

Alanah Griffith
P.O. Box 160748
Big Sky, MT 59716
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First, thank you so much for your service. You do a great deal for the state of Montana, and it is appreciated.

I am an attorney in Big Sky, MT. I was born here while my dad and grandfather built Big Sky for Chet. I was raised in Bozeman, and went to law school in Missoula. I practiced for 13 years in Bozeman. Two years ago I returned to my birthplace where I share a law practice with Mindy Cummings.

80% of my law practice is devoted to "community association law." Basically, 80% of my time is devoted to representing owner's associations or owner's against their owner's associations. I help associations rewrite their governing documents, understand how the non-profit act governs their business and with condo owner's association, how the unit ownership act works with the non-profit act. I help owners with the same. I also litigate association issues, for both the associations and owners. (See, for example, *Beebe v. Bd. of Directors of Bridger Creek Subdivision Cmty. Ass'n*, 2015 MT 183, 379 Mont. 484, 352 P.3d 1094). At the last count, I represent over 200 owner's associations and dozens of owners against their associations.

For a number of reasons, I urge you to oppose SB 300. While I certainly support grandfathering uses, and tell my associations that they should grandfather uses when appropriate, many times, because of health, safety and welfare, a use cannot be grandfathered.

For example, there is a condominium association in Big Sky that is currently experiencing a serious health and safety issue. It is what passes for affordable housing in Big Sky. The Association has approximately 200 condominium units, some three bedroom and some four. It has its own sewer system, that should last for 30 years. However, a number of construction companies have purchased units in this association and are "racking and stacking" employees in the units. The three bedroom units have up to 12 employees living in them and the 4 bedroom units have up to 16 people living in them. There are around 30 or 40 units used this way. This has caused a number of issues, including parking, litter, an increased number of calls to the sheriff for fights, (so many unrelated males living together causes issues, as you can imagine) and even rapes. The other condos are full of full time families whose children have to experience living in this manner.

Furthermore, the sewer system was not designed for the increased use. According to the experts hired by the Association, this increased use has already halved the life span of the sewer system, which will cost millions to replace. This can be slowed down if the use is limited in some way.

The Association is working with my law partner and I to fix this. We are drafting amendments to the covenants which would limit the number of people who can live in each unit based on the number of bedrooms. This has widespread support from most of the condominium owners. As you would guess, none of the construction companies support the amendment. The amendment will pass as there are not enough construction companies to block it. However, if this legislation goes into affect, none of the construction companies will need to comply. (We cannot get the vote done before the legislative session is over.) Therefore, all of the issues mentioned above will still be issues for the families living in the Association and will directly affect their health, safety and welfare.

This is just one example. Conversely, it creates another issue. SB 300 does not carve out an exception for permanent structures. Basically, this law states that the ONLY grandfathering that will occur will be for people who did not vote for the amendment and only to the extent that they continue to own the property. Once that property is sold, the use is no longer protected. I have a number of Associations that have passed rules regarding limiting how many structures you can have on a property, or if you can have an accessory dwelling unit on your property. These structures are all "residential" or "agricultural" uses according to case law. I have told all of these associations that these structures must be grandfathered as long as they exist. While there is no law on this issue, based on my years of litigation, I feel that the Montana Supreme Court would rule that Montana law grandfathers permanent structures and it is a lawsuit my clients don't want. If SB 300 passes, this is no longer true. This law would apply. Therefore, those buildings are only protected until the land is sold. Upon passage of SB 300, these associations will be sending demand letters to the Owners to tear down their buildings and will sue if the owners do not. They have to because the Association has a fiduciary duty to enforce the covenants according to the law.

Another issue is the fact that this language is not part of the current Uniform Act. I realize that you were told that this language is part of a Uniform Code. It is not. Apparently, the sponsor believed it is part of the Uniform Condominium Act of 1977. I cannot find it anywhere in that old Act. Here is a link:

http://www.theaiatrust.com/condocrisis/condocrisis_uca.pdf Furthermore, if it is there (which I cannot find it) that act is antiquated. It was amended many, many times, most recently, in 2008 when the Uniform College met here in Big Sky. None of the amendments, nor the current act contain this proposed language. Here is a link:

<https://www.uniformlaws.org/committees/community-home/librarydocuments?communitykey=587d74e1-ae08-48be-b3c1-a6eae168e965&tab=librarydocuments>

There is some language in the Georgia Property Owners Association Act which does have similar language. We called a colleague who practices community association law in GA. According to him, this language only applies to associations that do not submit their association to the Act. If an Association is submitted to the Georgia Act, then any amendment applies to everyone in the association. In other words, the language is meant to be a massive stick to force associations to submit to the checks and balances in Georgia's very, very comprehensive act.

I believe that Montana should have more protections for owners in association. To that, there is movement to get better protections for owners in associations.

Recently, a member of the BETTR section of the Montana Bar approached my law partner and I to see if we would be interested in taking the current uniform association laws and creating something comprehensive for you to vote on and perhaps pass as new law. We are just starting the discussion, but if this comes together, you will be voting on a comprehensive sets of laws for all associations in the next session. Unlike SB300, this set of laws will be well thought out, and have been reviewed and have the support of numerous stakeholders.

As an attorney who practices community association law, I certainly understand why this legislation was proposed. However, it is not well thought out and will have a number of unintended consequences. I am not being paid by any of my clients to write to you. I am doing it because of the serious issues that I see in this law, and the very negative impacts it will have on associations as a whole. I urge you not pass SB 300.

Thank you.

Sincerely,

Alanah Griffith