



2016 State Legislator Candidate Questionnaire

The Missoula Organization of REALTORS® is the voice of the Missoula real estate industry. Our members would like to know your thoughts on priority REALTOR® issues. We thank you for being specific in your responses.

MOR has endorsed candidates in past elections, and may do so in these elections. If we consider an endorsement in your race, we will ask you and your opponent(s) to each meet with us for candidate interviews.

Please return the questionnaire by Friday, September 23 to Sam Sill at ssill@missoularealestate.com.

BACKGROUND

Name: **Adam Hertz**

Office You Are Seeking: **House District 96**

Mailing Address: **PO Box 17951**

City & Zip Code: **Missoula, MT 59808**

Phone: **239-1865**

Email: **aghertz@hotmail.com**

CAMPAIGN ORGANIZATION

Treasurer's Name, Address and Phone Number: **Adam Hertz**

Will you accept PAC contributions? **I've already received a contribution from RPAC. Thank you.**

ISSUES

The year to date median home sales price in Missoula County has risen to \$250,000. This is an all-time high, and well beyond what a median income family can afford. In a September 4, 2016 article in the *Missoulian*, UM chief economist Pat Barkey was quoted as saying that the housing supply was low because of restrictions on development, and that for prices to go down, developers need to be able to build large subdivisions for a relatively low cost. In 2014 and 2015, only two subdivisions were approved in Missoula County. This session, the legislature will consider policies that affect the ability of working families to afford a home.

1. Missoula County is treated as a closed basin, meaning that no new appropriations of water are allowed without first acquiring an existing water right for mitigation through the DNRC permitting process. This process is unpredictable, lengthy, and often cost prohibitive. As a result, exempt wells had long been used to provide water for new

homes, businesses, and industry outside of Mountain Water’s service area. As long as the wells were not physically connected, they were exempt from the mitigation requirement. Exempt wells have a priority date and are subject to calls from senior water users. They account for less than 0.5 percent of the water appropriated in Montana each year.

A 2014 district court decision has severely limited their use by requiring DNRC to treat unconnected exempt wells as a “combined appropriation,” requiring an existing water right for mitigation in Missoula County. This has drastically limited the ability of developers to build subdivisions with homes that working families can afford. **Should the legislature codify this new definition of combined appropriation from the court decision, or should the legislature codify the previous definition that was in place for over 20 years?** *The Legislature should codify the previous definition and ensure the new language is strong enough to withstand legal challenges. Exempt wells are an integral part of providing affordable housing and ensuring business development, particularly in rural areas.*

2. Governing bodies are required by state case law to take a “hard look” when examining certain subdivision review criteria. Experience has shown that it is difficult for local governing bodies to know when they have applied the hard look standard. As the standard is currently interpreted by the courts, someone can always claim the governing body didn’t look hard enough. This can result in an unfortunate situation where a governing body’s conscientious review is overturned based on a distortion of the record or insignificant factors. **If elected, would you support legislation that makes it easier for governing bodies to meet the hard look standard?** *Yes. I would absolutely support legislation that makes it easier for governing bodies to meet the hard look standard. If elected, I intend to be a champion for regulatory reform that will ensure a more predictable, consistent and fair regulatory structure for housing developers in order to make housing more affordable for both homebuyers and renters. My professional experience as a Realtor and real estate developer coupled with my four years service on the Missoula City Council has uniquely equipped me to understand the complexity of the regulatory issues developers face and the solutions required to address those issues.*

3. The Legacy Ranch court decision from Ravalli County is spurring changes to local subdivision phasing and extension rules in Missoula County and other jurisdictions. In Missoula County, the rules will be changed to shorten the approval period, restrict extensions, and require additional public hearings for extensions. This will add uncertainty and increased costs to an already expensive development process. It will also bring about lesser quality neighborhoods by denying developers the ability to plan for street grid connectivity, large interior parks, sidewalks, and other infrastructure. This session, the legislature may consider clarifying subdivision law to provide governing bodies a better framework for handling phased developments. **If elected, would you support legislation that extends the approval period, clarifies that phased developments are allowed, and provides a more streamlined process for governing bodies to review extensions?** *Yes. Due to the cyclical nature of the housing market, real*

estate development is already a risky business. Removing a degree of predictability from that equation makes development all the riskier and ultimately discourages developers from taking on the risk of investing in new development. Our unpredictable regulatory scheme is one of the greatest inhibitors of real estate development, leading to a lack of inventory and unaffordable housing costs. Adding a degree of predictability and consistency to our real estate development regulations is an incredibly important step in encouraging the development of more housing inventory and ultimately providing more affordable housing options, both for renters and buyers. Our housing market has low inventory and high demand, which are perfect economic conditions to stimulate new development. The fact that only two subdivisions have been approved in Missoula County between 2014-2015 is a testament to the profoundly negative affect our broken regulatory system has on real estate development.