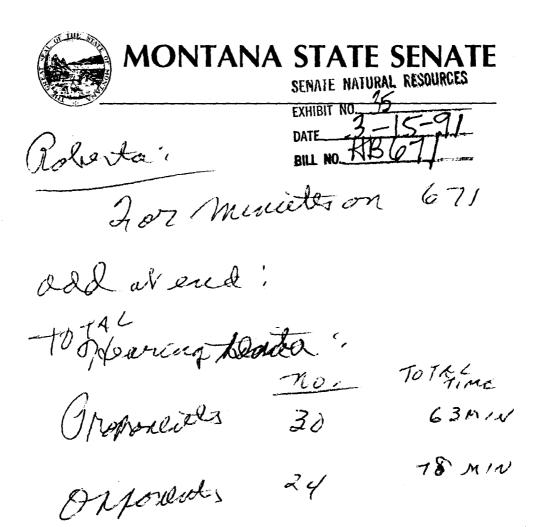
- 5. Requires consideration of certain hazards and the notation of the hazards on the plat.
- 6. Allows the local government to require approved construction techniques to mitigate or overcome hazards.

Section 24 -

- 1. Requires the local government to review major subdivision impacts on:
 - a. agricultural or agricultural water user practices;
 - b. cultural or historical resources;
- c. environmental or ecological resources, including wildlife and wildlife habitat; and
 - d. local services.
- 2. Allows the local government to impose mitigation and requires that any mitigation imposed be based on substantial credible evidence.

Section 33 -

- 1. Removes family sale exemption, except for agricultural producer exception in section 2.
 - 2. removes occasional sale exemption.



March 11, 1991

EXHIBIT NO. 3 15-91
BALL NO. TB 6 7

Senator Larry Stimatz Capital Station Helena, MT 59620

Dear Senator,

I am writing to voice my concerns with a piece of proposed legislation which is scheduled to be considered by the Senate Natural Resources Committee of which you are a chairman.

HB 671 in its' present form is vague, ambiguous and in its attempt to merge concepts of HB 644 and HB 844 is so poorly written it will be in the courts before the ink dries should it achieve final passage. At the least, it will require creation of additional layers of bureaucracy that will cause added expense to the taxpayer which is not in the public interest. While I wholeheartedly support orderly and environmentally sound division of the land it appears HB671 has been reworked to drive the special interest agendas of a group of environmentalist planners to the detriment of the public.

Some of my major areas of concern:

- -The creation of a "Review Authority" being a single person or entity with the power to make arbitrary final decisions regarding subdivisions, who is not accountable to the public. These decisions must be left to an elected body who is accountable.
- -A public involvement policy which allows input from any source whether pertinent or not.
- -The "eligible receiver" concept which could remove substantial amounts of land from the tax roles and could possibly be used as a lever by these groups to extort land or cash from an owner in exchange for favorable comment.
- -Subdivision review criteria which requires compliance with solid waste, sewage disposal, water availability, and site considerations for all subdivisions, regardless of size. This will price the survey beyond the means of the small landowner It also implies a predisposed presumption of guilt on the part of the governing body that this landowner is automatically out to evade these criteria, which has not been my experience.



March 12, 1991

Senator Lawrence Stimatz Montana State Senate Capitol Station Helena MT 59620

Re: HOUSE BILL NO. 671 - AN ACT TO GENERALLY REVISE THE MONTANA SUBDIVISION AND PLATTING ACT

I am writing to ask your support in defeating HOUSE BILL 671. As originally introduced the bill may have been marginally acceptable, but as it has been modified, the bill is totally undesirable and unsalvagable. It damages the property rights of Montana landowners and in many cases will make ownership of land impossible. The bill is in direct opposition to 76-3-501 which states "in a manner that protects the rights of property owners". My opinions come both from my viewpoint as a Professional Land Surveyor and as a landowner. Some specific problems I have with the bill are:

76-3-102 & 76-3-302: Requires that tracts of record prior to July 1, 1973, be surveyed and a Certificate of Survey prepared before ownership can be transferred. In some cases, a parcel of ground which a person has lived on all his life in harmony with his neighbors may be his only asset and the survey required for him to sell it could cost more than the property is worth. Or a tract of land that has been in a family for generations could not be passed on to the next generation, because of the cost of the survey.

76-3-103(20)a & 76-3-104: Define a subdivision but do not define how the remaining tract is to be handled. Under present law, if the remaining tract was over 20 acres, it did not have to be reviewed or surveyed. HB 671 leaves the remainder undefined and local Clerk & Recorders and review authorities could require a person to have a section surveyed or very large ownership boundaries surveyed to create a 1 acre parcel to sell to a ranch hand or to give to a son or daughter who is not a farmer. It is just too undefined.

76-3-103(23) & 76-3-501(1)f: Require that water user facilities be shown upon the plat and the plat be submitted for review by the water user entity. This self serving requirement proposed by water user entities in many cases could double or triple the cost of a property survey. Water user entities such as irrigation districts often have the only records of their easements because many of them were obtained by condemnation so they are not of record in the Clerk and Recorder's office and are not indexed in Court Records. With the remaining tract undefined as I discussed above, the water user entity could require the location of their facilities on all property under a single ownership before an owner could create a 1 acre parcel to sell to his hired hand or give to his son or daughter who is not a farmer.

76-3-603(3) The contents of an environmental assessment must include "additional relevant and reasonable information as may be required by the governing body". The words reasonable and relevant can mean almost anything, leaving the subdivider open to being required to obtain expensive data or research which will delay a development and possibly make it unfeasible in a different time frame, just to appease a review authority who is opposed to development in general.

The bill also deletes a procedures for implementing uniform monumentation requirements for surveys.

In the fiscal note attached to the bill it states "Lot fees charged to subdividers may range from \$50 to several hundred dollars per lot". Again, these added costs could make a division of land to give to a son or daughter or to sell to a hired hand, infeasible.

The above are just a few examples of the problems with HB 671, many more exist.

The bill could create a lot of work for surveyors like myself due to the extra requirements. However, the bill could also stop subdivision by the small individual completely. The possibility of passage of HB 671 has already caused some of our clients to create multiple 20 acre unplanned parcels from land that would not have been divided had the law not been proposed. There are still many 5 acre tracts sitting vacant from the 1973 panic subdivisions.

Thank you for the opportunity to show you some of the problems that will be created by HB 671.

Sincerely,

James E. Hodges, P.E. & L.S.

E. Hod

As introduced HB 671 had as its' statement of purpose: " to provide simple, clear, and uniform guidelines for review of subdivisions; and to promote environmentally sound subdivisions in a manner that also protects the rights of property owners...". HB 671 in the 'compromised' form you will consider falls far short of the original intent of this legislation; therefore, I strongly urge you to oppose HB 671.

Sincerely,

Michael A. Murray, PLS 3205 19th Ave. So.

Great Falls, MT 59405



Box 30758 Billings, Montana 59107

Ph.: 406/259-4589 — Res.: 373-6138

March 18, 1991

Senator Larry Stimatz (D-Butte), Chairman Senate National Resources Committee Capitol Station Helena, Mont. 59620

Dear Larry:

RE: House Bill 671

Please vote NO on this very restrictive bill for the private property owners of Montana.

In the last 20 years, many of the farmers and ranchers who are still in existence are in existence because they had the ability to sell of some property to maintain their operation. To require public hearings, government intervention, wildlife habitat-cultural considerations out in the country will, in most cases, kill a sale for a farmer or a rancher. This bill originated out of the Park County problem with the C.U.T. Their personal problem there should not force state-wide problems and enforcements on our populate. Had Park County been on the 'ball' the massive problem they incurred would never have happened.

It is totally unfair, restrictive and non-democratic to institute restrictions such as those HB 671 will put on private property owners of farms and ranches.

Yours sincerely,

VERMILION RANCH COMPANY Yellowstone County, Billings, Mt.

Patrick K. Goggins

President



LINDSETH SURVEY CO.

2 - 13th Street North • Great Falls, MT 59401 • (406) 727-9993

March 11, 1991

Senator Lawrence Stimatz, Chairman Natural Resources Committee Montana State Senate

Subject: HB 671, Revision to Mont. Subdivision & Platting Act.

We strongly urge you to defeat HB 671. Following are some of the reasons we feel this is an undesirable bill.

- 1. Our typical client is an average Montanan who is not too thrilled with the fees necessary for us to provide a proper survey under the current laws. Our fees would be forced to increase because of added survey requirements. Possibly more damaging to him would be the drastically increased amount of red tape and time involved for the review.
- 2. While we hear of abuse of the existing laws, we have seen very little in the past 4 or 5 years. Court decisions, Attorney General's opinions, local regulations, etc. have effectively stopped abuses and closed loopholes, at least in the Counties where most of our work is done.
- 3. It is not reasonable that an entity such as water users be allowed to require showing their canals, easements, headgates, laterals, etc. on the Certificate of Survey at the landowners expense. In fact many irrigation easements are not of public record. If water users can force property owners to finance a survey of all their improvements, then any other utility will have the precedent to demand the same. These types of surveys are called topographic surveys, ALTA surveys, civil surveys, etc., which most surveyors do, but they are special order work, quite time consuming and costly. This should never be required for a normal boundary survey. Note the definition of Certificate of Survey in HB 671.
- 4. The survey requirements for parcel size is raised from 20 to 40 acres for parcels which can be described by aliquot parts of a Government section. We feel this is unnecessary as we see no problems in our area with the current size. Where problems emerge the local governing body now has authority to deal with problems unique to that region.
- 5. The elimination of the exemptions for conveyances to family members and the occasional sale constitute a severe blow to property owners rights.

Page 2

There are many more reasons we oppose HB 671, but time constrains us. Whether by design or accident, this bill could discourage if not totally prevent the small land owner from selling part of his land. Please remember that new parcels are presently subject to State and Local Health Department regulations, as well as zoning laws. The public health, safety and general welfare do not suffer under the present law, but we strongly believe that the rights of property owners would be violated under HB 671.

We do not think Montana needs this kind of unworkable legislation. We may have supported the original Gilbert bill, but this one is out of control.

Thank you very much for your consideration in this. We appreciate the opportunity to present our concerns.

Since Dely,

Ronald A. Lindseth, PLS

Lonald atendents



HOWARD SUMNER

Home - 406-248-4316 Office - 406-248-3101 FAX - 406-248-1633

March 12, 1991

Senator Lawrence Stimatz Capitol Station Helena, MT. 59620

Dear Senator Lawrence Stimatz:

I am writing to you to express my extremely strong opposition to House Bill 671. I am asking you to do the same. Here are my reasons for strongly opposing House Bill 671:

- 1. It eliminates the gifting to close family members unless there is governmental review.
- 2. It does away with the owners right to take out a mortgage on small portion of their land without lengthy and costly government review.
- 3. It eliminates the owners right to occasionally sell or transfer a portion of their land without lengthy and costly government review.
- 4. It creates a "review authority", being a single person or entity with the power to make arbitrary final decisions regarding divisions of land, who is not accountable to the public.
- 5. It will create a much larger and costly governmental bureaucracy because all divisions of land will have to go through a lengthy and costly review process, rather than the current system which allows a division of land with local and State sanitary restrictions being lifted.
- 6. If you have an agricultural operation, you can only give one gift to each immediate family member and only for the purpose of maintaining the agricultural operation.

I sincerely believe you would be doing Montana a disservice by not strongly opposing House Bill 671.

Howard Sumner



The Door is Closing on Your Property Rights!

HB 671 will restrict your rights as a property owner!

REASONS FOR OPPOSING HB 671:

- It does away with all of our remaining property rights in dividing off as little as one piece of land and selling it unless we have costly and lengthy Government review.
- It does away with the occasional sale or transfer of land which a Landowner may need to do for financial reasons or for other reasons, without costly and lengthy Government review.
- It does away with the pleasure of gifting to close family members, unless there is a lengthy and costly Government review.
 - It does away with the property owners right to take out a mortgage on a small portion of a larger parcel of land without lengthy and costly government review.
- It will create a much larger and more costly
 Government bureaucracy because all divisions
 of land will have to go through a lengthy and
 costly review process, rather than the current
 system which allows a division of land with local
 and state sanitary restriction review process.

- Undefined road standards for all subdivisions, thereby creating an undue burden of cost to the average land owner in attempting to divide his property. (Costs range up to \$20.00 per lineal foot of roadway.)
- The creation of a "review authority", being a single person or entity with the power to make arbitrary final decisions regarding subdivisions, and who is not accountable to the public.
- Although the violations are decriminalized, the bill increases the penalty from \$500.00 to up to \$5,000.00 against a landowner for violation of act.
- A public involvement policy which allows input from any source, whether pertinent or not.
- If you have an agricultural operation, you can only give one gift to each member of your immediate family and only for the purpose of maintaining the agricultural operation.
- Park dedication requirements for all divisions of land.

If keeping your property rights is important to you, please write, call or fax your **Senator** and voice your concern and opposition to this bill TODAY!

Senate Phone:

Senate Fax:

WRITE Senate Address:

444-4800 444-4105

Montana State Senate

Capitol Station Helena, MT 59620





BILLINGS ASSOCIATION OF REALTORS

1643 Lewis - Suite 12 Billings, Montana 59102 Phone: (406) 248-7145

March 14, 1991

Senator Laurence Stimatz Capital Station Helena, Montana 59620

RE: HB 671 Proposed Subdivision Law

Dear Senator Stimatz:

As the representative for the 500 members of the Billings Association of REALTORS I am asking your support in defeating HB 671.

I am enclosing a flier prepared by the Billings Association of REALTORS, as you can see, HB 671 would make the process of subdividing land far to costly, restrictive, lengthy and punitive. If this legislation is enacted, it would take away the last remaining rights Montanan's have to subdivide land without costly and lengthy government review.

The Billings Association of REALTORS thanks you for your support.

Sincerely,

Jawa degaard
Laura Odegaard
President

President

G.A. (Jerry) KENNEY

BROKER OWNER (406) 248-3101

March 13, 1991

Senator Lawrence G. Stimatz Montana State Senate Capitol Station Helena. MT. 59620

RE: HB671

Honorable Senator:

This HB671 is a scarey bill for Montana and for anyone that wants to see Montana grow and prosper. HB671 is being used as a planning mechanism rather than subdividing. A number of counties in the State do not have their comprehensive plans and therefore have to use the subdivision law to control growth or planning. The State set up a finding avenue for the counties to use for planning. Let's require the counties put together a plan before changing the subdivision regulations. A few of the items I object to the bill are listed below:

- 1. Governmental review of every land transfer except for some agricultural exemptions.
- 2. Too much discretionary authority, no accountability to the public.
- 3. Undefined road standards, left to the whim of the review officer or the County.
- 4. Eliminates the right to divide and sell a single parcel in a 12-month period without going through government review.
- 5. The elimination of the mortgage exemption without governmental review.
- 6. Park dedication requirement regardless of size is unjustified.
- 7. An environmental impact study on wildlife habitation in the area.

These are a few of my objections to this bill. Please vote $\underline{\text{NO}}$ on $\underline{\text{HB671}}$.

Sincerely,

Q.A. (Jerry) Kenney

Broker/Owner

LANDMARK OF BILLINGS, INC.

Billings, MT 59101



cfi

Creative Finance & Investments

620 HIGH PARK WAY MISSOULA, MONTANA 59803 (406) 721-1444 FAX (406) 721-1459

March 13, 1991

The Honorable Lawrence G. Stimatz The State Senate Capital Station Helena, Montana 59620

Dear Sir:

Through the years, I have experienced concern, both from a personal as well as a business standpoint, regarding many bills proposed to the Montana State Legislature. None has prompted me to voice my opinion so readily as does House Bill 671. I view this bill as a direct attack against personal property ownership rights. Although I concur that strong merits exist for establishing clear and concise criteria for the division of land, this bill does not accomplish this in an equitable and reasonable manner.

In reality, HB-671 endows a very select few individuals within county government with awesome and unrestrained power. These individuals are not elected officials, but rather are paid and maintained by a government agency, and are not subject to public approval. My experience in the past has been that these individual planners do not have the experience or the knowledge to ably deal with economic reality, and are thereby limited in their understanding of risks and values held by business people, individual property owners, and developers.

The entire structure of the bill appears to be based on the idea that any division of property is bad and must be tightly restricted. This concept is simply not true. HB-671, as it currently is written, does not establish any distinction between major and minor subdivisions, and provides limited recourse or appeals to decisions and mandates handed down by the planners.

In my business, we often deal with the purchase of owner-financing on subdivided parcels. In reviewing HB-671, it appears that the planners assume that every single, 20-acre parcel sold will be immediately occupied and developed from that point forward. Our experience has been that only a very small percentage of the nationally marketed 20-acre parcels are ever developed. However, they do encourage visits to Montana and an increase in tourist dollars over all.

Page 2
The Honorable Lawrence G. Stimatz
March 13, 1991

I also believe a substantial amount of additional revenue can be generated by taxing these 20-acre parcels at rates substantially higher than agricultural use, which is now the standard policy. What better way to generate millions of dollars of additional revenue to the state with so little impact on its resources and environment. The properties that are occupied and developed are primarily owned by retirees with retirement income. They bring to the state all the benefits of a consumer, but they do not bring with them a demand for existing jobs or new pollution-oriented industry.

Please oppose and work to defeat this proposed restriction of personal property rights; and, in stead, work toward a clear and concise subdivision process with recourse and appeal action. I will truly appreciate your giving consideration to my concerns and proposed ideas.

Very truly yours,

CREATIVE FINANCE & INVESTMENTS

Rodney K. Haynes Owner and Manager

Rochey X

RKH:djs

March 12, 1991

Arlene Zepeda de Walker 37 5th Street East Kalispell, MF 59901

Dear Senator Stimuly)

This letter is to let you know that I emphatically oppose House Bill 671 as ammended. As a property owner, a citizen and a constituent, I ask that you do everything possible to either remove the amendments to this bill or if amendments are <u>not</u> removed, that you <u>do not</u> support it.

It is unthinkable to me that this bill could even have been conceived in America. We must not allow this kind of governmental control to happen. It is imperative that our property rights be kept intact.

Arlene Zepeda de Walker

Men youte de Walker

Mr. Larry Stimate Montana State Senate Capitol Station Helena, MT 59602

I am writing because of my concerns over House Bill No. 671. While I am not opposed to some revision to the present review process, I feel this bill is not in the best interest of the landowner. This bill allows for no exemptions and no appeals process. It will raise significantly the cost of selling any parcel of land and will drive land prices up to unmarketable prices. will also give review authorities unlimited and undefined power. I strongly feel this bill is not in the best interest of the landowner, the real estate market or the future of Montana.

Sincerely,

Hanry & Sacry P.O. Box 516 Whitehall, MT 59759

PRESIDENT Stewart Nash P.O. Box 631 Lewistown, MT 59457 (406) 538-5508

VICE-PRESIDENT Kerrel D. Bell 1800 Fairmont Road Anaconda, MT 59711 (406) 797-3215



PRESIDENT-ELECT Thomas E. Sands 1995 Third Avenue East Kalispell, MT 59901 (406) 755-6481

SECRETARY-TREASURER William H. Johnson 40 East Broadway Butte, MT 59701 (406) 723-5421 Ext. 3335

March 1, 1991

The Montana Association of Registered Land Surveyors is an organization of Professional Land Surveyors, who are licensed in accordance with State law and who must demonstrate a complete and comprehensive understanding and competence of Montana law regarding divisions of land and all requirements pertaining to subdivisions.

In this capacity, registered Professional Land Surveyors are intimately familiar with State law, local regulations, the process of subdivision of land, and the rights of property owners in Montana. Since 1973, Montana has defined various divisions of land through the Montana Subdivision and Platting Act. In the 18 years of existence of the Act, it has been amended by every legislative It has been defined by an excess of 60 district and session. Supreme Court decisions and a great many legal opinions by the State Attorney General and local jurisdictional entities. All of the legislative amendments, Supreme Court decisions, attorney general opinions and local jurisdictional regulations have attempted to clarify the intent of the original legislation and to define specific parameters. Many concerns regarding the current law exist among those who work with the law, including the landowners of the State of Montana. Conflict continues over the definition of intent and the application of various aspects of the law.

In an attempt to address these areas of concern HB 671 was introduced as new legislation to specifically define non-subjective review criteria and to define the following statement of purpose: "...It is the purpose of this chapter to require uniform monumentation of divisions; to require that the transfer of interest in real property be made by reference to plat or certificate of survey; to provide simple, clear, and uniform quidelines for review subdivisions; of and to environmentally sound subdivisions in a manner that also protects the rights of property owners..."

This bill, as introduced by Representative Gilbert, attempted to meet all the items in that statement of purpose and our association supported the basic concept of Representative Gilbert's bill. We testified before the House Natural Resources Committee and

addressed our concern regarding HB 671. However, those concerns have changed considerably due to the drastic overall amendments to the original bill.

Some of our major areas of concern include:

- 1) Undefined road standards for all subdivisions, thereby creating an undue burden of cost to the average land owner in attempting to divide his property. (costs range up to \$20.00 per lineal foot of roadway)
- The creation of a "review authority", being a single person or entity with the power to make arbitrary final decisions regarding subdivisions, and who is not accountable to the public.
- 3) Park dedication requirements for virtually all divisions of land. This requirement for subdivisions consisting of 5 or fewer parcels amounts to nothing more than an extortion of property rights and is used by local governing bodies as a revenue producer.
- 4) A public involvement policy which allows input from any source, whether pertinent or not.
- 5) Subdivision review criteria which includes compliance with solid waste, sewage disposal, water availability, and site considerations, (slope, slump, rockfalls, etc.) for all subdivisions of land, regardless of size.

The House subcommittee action generated a single piece of legislation that fails to conform to HB 671 as introduced, resulting in over-regulated subdivisions, expanded bureaucracies, resulting in increased costs to local governments, guidelines which are complicated, ambiguous and arbitrary, and which disregard the basic rights of Montana property owners. The bill proposes that the review and approval process will be governed by non-elected individuals who are not accountable to those they serve, thus violating the concept of representative forms of government upon which our country and state are conceived.

The Montana Association of Registered Land Surveyors supports the concept of appropriate subdivision review which complies with the intent of the statement of purpose of HB 671, as introduced, and which recognizes the delicate balance of environmental issues and the inherent rights of Montana property owners. We believe this will best be accomplished through legislation which separates land use considerations, which are based on land characteristics and development patterns, from subdivision regulations, which are based on legal and technical principles. We also believe that any proposed subdivision legislation must define specific, non-subjective review criteria which conforms to land use legislation and applies statewide.

HB 671, as amended, fails to conform to the defined statement of purpose. It creates an unrealistic and unworkable approach to land use planning and subdivision regulation and jeopardizes the inherent rights of Montana property owners.

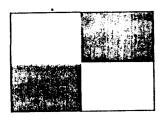
Therefore, we strongly urge you to oppose HB 671, which we consider to be a detriment to the future economic growth and orderly development of the State of Montana.

Sincerely,

Stewart Nash

at Nach

President



SANDS SURVEYING

1995 Third Avenue East Kalispell, MT 59901 406-755-6481



March 7, 1991

Senator Lawrence G. Stimatz Capital Station Helena, MT 59620

Dear Senator Stimatz:

Enclosed is a letter that was drafted during the 1991 Montana Association of Land Surveyors Conference held last week in Missoula. This letter is the result of hours of debate among surveyors across Montana.

We as Land Surveyors in the State of Montana are intimately concerned about House Bill 671 that literally flew through the House of Representatives the previous week. It is obvious to me that the representatives that voted for this bill did not read it and could not have understood it and could not realize its implications on the landowners of this State, should the Senate follow their lead and attempt to implement it into Law.

This bill was introduced by Gilbert, and the M.A.R.L.S. legislative committee worked with him in refining the original bill, and testified before the House Natural Resources Committee to attempt to make his bill workable and keep it in the best interests of the Landowners of Montana.

The result of the House subcommittee action, however, produced a mixture of four bills, the result of which in its present form is unworkable, unacceptable, and inappropriate for the needs of the Landowners and Taxpayers of the State of Montana.

HB 671 in its present form creates a bureaucracy unaccountable to the public, with no procedure for appeal.

HB 671 in its present form does not address the true problems with the existing law regarding parkland/fund extortion, and county road standards for access. These two items are the major reason that people do not chose to proceed through subdivision review and deal with subsequent regulations when they decide to dispose of their property, and is the ultimate reason for the accusation of evasions of the existing Subdivision and Platting Act.

No attempt was made in HB 671 to satisfy those concerns, nor was any attempt made to address our other concerns regarding the ACT.

I am not opposed to eliminating certain exemptions of the ACT, however, if those exemptions are eliminated, a system <u>must</u> be available to the Land Owners of Montana to expeditiously dispose of their property. When that review will take five to six months, and will overwhelmingly increase the cost of selling property, which will be the case if this bill is passed, that system is unacceptable.

I see no reason that HB 671 should even be debated in the Senate. This bill, if attempted to be amended will end up a detriment to the State, and will in effect shut down all growth and orderly development in Montana. I would rather work with the existing bill, - which we have worked under for the last 18 years, and which I admit needs to be changed - , for another two years, until something workable can be drawn up, than to be forced to comply with an unworkable law.

I urge you to vote against HB 671 and to persuade your constituents to join you in killing the bill. If HB 671 passes, we will all live to regret it.

Sincerely (

Tom Sands, P.L.S.

PRESIDENT Stewart Nash P.O. Box 631 Lewistown, MT 59457 (406) 538-5508

VICE-PRESIDENT Kerrel D. Bell 1800 Fairmont Road Anaconda, MT 59711 (406) 797-3215



PRESIDENT-ELECT Thomas E. Sands 1995 Third Avenue East Kalispell, MT 59901 (406) 755-6481

SECRETARY-TREASUR William H. Johnson 40 East Broadway Butte, MT 59701 (408) 723-5421 Ext. 333

March 1, 1991

The Montana Association of Registered Land Surveyors is an organization of Professional Land Surveyors, who are licensed in accordance with State law and who must demonstrate a complete and comprehensive understanding and competence of Montana law regarding divisions of land and all requirements pertaining to subdivisions.

In this capacity, registered Professional Land Surveyors are intimately familiar with State law, local regulations, the process of subdivision of land, and the rights of property owners in Montana. Since 1973, Montana has defined various divisions of land through the Montana Subdivision and Platting Act. In the 18 years of existence of the Act, it has been amended by every legislative It has been defined by an excess of 60 district and Supreme Court decisions and a great many legal opinions by the State Attorney General and local jurisdictional entities. All of the legislative amendments, Supreme Court decisions, attorney general opinions and local jurisdictional regulations have attempted to clarify the intent of the original legislation and to define specific parameters. Many concerns regarding the current law exist among those who work with the law, including the landowners of the State of Montana. Conflict continues over the definition of intent and the application of various aspects of the law.

In an attempt to address these areas of concern HB 671 was introduced as new legislation to specifically define non-subjective review criteria and to define the following statement of purpose: "...It is the purpose of this chapter to require uniform monumentation of divisions; to require that the transfer of interest in real property be made by reference to plat or certificate of survey; to provide simple, clear, and uniform for of quidelines review subdivisions; and to environmentally sound subdivisions in a manner that also protects the rights of property owners..."

This bill, as introduced by Representative Gilbert, attempted to meet all the items in that statement of purpose and our association supported the basic concept of Representative Gilbert's bill. We testified before the House Natural Resources Committee and

addressed our concern regarding HB 671. However, those concerns have changed considerably due to the drastic overall amendments to the original bill.

Some of our major areas of concern include:

- 1) Undefined road standards for all subdivisions, thereby creating an undue burden of cost to the average land owner in attempting to divide his property. (costs range up to \$20.00 per lineal foot of roadway)
- 2) The creation of a "review authority", being a single person or entity with the power to make arbitrary final decisions regarding subdivisions, and who is not accountable to the public.
- 3) Park dedication requirements for virtually all divisions of land. This requirement for subdivisions consisting of 5 or fewer parcels amounts to nothing more than an extortion of property rights and is used by local governing bodies as a revenue producer.
- 4) A public involvement policy which allows input from any source, whether pertinent or not.
- 5) Subdivision review criteria which includes compliance with solid waste, sewage disposal, water availability, and site considerations, (slope, slump, rockfalls, etc.) for all subdivisions of land, regardless of size.

The House subcommittee action generated a single piece of legislation that fails to conform to HB 671 as introduced, resulting in over-regulated subdivisions, expanded bureaucracies, resulting in increased costs to local governments, guidelines which are complicated, ambiguous and arbitrary, and which disregard the basic rights of Montana property owners. The bill proposes that the review and approval process will be governed by non-elected individuals who are not accountable to those they serve, thus violating the concept of representative forms of government upon which our country and state are conceived.

The Montana Association of Registered Land Surveyors supports the concept of appropriate subdivision review which complies with the intent of the statement of purpose of HB 671, as introduced, and which recognizes the delicate balance of environmental issues and the inherent rights of Montana property owners. We believe this will best be accomplished through legislation which separates land use considerations, which are based on land characteristics and development patterns, from subdivision regulations, which are based on legal and technical principles. We also believe that any proposed subdivision legislation must define specific, nonsubjective review criteria which conforms to land use legislation and applies statewide.

HB 671, as amended, fails to conform to the defined statement of purpose. It creates an unrealistic and unworkable approach to land use planning and subdivision regulation and jeopardizes the inherent rights of Montana property owners.

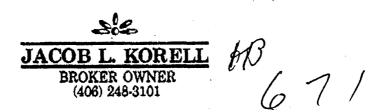
Therefore, we strongly urge you to oppose HB 671, which we consider to be a detriment to the future economic growth and orderly development of the State of Montana.

Sincerely,

Stewart Nash

twent Nach

President



March 19, 1991

Senator Lawrence G. Stimatz Montana State Senate Capitol Station Helana, MT. 59620

RE: HB 671

Honorable Senator:

I am again writing you this letter to ask you to kill HB 671 in committee. I feel very strongly that this bill is going in the wrong direction. A subdivision law should only be for the subdivisions of lands and to protect the health, safety and welfare of the area.

HB 671 is being set up to be used as a planning bill and subdivision bill combined into one. The Cities and Counties must plan their area thru the planning processes already set up by law. The funding is available to the counties if they want to use it. The planning processes set up the zoning to control what happens. It is up to the county commissioners and/or the city officials to enforce the plans.

Why do we need a whole new law that will add substantial costs to the taxpayer already overburdened? The current law is very adequate and another tier of bureaucracy is unnecessary. I had covered several other points in my previous letter that I object to.

Sincerely,

Jacob L. Korell Broker/Owner

and I Kinll



wie with



BILLINGS ASSOCIATION OF REALTORS

1643 Lewis - Suite 12 Billings, Montana 59102 Phone: (406) 248-7145

March 19, 1991

Senator Laurence Stimatz Natural Resources Committee Capital Station Helena, Montana 59601

Dear Senator Stimatz:

In reviewing te testimony given at the Natural Resources Committee meeting March 15th, at which the Sponsor of HB 671, Subdivision Leglislation, emphasized READ THE BILL, we have again read the Bill.

We still find in reading the Bill -

There are not provisions for funding the extra costs in time and personnel that will be necessary to implement the newly created process of subdivision review of every parcel of land.

In reading the Bill -

We find the park requirement of giving dollars or land on all divisions of property is punitive to the landowners, expecially in out-lying areas and in large divisions of land. It is clearly a hidden form of subdividing or transfer tax when used in these cases.

In reading the Bill -

The road standards are undefined. Example: The <u>difference</u> for a 750 foot road to a single division of land as required by a review officer and as deemed necessary by a purchaser to accomplish his needs may be as much as ten dollars a lineal foot or \$7,500. This difference in cost could be an extreme burden on the consumer.

In reading the Bill -

We are reminded we have very limited property rights left in Montana. Pleasure of gifting to a close family member, the occasional sale limited to one transfer a year, are not reuining our health, environment and welfare as some also discriminates against all other Montana families who cannot gift to their immediate family as the agricultural community is allowed to do.

In reading the Bill -

We believe that it is not a subdivision bill, but a planning and land use Bill. These laws should be administered through local planning and zoning boards and the tools are in place to do that.

HB 671 is far too costly and restrictive for the purpose of subdividing land and should not be enacted against the people of Montana for the reasons stated above.

Thank you for your support

Clayton Fiscus / Po

Legislative Committee

Laura Odegaard

President

Charlie Hamwey

Legislative Committee

March 15, 1991

Montana State Senate Capitol Station Helena, MT 59620

RE: Land Rights

HB 671

Please vote AGAINST HB 671. Landowners have bought and paid for their land and paid taxes as property owners. The Property Owners should be the ones to vote on land use of their OWN land. The land does not belong to the State of Montana or the Counties.

I believe that if a land owner purchased land with the intent of leaving it to their children, that it is their's to do as they please. I would rather give my land to my children and that is why I purchased it twenty years ago. I intended to divide the land equally for each of the children.

Sharles, Jean fannished 4506 Berdseyr KV Helena, VW 59601 March 19, 1991

Senator Larry Stimatz Chairman, Natural Resources Committee Capitol Station Helena, MT 59620

Re: HB671

Dear Senator Stimatz:

This letter is to ask you and your committee to OPPOSE HB671, an act to revise the Subdivision and Platting Act, as presently written and passed by the House. I am a practicing Professional Engineer and Land Surveyor in Great Falls and have been since 1966, and have been involved with many subdivisions and land development projects in Great Falls, Cascade County and throughout Montana, in both a professional role and as a landowner. Because of this experience, I have been closely involved with all aspects of the subdivision laws and regulations that were adopted in 1973 and amended several times since.

The primary, and most publicized, objections to the present law, at least from the environmental and planning communities, are the exemptions for the 20 acre and larger parcels and for the "Occasional Sale" and Family Member". HB671, as introduced, attempted to address these concerns but the amended version, as passed by the House, goes way beyond that and should be totally rejected by the Senate. Some of my major concerns include:

- 1. The creation of a "Review Authority", who may be a single person or entity, with the power to make the final decisions regarding any subdivision, violates the concept of our representative form of government. These persons or entities could, and probably would, be non-elected individuals who are not accountable to the public. Are we ready to turn the future development of Montana over to civil servants or should we keep the authority in the hands of the governing bodies?
- 2. Park dedication requirements for all divisions of land. The bill does allow some discretion for parcels larger than 5 acres, but we all know that sometimes a governing body, or in this case a review authority, may be more interested in collecting revenue than being fair or reasonable. The law should set the guidelines and not leave this up to discretion.

- 3. Undefined road standards for all subdivisions, regardless of size, that could be an undue burden on the average land owner. The County/City could adopt any standards, such as all roads will be paved. This alone could prohibit a smaller subdivision and deprive a landowner from selling a portion of his property.
- 4. The requirement that all subdivisions. even one lot, may be subject to a public hearing. Again, this seems like an unnecessary burden on the majority of land owners in Montana.
- 5. State owned land is exempt from review, as it is under present law. I believe all land, regardless of ownership, should be subject to the same requirements when it comes to subdivision and the resultant change of use. The State is one of the biggest land owners and should abide by its own laws.

The Great Falls Tribune supported HB671, as originally introduced but is now opposed to the House version. I am enclosing a copy of their editorial of March 18, 1991 for your reference.

I support the concept of appropriate subdivision review which recognizes the delicate balance of environmental issues and the inherent rights of Montana property owners. HB671, in my opinion, fails to do this and I strongly urge you to oppose it. Thank you.

Sincerely yours,

D. Lester Turnbull, PE & RLS

DLT:ss



REALTOR®

AVENUE REALTY - 3000 HARRISON AVENUE TEL.: 494-2200 BUTTE - MONTANA 59701

March 12, 1991

Hon. Larry Stimatz, Senator Butte-Silver Bow Capital Station Helena, Montana 59620

Re: HB 671 Proposed Subdivision Law

Dear Larry,

I am very concerned with the effect HB 671 will have on the property onwers of the State of Montana. If this bill is passed, the cost to subdivide will greatly increase. In addition, it will eliminate the ability to divide a parcel of land for the purpose of securing financing, the right to divide and give a parcel of land to a family member without extensive review. In fact, property owners will have to pay for government review of most property review divisions.

HB 671 has been passed by the House of Representatives. I would greatly appreciate your support in defeating it in whatever ways are available to you as a member of the senate - whether on the floor or in subcommittee.

Sincerely,

Irene Humber



JACOB L. KORELL

BROKER OWNER (406) 248-3101

March 11, 1991

Senator Lawrence G. Stimatz Montana State Senate Capitol Station Helena, MT. 59620

RE: HB671

Honorable Senator:

I am writing this letter to ask you to oppose HB671 in its entirety. I am very familiar with the current subdivision law and would suggest it be fine tuned instead of being pitched out.

I have been on the Yellowstone County Planning Board for 6 years and have served as Chairperson. I also am a Realtor and have subdivided several parcels of land. I have been in the Real Estate business for 23 years.

This HB671 is a scarey bill for Montana and for anyone that wants to see Montana grow and prosper. HB671 is being used as a planning mechanism rather than subdividing. number of counties in the State do not have their and therefore have comprehensive plans to use subdivision law to control growth or planning. The State up a funding avenue for the counties to use for planning. Let's require the counties put together a plan before changing the subdivision regulations. A few of the items I object to the bill are listed below:

- Governmental review of every land transfer except for some agricultural exemptions.
- 2. The creation of a review authority that is not an elected official. Too much discretionary authority, no accountability to the public.
- 3. Undefined road standards, left to the whim of the review officer or the County should be uniform.



- 4. Park dedication requirement regardless of size is unjustified. Amounts to extortion on smaller parcels.
- 5. It eliminates the occasional sale. The right of an individual to sell one parcel every 12 months without review. This area should be fine tuned but not eliminated.
- 6. The elimination of the mortgage exemption without governmental review is going to far.
- 7. An environmental impact study on wildlife habitation in the area has to be absurd. Wildlife can and will take over the property rights of the individual.

These are a few of my objections to this bill. We in Yellowstone County have had few problems with current subdivisions law. I feel if it ain't broke, don't fix it. The current law is far from broke. Please vote NO on HB671.

Sincerely,

Jacob L. Korell Broker/Owner

lawb LKerrll

March 13, 1991

Capital Station Helena, Montana 59620

RE: HB 671 Proposed Subdivision Law

Dear Senator Stimatz,

I need your help and support in defeating HB 671 subdivision legislation.

It does away with all of our remaining rights in selling off a piece of land unless you are willing to go through a lengthy and costly government review process.

Please help protect our rights to sell to close family members or occasionally sell property for financial need without costly and lengthy government procedure.

Sincerely,

Michael Homme

Senator Larry Stimatz Montana State Senate Capitol Station Helena, Montana 59620

Dear Senator Stimatz,

I can't believe that one of my inalienable rights (especially the right to own land) is about to be violated by the government in the form of House Bill 671 (the subdivison bill).

I believe that farmers own their own land and have the right to do with it what they want. Our family has had our land, paid for, since the '70's. If we decide to give our land to our family members it should be our decision as to how, when, why, and how much we will gift to each member. No man, agency, or institution has the right to tell us how to handle this in-family decision.

What in the hell would our forefathers think of the audacity of the legislature restricting our property rights? They were primarily landowners that leaned towards private ownership, export of goods to foreign markets, and freedom to make their own damn decisions.

When it comes time to give our land to our heirs, the inheritance taxes should be all we have to deal with. This is a very offensive case of too much government.

Sincerely,

Randall Lovaas,

Concerned Citizen

Randall Loros

DEAR SEN. CONRAD BURNS,

I certainly am not in the habit of writing Letters to our government officials, but I tel compelled to do so. I have several concerns, one is Jubs in Montana. My husband has been Employed At Mala white Pine for Almost 30 yrs. It has paid our bills, helped RAISE OUR two daughters, And made us SURVIVE. WE ARE, I CONSIDER, AN AUERAGE household, with AN income just over 20,000.00 AYEAR WE ARE bY NO MEANS A Rich family. For the past three years, Ms/A Whits Pine has had guite A Struggle the past 3 months have been RIALLY been A hARAShip, AS ALL mills IN MONTANA have been experiencing. Due to this situation we have had to draw on unemployment funds, Although we ARE Able to work A Jew days in between

I AM UERY CONCERNED AS to how WE And other people in our predicament ARE to SERVIVE, OUR MONEY is tight NOW, but ALL I hEAR : REAd is that WE will be paying more ! more taxes. How CAN you people, in the government, think WE AND the other AVERAGE WAGE EARNERS ARE to pay these Additional TAXES, WhEN WE ARE STRUSGLING AlREADY? WE ARE DEING taxed to death. How are we to be Able to CARRY MORE FAX burdens, when we ARE Strugg Ling ALREADY, to KEEP what WE have - WORKED FOR YSARS to AChEIVE ! EARNED? Another concern we have, is house BILL 671. My husband And I have A - RANCH OF AROUND 300 ACRES. My husband - his family, have struggled to be Able - to pay for it and also the taxes. WE have - FELT that WE have paid, and own this - property, and that it is ours, not the GOVERNMENTS. But According to what I

have read, BILL 611, WE worky with bE Able to Struggle more to pay the taxes on this property, which the Assessments of Keep going up on the value, but we will have to tow the Line, to the government, SE ONCE MORE, ON What WE WILL bE AbLE to do with our own LAND, under more government Rule. Who in the world Even CAME up with thes bill? FOR what purpose? Don't you REAlize that the more you in try to rule, the more, we the people, Lose TO STRIVE to WORK AND

TO STRIVE TO WORK AND government rules and regulations. WE need to be Able to Know that what we have Struggled to Achieve And What WE hAVE worked so hard to pay for, is ours And WE should be Able to have the say in what happens and what we can do with our own property. Are you now trying to

tell us that we no Longer have the

Rights to make the decisions on our OWN PERSONAL PROPERTIES AND DE ABLE to protect our freedom of ownership? I want you to know that you did RECIEVE OUR VOTES DECAUSE I REALLY DO DELIEUE That you want to do a good job. Sugst to 1 + AND MAKE US proud of you. THANK you for your time. ROGER: DIANNA Tout 2862 Cuplew Mine Rd. Victor, MT. 59875 406-642-3395

KEPLY REquested

ATTN: Larry Devitt Montana State Senate Capitol Station Helena, MT 59602

I am writing because of my concerns over House Bill No. 671. While I am not opposed to some revision to the present review process, I feel this bill is not in the best interest of the landowner. This bill allows for no exemptions and no appeals process. It will raise significantly the cost of selling any parcel of land and will drive land prices up to unmarketable prices. will also give review authorities unlimited and undefined power. I strongly feel this bill is not in the best interest of the landowner, the real estate market or the future of Montana.

Sincerely,

Haney & Jacry P.O. Box 516 Whitehall, MT

Senate Natural Resources Commetter Cecil Weeding, etc.

From: ANDERSSU

Date: 03/19/91

Message #

710

PAYER & CONSUMER IN IMPLEMENTATION & THE PROPERTY RIGHTS . . . TOO MUCH GOVERNMENT BUREAUCRACY. CALL OR FAX SENATE NATURAL RESOURCES COMMITTEE MEMBERS: CECIL WEEDING, LAURENCE STIMATZ, JOHN H. ANDERSON JR., ESTHER BENGSTON, STEVE DOMERTY, LORENTS GROSFIELD, BOR MOCKETT, TOM KEATING, JOHN KENNEDY JR., LARRY J. TVIET. PHONE # 444-4500 OR FAX # 444-4105. CALL IMMEDIATELY TODAY . . . !!!

We oppose this bill H13 671,

Boy Mehren Susan Carl

Mary Mehren Anold Clark

4211 Laredo Pl. Billing, MX.

Billings, Mt. 54106 Selling, MX.

J/14/91

We are in opposition

of bull H B 67/

Sincerely,

Lois Schaff Engene Schaff March 15, 1991

Senate Members Natural Resources Committee Capital Station Helena, Montana 59620

Dear Natural Resources Committee - Senate:

Please oppose HB 671 for the following reasons:

I do not want the property rights of Montana's being removed and Government regulation imposed on those people wishing to subdivide their land.

Sincerely,

Bill Dilone

Bill Gibson , Broker/Owner Gibson Realty

SENATE NATURAL RESOURCES COMMITTEE MEMBERS:

CECIL WEEDING, ESTHER BENGSTON, TOM KEATING, Mar. 15, 1991

We wish to express our opposition to and ask your vote against HB 671. Thank you.

Kenneth G. Messmer Sharon J. Messmer 491 Tabriz Dr. Billings, MT. 59105

Genneth G. Messman Sharon J. Messmer Senate Natural Gesou es Commelter. Ceil Weeding, etc.

From: ANDERSSU

Date: 03/19/91

Message #

716

PAYER & CONSUMER IN IMPLEMENTATION & THE PROPERTY RIGHTS . . . TOO MUCH BOVERNMENT BUREAUCRACY. CALL OR FAX SENATE NATURAL RESOURCES COMMITTEE MEMBERS: CECIL WEEDING, LAURENCE STIMATI, JOHN H. ANDERSON JR., ESTHER BENESTON, STEVE DOHERTY, LORENTS GROSFIELD, BOD HOCKETT, TOM KEATING, JOHN KENNEDY JR., LARRY J. TVIET. PHONE # 444-4800 OR FAX # 444-4105. CALL IMMEDIATELY TODAY . . . !!!

We oppose this kill H13 671,

Bay Mehren Susan Pall

Mary Mehren Anold Clark

4211 Laredo Pl. Belling MX

Billings, Mt. 54106 Selling MX

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. . Montana State Senate Capital Station Helena, MT. 59620

We strongly urge you to vote Against HOUSE BILL 671 because it takes away our property rights. We bought this farm through lots of struggle and hard work in the last 30 years and feel that it should be our right to use it or part of it as insurance against sicknes or other hardship, should it arise.

Please consider the property owners rights, and vote HOUSE BILL 671.

Ronald W Sizes
838 Hodgen Fol.
Colubin tels 14t.
59912

Rut Motinger 838 Hodger Rl Columbia Jolle; Int 599 12

While You Were Out Ion hidiams AREA CODE TELEPHONED PLEASE CALL WAS IN TO SEE YOU WILL CALL AGAIN WANTS TO SEE YOU URGENT RETURNED YOUR CALL Message IA The bill 19" impossible Land division. 3-22 You Were Out Sile (Idena) PLEASE CALL TELEPHONED WAS IN TO SEE YOU WILL CALL AGAIN WANTS TO SEE YOU URGENT RETURNED YOUR CALL

Sirvi Bob Brown I am against House Bill 671. I do not want my rights as a property owner restricted. The goning etc. has already put Thorn in my side. I own 14 in 5 a Tracts north of loph. I have made. The back 12 is worthless. They cannot offer to build & cannot have a motor home bac there's Please vote against Bill 671. Thank you Cathern Holien Box 473 whitefish, Int. 59937

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Representative Larry Stimatz
Montana House of Representatives
Fax # 444-4635

March 22, 1991

Mr. Stimatz,

I am writing in opposition to HB 671. I do not feel this bill is in the best interests of Montana landowners and taxpayers. The present system of subdivision review is adequate.

The additional leve of bureaucracy necessary for this bill would not be the most wise use of taxpayers' money, and it also creates an additional and unnecessary burden on the landowner.

Very Truly Yours

Daniel Forsch CPA

Box 22

Butte, MT 59703

URGENT NOTICE

Mar. 22. 1990

I IMMEDIATELY CONVEY TO SENATOR LARRY STIMATZ AS A TAXPAYER AND PROPERTY OWNER. WE OPPOSE HOUSE BILL 671 WHICH CONTAINS STIPULATIONS WE CAN NOT LIVE WITH. ON HOUSE BILL 671 IT WILL MAKE IT HARDER TO BUY AND SELL PROPERTY IN MONTANA, HAVE A NEGATIVE IMPACT ON THE ECONOMY OF OUR STATE, AND UNDULY BURDEN TAXPAYERS AS WELL AS LANDOWNERS. WE WOULD HOPE YOU MAKE EVERY EFFORT TO GET HOUSE BILL 671 TABLED.

VERY SINCERELY

WITH CONCERN

DON SPOLAR

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butte, Says hill 611. Montone State Senate Capital Station Helena, Montana 59620

This letter is in reference

To Lause Bill 671, which I

understand hus been passed by the

Yourse of Regressentatives of the

norticle printed on Page 12 of the

Vandew Carety Ledger, Thursday, March

18, 1991 is correct I am against

this bill

Zella M. Dornall 23 Cattonwood Rood Heron, Montana 59844 247-5527

SZ \$ 55 /4 See 25 Trun 27N Range 35W

3-27-91 Richard C. Nelson kroperty on Section B, Parge I's animatice to ourland to Carnet do what they want!

March 19, 1991 Montana State Senate -- Capital Station Helena, Mantana 5º 9620. Dear Siss: -We are very loncerned about HB-6711 We are Jeopesty owners + it seems every time gowneet we get Genoliged. Dur night get taken away more & more. It is not a free Country any more. We don't feel That this bill should be gassed. Also There are so Mary Jeople on the welfore solls that Could work levet Welfore is too easy to get They don't Jay Income tog-get free de lære - food stamp + we soon seecke Jay for it. Do mang women leave Core 7 Welface. - Not Fair. We soised our family + how low wages + stayed together & Down to be Dere peared

now. HB 671 wont to restrict our gropesty rights. Reep the government and of our Gersonal ofairs Flesse. If the welfore fragle were Made te go out & ficts up highevery letter I have to work to earn their money be wouldn't have so therey on the welfare Rolls. This also goes for the Prison geople if they had to work they wouldn't get into trouble - Our Barents tought les Idlemess breeds Inderlance & this is Very true. You seldom find a busy person getting into teauble. I musdesons were executed the Jails would not be so full. Thank you Dostka V Kenneth Kneedson Box 378



100 East Front Street P.O. Box 3764 Butte MT 59701

TELEPHONE:

FAX:

(406) 723-6567 (406) 723-3777 (406) 723-7304

FAX TRANSMITTAL	
DATE: 2/22/91	
To: Lonator Larry Stimotz	
COMPANY: GODAL 444-4635	
NUMBER OF PAGES: (Including this page)	
FROM: This Stordard	
MESSAGE:	

TRIPLE 'S' BUILDING CENTER, INC.

TEL No.1-406-723-7304

100 E. FRONT STREET P. O. BOX 3764 **BUTTE, MT 59702**

T TPLE "S" BLDG CTR

(406) 723-6567 PHONE (406) 723-7304 FAX (800) 823-8777 IN STATE WATS

Mar.22,91 11:58 P.02

The Stordahls

March 22, 1991

Senator Larry Stimulz:

RE: HBG71

As taxpayers and property owners, my employees and I oppose House Bill 671. The bill is too broad with too many stipulations we can't live with. It will make it too hard to buy, sell, or own property in Montana and it will have a negative impact on the economy of our state and will financially burden both taxpayers and landowners.

Please, get HB671 tabled.

Thank you,

Milo I. Stordahi

President



BILLINGS ASSOCIATION OF REALTORS

1643 Lewis - Suite 12 Billings, Montana 59102 Phone: (406) 248-7145

March 14, 1991

Senator Laurence Stimatz Natural Resources Committee Capital Station Helena, Montana

Dear Senator Stimatz:

The long standing Legislative Committee of the Billings Association of REALTORS, who have for decades reviewed and worked on hundreds of pieces of legislative law affecting rights and ownership of real property owners, has studied the language in HB 671 proposed subdivision law and have unanimously come to the conclusion that it is a terrible piece of legislation and should not be enacted against the people of Montana.

The complete loss of all remaining property rights for the people of Montana unless they choose to go through a much more lengthy and costly review process, the punitive nature of the bill through large fines and the donation to respective counties of dollars or land toward parks on any division of land, the politically motivated limited exemption for members of the agricultural community which is of little benefit to anyone, the undefined road standards, the creation and extra cost of a larger bureaucracy to handle all the newly created lengthy and costly reviews, which will be reviewed by a review officer or entity not accountable to the public, are but a few of the reasons you should make your best effort to influence as many committee members and senators to oppose this Bill.

Thank you for your support.

Billings Association of REALTORS

Legislative Committee

Charlie Hamwey

Co-chair

Clayton Fiscus Co-chair

Clayton From

H is 671 - ne change a consist + platting act. March 14, 1991 SENATE NATURAL RESOURCES The Hon Farry Otimets Dear Den Stimets -I would like to hove you note for H 3671 sponsored by Got Gelbert. Do you have any idea of the uncontrolled growth in the Estherroot Valley! We see septic tunk-well problems, inadequate rood access or road width, not to mention junk yards posping up everypland. In my neighborhood I worked for coverants without husting my neighbors - yet protecting them. The neighborhoods can try to take Christ themselves, but without some contrat over everyone's activities in the benefing and

Engineering, Planning,
Management & Environmental
Consulting Services



Senator Lawrence Stimatz, Chairman Senate Natural Resources Committee Montana State Legislature Capitol Station Helena, Montana 59620

Re: House Bill 671

Dear Senator Stimatz:

I wish to go on record as <u>strongly in support</u> of House Bill 671 as this Bill was approved by the House.

I personally work as a planning consultant and one of my long term clients is Madison County for whom I act as County Planning Director. I am also a member of the Montana Association of Planners (MAP). As such I have had a great deal of experience with the current subdivision law and all of its weaknesses and failings. Madison County has experienced well over 50,000 acres of unreviewed subdivisions in the Madison Valley portion of the County alone. I feel that HB 671 will go a long way toward dealing with the problem areas in the current law.

I am also a licensed Real Estate Sales Associate with Western Land Brokerage, a farm and ranch real estate firm in Bozeman. In addition, I am a member of the Montana Association of Realtors. As such I am also strongly in support of HB 671 as responsible and necesary legislation for the future of Montana. I strongly disagree with the position taken by the Montana Association of Realtors and have so advised them of my feelings.

Please enter this letter into the hearing record. Once again, I urge you and the Committee to strongly support HB 671.

Sincerely,

pel A. Shouse

JAS/as

cc: Senator Don Bianchi Senator John Anderson

AMERICAN PUBLIC LAND EXCHANGE

CONSERVATION LAND BROKERS

March 13, 1991

Senator Larry Steimatz, Chairman Senate Natural Resource Committee Montana Legislature State Capitol Helena, MT 59601

Dear Senator Steimatz,

I am writing to support HB 671 which I understand will soon be heard by your committee. I recommend that this bill be passed in your committee and sent on for approval and enactment.

Please copy this letter to all members of your Natural Resource Committee.

My perspective is from a private real estate business which only works with the conservation of lands in Montana. In that we are working to protect the traditional forms of ranching and agriculture and to maintain open spaces. These and the wildlife values which open space and ranching support, are most important to Montana.

I think that we should review all development of Montana lands and that developers of lands should bear the true cost of that process. I do not want the legislature to be caught up in a financing posture for this proposed legislation.

Sincerely,

Lane E. Coulston, Broker

March 15, 1991

The Senate Natural Resources Committee

RE: House Bill #671

I would like to voice my support for House Bill #671, the subdivision bill. A bill with important ramifications, HB #671 closes loopholes in the current subdivision law that have been terribly abused.

The Montana Association of Realtors (MAR) had initially supported the bill, but have now come out against it. They have bought ads in newspapers across the state urging voters to call their senators in opposition to this bill. MAR is upset by the lengthy review process for minor subdivisions. They feel the process is so long and costly as to be an unfair burden on the small private landowner. MAR would rather see the bill die than pass in its current form.

I believe that this bill has been too long in the making for it to die in the Senate. Reform of the subdivision law has been attempted in the last three legislative sessions and it has failed each time. During this time, the loopholes continue to exist and so do the abuses.

I urge you to pass HB #671. If amending the review process for small subdivisions is necessary for passage, then I hope that you will do so in the spirit of compromise.

Montana can't wait two more years for a meaningful subdivision bill.

Thank you,

Carter Calle 341 S. 1st West Missoula, Mt. 59801 Senator Larry Stimatz, Chrm.

Senate Natural Resources Committee
Capitol Station
Helena, Mt. 59620

Dear Senator Stimatz,

I am writing to seek your support for H.B. 671.

There are few counties in Montana who have felt the impacts of unregulated subidvision as heavily as Ravalli County did in the 1970's.

Existing subdivision legislation has provided some relief, but there are loopholes which need closing, and I believe that H.B. 671, as amended, will be effective in doing so.

I am a strong believer in public review of proposed subdivisions and I also see the great value of the "public interest" criterion. The days of "don't tell me what I can do with my land!" must be athing of the past. Good subdivision regulations are a must. By and large the public has some to understand their benefits. True, the large land owners and some of the realtors object to regulations, but in the long run, I believe that they will benefit, also.

Sincerely, Active Produce DorisMilner 65 Ricketts Road Hamilton, Mt 59840 March 15, 1991

The Senate Natural Resources Committee

RE: House Bill #671

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Thank you,

Carter Calle 341 S. 1st West

Missoula, Mt. 59801

David C. Lehwalder 190 Silver Spring Rd Sheridan, Mt 59749 March 13, 1991

Senator Lawrence Stimatz, Chairman Senate Natural Resources Committee Montana State Legislature Capitol Station Helena, MT 59620

Re: House Bill 671

Dear Senator Stimatz:

I wish to express my strong support of House Bill 671, "TO GENERALLY REVISE THE MONTANA SUBDIVISION AND PLATTING ACT."

I am and have been for the past six years chairman of the Madison County Planning Board. Previously I was the founding chairman for the Planning Commission of Edwardsville, Illinois. Those experiences have given me an understanding of the weaknesses of our present subdivision law. HB 671 is a substantial improvement over the present law and will help deal with weaknesses in the current law.

Under present law thousands of twenty acre subdivisions have been created in Madison County without review. Many of these subdivisions have serious defects which prove costly to unwitting buyers and which could have been avoided had they been reviewed. Sparsely populated counties like Madison County are particularly vulnerable to wealthy organizations like Church Universal Triumphant which buy up large areas and then proceed to do as they please with the land without any supervision or control.

HB 671 speeds up the review process for those subdivisions under twenty acres in size. It eliminates the exemptions such as the family transfer(except for agricultural producers) and occasional sale which frequently have been used to create defacto subdivisions without review. De-facto subdivisions often have serious problems which are costly to both the owners and to the county.

I do not understand the opposition of the Montana Association of Realtors to this bill. The only people who stand to gain by the defeat of HB 671 are unscrupulous developers and fly by night operators who buy up large tracts and sell them to gullible buyers.

Sincerely yours, Harril (Lefru aldir

David C. Lehwalder



MONTANA ASSOCIATION OF REALTORS®

The Voice for Real Estate™ in Montana

EXECUTIVE OFFICES
208 North Montana, Suite 105
Helena, MT 59601

Telephone 406 443-4032 In Montana 800-421-1864 Fax 406 443-4220

March 20, 1991

Senator Lawrence Stimatz Capitol Station Helena, MT 59620

Dear Senator Stimatz:

I thought you might find the enclosed editorial from the March 18 Great Falls Tribune interesting. The editorial accurately reflects the opinion of the Montana Association of REALTORS® and, we believe, the opinion of most Montanans.

We urge you to table House Bill 671.

Sincerely,

Tom Hopgood

Subdivision update turns into monster

Early this month the Tribune editorially supported House Bill 671, a bipartisan update of Montana subdivision laws.

The key element in the bill was a provision that would require developers to seek local government review of subdivisions that are 20 acres or larger in size. This has not been mandated in the past, but it has become clear that problems have developed with poorly-planned large subdivisions in some areas of the state.

The measure also would have streamlined the review process, allowing developers to get faster approval of their plans.

But in the process of being passed by the House of Representatives, the bill was amended drastically and plants which was amended drastically and plants and passed by the House of Representatives, the bill was amended drastically and plants and passed by the House of the House

State Rep. Mary Ellen Connelly, D-Kalispell, says the amended version mandates road standards for all subdivisions but does not specify what the standards should be. Another provision would create a single-person "review authority" for final decisions on subdivision plans. This would cancel the present policy of authorizing elected officials — who are accountable to the people — to make those decisions.

In addition, the amended bill requires that parkland be dedicated in all subdivisions, regardless of size. And it places a penalty of up to \$5,000 on sale or transfer of each parcel of land that violates the law.

The bill includes a blanket public involvement policy which allows any person or group to protest a proposed subdivision even if their testimony is not pertinent to the matter at hand. And it dictates site considerations such as the degree of slope that a home can be built on. This goes far beyond the original intent of subdivision review.

As amended, House Bill 671 no longer straddles the delicate line between planned development and the inherent rights of Montana property owners.

This newspaper still supports subdivision review, but we can no longer support this particular attempt to revamp the laws and regulations.

The Senate may be able to remove the worst warts from this piece of legislation that has turned into a Frankenstein creature. Or it may be possible that a conference committee can bring it back to its original intent.

But if that cannot be accomplished the bill should be killed.

We agree with Connelly: The bill is a detriment to the future economic growth and orderly development of Montana.

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