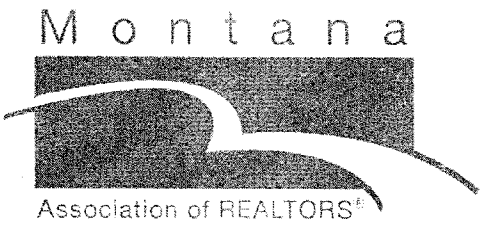
EXHIBIT 6
3/22/07
SB 527

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**Testimony – Glenn Oppel, Government Affairs Director, 431-3685**
**Montana Association of REALTORS®**

**Senate Bill 527 – Revise condominium exemption for subdivision review**
**House Local Government Committee – 3-22-07 Hearing**

The current law provides for an exemption only from review under the subdivision act – not an exemption from review under everything.

For example, any condo project that qualifies for the exemption would still need:

- **DEQ review** under the Sanitation in Subdivisions Act:

  ***76-4-104. Rules for administration and enforcement.*** *(1) The department shall, subject to the provisions of 76-4-135, adopt reasonable rules, including adoption of sanitary standards, necessary for administration and enforcement of this part.*

  *(2) The rules and standards must provide the basis for approving subdivisions for various types of public* ***and private water supplies, sewage disposal facilities, storm water drainage ways, and solid waste disposal****. The rules and standards must be related to:*

  *(a) size of lots;*
  *(b) contour of land;*
  *(c) porosity of soil;*
  *(d) ground water level;*
  *(e) distance from lakes, streams, and wells;*
  *(f) type and construction of private water and sewage facilities; and*
  *(g) other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation, and wildlife.*

  ***76-4-102. Definitions.***

  *16) "Subdivision" means a division of land or land so divided that creates one or more parcels containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and* ***any condominium or area****, regardless of size, that provides permanent multiple space for recreational camping vehicles or mobile homes.*

- **Public water system review and permit** in compliance with Title 76, Chapter 6, Part 1.

  ***75-6-102. Definitions.***
  *(3) "Community water system" means a public water supply system that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents.*

- **Additional water quality review** from any applicable local water quality district.

  ***7-13-4517. Powers and duties of board of directors.*** *The board of directors of a local water quality district, with the approval of the commissioners, may:*
  *(8)* ***administer local ordinances that are adopted by the commissioners and governing bodies of the participating cities and towns and that pertain to the protection, preservation, and improvement of the quality of surface water and ground water***

- **Transportation impact review** by either the state or local transportation authority for any encroachment permits.

- And any condo project must also comply with any and all **zoning** adopted by the local government.

In general, MAR's position on SB527 comports with our efforts over the past several sessions, including the current session, to encourage local governments to impose land use regulations through planning and zoning, not subdivision regulations.

MAR Position Statements:

*Subdivision:* REALTORS® understand that local governments are currently using the subdivision review process not only to regulate the actual division of land, but also to control and regulate the development and use of the land itself. This is inefficient and inappropriate. REALTORS® support local governments using the subdivision review process to regulate only the actual division of land. This "division centered" subdivision review process would prohibit the use of land use regulations, building regulations, or fire regulations in local government subdivision regulations. Instead, subdivision regulations would concentrate on survey, monumentation, easements, and access issues.

*Zoning:* REALTORS® believe zoning, with close cooperation of the citizens, is the appropriate tool for making land use decisions because it involves public participation and provides due process protections for property owners. Rather than making land use decisions on a parcel-by-parcel basis, we support the use of incentives to encourage the use of planning and zoning by local government.

MAR urges a "do not pass" on SB527.