

ATTORNEY GENERAL
STATE OF MONTANA

Senate Legal Govt. Comm.
EXHIBIT REFERENCE COPY 7
Date Op. L. 4.6.11
Bill No. HB 629

Steve Bullock
Attorney General



Department of Justice
215 North Sanders
PO Box 201401
Helena, MT 59620-1401

May 14, 2010

Mr. Fred Van Valkenburg
Missoula County Attorney
200 West Broadway
Missoula, MT 59802-4292

Re: Subdivision Opinion Request

Dear Fred:

The comments regarding our draft opinion that we have been referring to as "subdivisions for rent or lease" have brought to our attention the fact that a lawsuit is pending in Lewis and Clark County in which the Court has been asked to decide the issue presented in Missoula County's request. As you know, it has long been the policy of this office to decline to issue opinions on questions that are involved in pending litigation. The reason for this rule is found in Mont. Code Ann. § 2-15-501(7), which recognizes that opinions of this office have no force or effect when faced with a contrary ruling of a court.

We appreciate the effort you put forward to present the request and review our draft, and regret that with all of the interest that has been expressed in this issue our office is unable to respond with an opinion. Regardless of which way the Lewis and Clark County lawsuit goes on the issue, perhaps the opinion will spark some legislative interest in adjusting the statute that is at the center of the arguments.

Sincerely,

A handwritten signature in cursive script that reads "Chris".

CHRIS D. TWEETEN
Chief Civil Counsel

cdt/jym