



MISSOULA

OFFICE OF THE CITY ATTORNEY

435 RYMAN • MISSOULA, MT 59802-4297 • (406) 258-4614 • FAX: (406) 327-2105
EMAIL: attorney@ci.missoula.mt.us

February 17, 2005

to Local Govt. Comm.
Committee No. 17
Date Feb. 17, 2005
Bill No. SB 458

Re: SB 458 requiring initiation of a lawsuit against a municipality arising from a city decision related to land use construction or development be thirty (30) days from the date of decision

Honorable State Senators:

SB 458 is requested in order to establish a thirty (30) day statute of limitations for initiating a lawsuit challenging city council decisions pertaining to land use related construction or development projects. For example, a 30 day statute of limitations for challenging a city council decision relating to creation of a special improvement district or adopting a zoning classification related to construction or development projects is appropriate considering the time and expense invested preparing, designing and commencing implementation activities for construction or development projects.

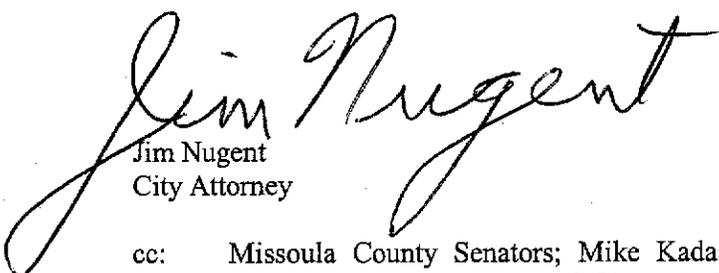
Several 30 day statute of limitations pertaining to city actions already exist. Montana statutory examples of 30-day statute of limitations for filing lawsuits against governments include: 1) Mont. Code Ann. § 2-3-213 pertaining to public participation/open meeting law alleged violations; 2) Mont. Code Ann. § 76-2-327 pertaining to municipal zoning board of adjustment decisions; and 3) Mont. Code Ann. § 76-3-625 pertaining to filing a lawsuit challenging a local government subdivision.

A second concern is that not only must the lawsuit be filed within 30 days it should also be timely served. Delays of several months before serving a filed lawsuit provides more potential for detrimental, adverse impact on those who are acting in reliance on city council decisions. However, it is our understanding that the Montana State Legislature cannot currently address this concern and that we must take this second concern to the Montana Supreme Court for consideration of possible amendment of the Montana Rules of Civil Procedure.

Your support of SB 458 is respectfully urged.

Sincerely,

OFFICE OF THE CITY ATTORNEY


Jim Nugent
City Attorney

cc: Missoula County Senators; Mike Kadas, Mayor; City Council; Janet Stevens, CAO; Alec Hansen, Montana League of Cities & Towns; Bruce Bender, Public Works Director; Brentt Ramharter, Finance Director; Cindy Klette, OPG Director