

Tim Davis

From: John Horwich [john.horwich@umontana.edu]
Sent: Wednesday, January 26, 2005 10:57 AM
To: 'Tim Davis'
Subject: Letter to Senator Bob Hawks re. takings implications of SB 173

Tim:
Please convey this email to Senator Bob Hawks in connection with the Senate Local Government Committee consideration of SB 173.

I have reviewed the draft of SB 173 that you forwarded to me yesterday. I understand that some have raised concerns about the takings implications of this bill. In connection with my Land Use Planning Law class, my Land Use Clinic and in talks and articles I have prepared, I have studied takings law in depth. In my opinion, SB 173 on its face does not violate either the Federal or Montana Constitution takings clauses, and the variance provisions and savings clause provide means to address any potential takings issues that might arise in the application of the legislation. I believe the Legislature can pass SB 173 without fear of the takings implications of the legislation.

As always, I would be happy to discuss these issues further with you, Senator Hawks or others concerned with the legislation.

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