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BY EMAIL AND PERSONAL SERVICE

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Ravalli County Commissioner
215 S. 4th Street, Suite A
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Mr. Dan Huls dhuls@rc.mt.gov
Ravalli County Commissioner
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Mr. Jeff Burrows jburrows@rc.mt.gov
Ravalli County Commissioner
215 S. 4th Street, Suite A
Hamilton, MT 59840

Re: Notice of Intent to File Suit

Dear Commissioners:

Please be advised that I represent Mark Fournier and the Mark Fournier Family Trust. Mark Fournier ("Mark") is the Trustee and Settlor of the Mark Fournier Family Trust. The Trust Owns certain real property (the "Property") in Ravalli County commonly known as 1155 Hooten Trail, Corvallis, Montana 59828, and legally described as:

**RAVALLI FARM, S34, T07 N, R20 W, ACRES 9.89, PT LOTS 23 & 24 BLK 1 AMEND
SUB PLAT #585 LOT 23-A**

Since 2019, as described in greater detail below, Mark has experienced multiple incidents of obstruction and unwarranted actions by county employees regarding the development and use of the Property, some of which have required Commissioner intervention to resolve, including the recent incident in which county employees attempted to stop the current tenant's lawful use of the Property. Despite this appropriate intervention, in each instance, county employees have circled back and continued their unwarranted scrutiny of the property.

Although the most recent issue should have been put to bed, county employees have now contacted the tenant directly suggesting further scrutiny of the permitted use of property. Mark is now legitimately concerned that the county employees conduct, should it continue, will damage

not only my clients, but also his tenants, and will have significant financial consequences. He has no option but to provide notice of his intent to file suit and engage you directly in an effort to finally resolve any outstanding issues and protect his rights short of litigation.

Therefore, pursuant to Mont. Code Ann. §2-9-101, I write to provide notice of my clients' intent to file suit based on unlawful actions, described in greater detail below, undertaken by certain employees of Ravalli County.

Relevant Facts

On or around November of 2017, my clients engaged Ram Engineering to develop a septic site plan and obtain Montana Department of Environmental Quality ("DEQ") septic approvals for five building sites on the Property. Ram Engineering did so. The engineer certified site plan was submitted to the Ravalli County Environmental Health Department ("RCEH") for review and, in turn, RCEH submitted the Montana Department of Environmental Quality ("DEQ") for approval. Approval was granted by the DEQ on March 28, 2018. On June 10, 2019, a permit for a 5-bedroom septic was issued by the Ravalli County Sanitation Department.

At the time, a cabin was already located on the Property and was connected to a previously approved three-bedroom gravity fed drain field septic system. The site plan reflected that the cabin would be disconnected and re-connected to a planned 5-bedroom septic system. As reflected in the approved site plan, construction of a large barn style structure which was in the process of being built would be served by a septic tank, from which septic waste would be pumped to the already existing three-bedroom system then serving the cabin.

The new septic system was installed after the permit was issued. Shortly thereafter, the installer of the septic system contacted RCEH to schedule an inspection of the system and was directed to County employee Kelly Arnold. Ms. Arnold visited the Property to perform an inspection in the Summer of 2019. To Mark's recollection, this is the first time he met Ms. Arnold. However, in addition to being a sanitarian employed by the County, Ms. Arnold also owns and lives on a parcel of property located immediately to the east of the Property.

Ms. Arnold's communications regarding my clients and the property were troubling and inappropriate from the start. Ms. Arnold was inexplicably critical of my clients' plans for the property. She immediately inserted her personal views into the equation. Ms. Arnold questioned why my clients would build such a big barn and complained about how it blocked her view to the west. She unequivocally stated she would never allow that "big thing" to be used for "commercial purposes". Ms. Arnold had previously said similar things to Mark Fournier's wife, who was assisting and visited RCEH regarding the permit. At the time my clients disagreed and were taken aback by Ms. Arnold's attitude, but did not make an issue of it because Mark, his wife, and daughter, who was still in high school, intended to and ultimately did use the barn structure as their home.

Mark proceeded to discuss his development plan while Ms. Arnold was on site, which included utilizing the existing three-bedroom septic system to service the barn structure. Ms. Arnold stated "we no longer allow the use of that old septic. Once you disconnect the cabin you will have to install a pressure dose system". Ms. Arnold stated further that she would design a new system at no cost.

Finally, Ms. Arnold also took measurements and claimed that the drain field was too close to the northern boundary of the Property. Mark's recollection is that the drain field was within inches of the ten-foot set back requirement. Ms. Arnold insisted that my clients would have to pay the neighbor to the north of the property for an easement before she would approve the septic system. The contractor offered her an alternative solution, which Ms. Arnold rejected. She stated the only option was to pay the neighbor for an easement. Ms. Arnold's representations were false and without legal basis, and the property owner to the north of the Property was actually Ms. Arnold's father.

Mark became alarmed and contacted Ms. Arnold's supervisor, John Palacio, who then came to the property the same day. Mark expressed his reasonable concern that Ms. Arnold was using her county position to extort payment to her father. Mark's concerns were summarily dismissed. Nonetheless, the system was ultimately approved without my client purchasing an easement. See permit number is SP1906100742 dated June 10, 2019. The final inspection date was December 13, 2019.

In April of 2022, Mark approached Mr. Palacio directly to determine what needed to be done to change the two-bedroom septic systems to three-bedroom septic systems. Mr. Palacio suggested retaining RAM Engineering to re-calculate the drain field size and apply for a permit to allow a revision. Mark paid RAM Engineering \$100.00 for the quick revision to the drain field size, and on April 22, 2022, applied for a revision to the permit, which was granted. See Permit Number SP2105171455, dated May 7, 2022.

However, on June 1, 2022, Mark received a call from Mr. Palacio stating that Rod Daniels, a former sanitarian, filed a complaint against my client's property. Mr. Daniels' complaint was two-part. One, Mr. Daniel claimed my clients were required to do a re-write and have the new site plan approved by the DEQ. Two, Mr. Daniel alleged my clients were in violation of already issued permits, alleging the property was being used for "commercial purposes". Mr. Daniel's alleged Mark's use of his home to host the Corvallis High School Prom, a memorial reception for a Corvallis School teacher who had passed away from breast cancer, and the Corvallis FFA annual banquet were prohibited under the then already issued permits.

Setting aside that Mr. Daniel's complaint was otherwise completely bogus, the factual basis he relied on was absurd. Mark's daughter was attending Corvallis High School, Mark was serving as a Corvallis School Board trustee, and Mark frequently opened his home to students and others affiliated with the school district for free. In response to Mr. Daniel's complaint, Mark advised Mr. Palacio as much, and that the complaint was invalid. Mark also asked Mr. Palacio about the already issued revised permit. Mr. Palacio informed Mark that he should not have issued the permit, and demanded Mark retain RAM Engineering to start the re-write process. Mr. Palacio also claimed that a re-write of the already approved DEQ permit was required.

Of course, as Mr. Palacio was aware, construction of the buildings and septic had already commenced in reliance of the already issued revised permit. Nonetheless, under Mr. Palacio's threats, Mark again hired RAM Engineering to submit a new application for a DEQ re-write. Mark paid RAM engineering \$1,230 to do so, even though he already had permits in hand.

In June of 2022 the new application was submitted to RCEH for review. Instead of approving the site plan, upon submission to RCEH, John Palacio informed RAM Engineering that their original site plan had been modified by Ms. Arnold, and that a two-bedroom system that was installed in 2019 based on her design. RAM Engineering was surprised and alarmed to

find that Ms. Arnold had revised the site plan. Moreover, it became apparent that the permit granted by RCEH for the septic system designed by Ms. Arnold had been falsified.

The permit clearly states that it was "DEQ APPROVED". However, RCEH never submitted Ms. Arnold's design to DEQ. DEQ was still working off the original site plan that showed the original system. The permit also states: "Due to coarse soil, pressure dosing is required". This statement is patently false. No test holes were excavated and no information regarding soil was ever obtained by Ms. Arnold or anyone else at RCEH.

In hindsight, it is clear RCEH should have never required my clients to abandon the existing three-septic system and install a new two-bedroom system in the first place. However, at the time Mark was not then fully aware of the gamesmanship and manipulation that had occurred. Having already incurred significant expenses, and under pressure from Mr. Palacio, Mark met with RAM Engineering on the property to view the site and discuss how to meet Mr. Palacio's demands. Mark paid an additional \$1,080 to add the pressure dose system to RAM Engineering's site plan and design for the second re-write application process.

Ironically, as unnecessary as the process was to begin with, this should have concluded the re-write process and resulted in the immediate issuance of a permit. However, on August 17, 2022, Mr. Palacio notified RAM Engineering and Mark that RCEH was denying their re-write application, based on the false allegation that my clients were not in compliances with the existing septic permits. He also falsely alleged Mark made misrepresentations on prior permit applications.

Mr. Palacio demanded Mark personally submit a written statement to the effect of: "The building will not be used for commercial purposes and will not be advertised for commercial use". Furthermore, he demanded Mark acknowledge in writing that if the property was used for private gatherings, use of portable toilets would be required. These demands were without any lawful basis.

Although well beyond RCEH's regulatory authority and wholly without factual basis, Mr. Palacio's demands persisted in subsequent communications with Ron Uemura, of RAM Engineering. At one point Mr. Uemura asked Mr. Palacio if he could email Mark with John Palacio's required condition and asked if it would resolve the issue if Mark simply responded "YES" to the email. Mr. Palacio responded "Not just a yes. I need a complete response so that there is no misunderstanding".

Mark began to suspect that the condition was unlawful and refused. Instead, Mark requested RCEH provide a written explanation of this, and any other conditions Mr. Palacio was seeking to impose, as well as any other limitations or requirements RCEH believed applied to the Property. Mark's request was rejected. However, communications regarding Mr. Palacio's demand continued for months.

Finally, on December 12, 2022, Mr. Palacio approved permit SP2105171455. However, on the back of the permit he wrote that Mark would need to apply for an alteration permit since the two structures that shared the septic system were not hooked up at the same time. Reasonably believing issues related to his unlawful demands were resolved, on or about February 23, 2023, my clients applied for an alteration permit to finish the building and future septic hook pursuant to the conditions Mr. Palacio inserted into the permit.

Instead, Mr. Palacio contacted Mark and attempted to use the application for the new permit to again coerce Mark into signing a statement that he would not use the property for "Commercial Use" and use portable toilets for private functions. Mark again refused to agree to these unlawful conditions. On or about March 16, 2023, Mr. Palacio sent written notice to Mark that his application for alteration permit was denied. In addition, Mr. Palacio upped the ante in the notice, indicating Mark would be fined \$1,000.

Upon receiving Mr. Palacio's notice, on or about March 17, 2023, Mark immediately contacted Mr. Palacio for an explanation. Mr. Palacio informed Mark that he was being fined because he would not comply with Mr. Palacio's unlawful demand to submit a written statement that Mark would not use the Property for any commercial purpose and would supply guests with portable toilets for any private function he may have. Mr. Palacio stated that until Mark came into compliance with his unlawful demands, the alteration permit would not be granted, and Mark would face more fines.

When Mark pressed Mr. Palacio on why he would be fined, Mr. Palacio raised an as of then, unstated concern. Mr. Palacio said it was because Mark had connected the cabin to the septic system without an alteration permit. Mark explained the allegation was false, to no avail. Mr. Palacio declined to explain how he arrived at his inaccurate conclusion. Mr. Palacio refused to disclose the basis of his conclusion that the Cabin had been hooked up to the septic system. However, it is clear the allegations stem from the unlawful conduct of Ms. Arnold.

The night before the date of Mr. Palacio written notice (on or about March 15, 2023), a third-party witness noticed a person standing by the cabin on the Property, but could not make out who the person was because it was after dark. The witness drove to the area of the cabin and recognized the individual to be Kelly Arnold. She was standing near the southeast corner of the cabin.

As aforementioned, Ms. Arnold owns property and lives directly to the east of the Property. A fence separates the two properties, and the lane leading to Ms. Arnold's home runs parallel to the fence line. A vehicle was parked on the lane within Ms. Arnold's property on the lane near the cabin. As soon as the witness drove up to the building to investigate, the person in the vehicle drove away leaving Ms. Arnold on the property. Upon being discovered, Ms. Arnold quickly turned away and went east, crossed the fence that separates her property from the Property, and walk towards her home.

Perhaps being discovered interrupted Ms. Arnold's unlawful attempt to determine whether the cabin had been connected to the septic system before she could actually see that it was not. Perhaps not. Whatever the case, the representation and any report that the cabin had been connected to the septic system is false. When Mark introduced this information into the conversation, Mr. Palacio sarcastically suggested Mark "call the sheriff".

On or about March 18, 2023, Mark submitted a letter to John Palacio stating his position and requesting information so he could prepare for his hearing in front of the RCEH on his fine. Mr. Palacio informed Mark that he would discuss this situation with Commissioner Burrows. Initially, when Commissioner Burrows and Mark first communicated in March of 2023, it was clear Mr. Palacio, or Ms. Arnold, or both attempted to poison Mr. Burrows perception of the situation with false information. However, my clients were ultimately thankful for Commissioner Burrows intervention. After extensive communications with Mr. Burrows, the unlawful pursuit of a fine was dropped and the alteration permit was issued without unlawful

conditions. Mark believed this was the end of what can reasonably be described as a campaign of harassment. Sadly, it was not the end.

In February of 2025, my clients entered into a contractual agreement with Bear Creek Wellness Center regarding the Property. My clients agreed to lease the Property, with an option to purchase. Bear Creek Wellness Center operates residential treatment facilities, and upon securing the right to lease and ultimately purchase the Property, began to establish a residential treatment facility within the existing structures located on the property. The facility is considered a "Community Residential Facility" as defined by Mont. Code Ann. §76-2-411.

As soon as Mark took steps to vacate the property and Bear Creek Wellness Center began to lawfully modify and improving the property to suit its needs, the harassment campaign resumed. Ms. Arnold began rallying neighbors against the Property. On information and belief, Ms. Arnold, or another county employee, or both contacted the State Building Inspector, Shawn Rupp, and alleged the structures on the property were not up to code.

On information and belief Mr. Palacio contacted Montana Department of Public Health and Human Services ("DPHHS") inspector Brian Nelson and falsely stated that the Property was not in compliance with DEQ regulations on April 10, 2025. DPHHS has licensing authority over community residential facilities in Montana. As a result, a hold was placed on Bear Creek Wellness Center's license. Mr. Palacio followed up with an email from his Ravalli County email account to Mr. Nelson on April 14, 2025, again falsely claiming the proposed use on the property is for "commercial" and didn't conform to the DEQ prior approval. Mr. Palacio claimed another "re-write" was necessary.

Also, on April 14, 2025, Mr. Palacio contacted Bear Creek Wellness Center and told them my clients would have to do a "re-write" before Bear Creek Wellness Center could operate its facility. He also contacted Mark directly and stated he received an "anonymous complaint" that afternoon that the property was being used in violation of permits, and that Mark would have to do a "commercial" re-write.

Mark requested a copy be forwarded to the undersigned. Mr. Palacio said he had just received the complaint that day. Mark requested my office obtain a copy of the complaint. Upon doing so, we were advised that the only complaint on record was the previously discussed complaint submitted by Rod Daniels.

Clearly, the harassment campaign had resumed. Both Mark and Bear Creek Wellness Center presented the DPHHS inspector with Mont. Code Ann. §76-2-412. Counsel for DPHHS reviewed the situation and confirmed that because Bear Creek Wellness Center's planned a residential treatment facility, its intended use of the property was *expressly allowed under the black letter of the law*.

Mark again called on Commissioner Burrows and provided a copy of the statute to both Mr. Burrows and Mr. Palacio. However, this has apparently not deterred county employees from continuing their campaign. Thereafter, Bear Creek Wellness Center received word from Mr. Palacio that a "re-write" *might* not be necessary. Mr. Palacio demanded information beyond RCEH's regulatory authority to purportedly re-evaluate the septic systems.

Again, my client had hoped your intervention would put a stop to county employees' unlawful actions towards the property. My client has already been damaged by the actions of

county employees. Unfortunately, under the circumstances, it seems clear that the campaign of harassment will not stop and unless his claims are addressed, he will have no alternative but to bring a lawsuit to do so.

Claims Identified to Date

In the event and immediate resolution cannot be achieved, my clients intend to file the claims discussed below.

Every government entity is subject to liability for its torts and those of its employees acting within the scope of their employment or duties whether arising out of a governmental or proprietary function except as specifically provided by the legislature under Article II, section 18, of The Constitution of the State of Montana.

Mont. Code Ann. §2-9-102

Additional claims may exist. Investigation of the circumstances described above continues.

Negligence/Negligent Supervision

The elements of negligence are: (1) the existence of a duty; (2) a breach of that duty; (3) causation; and (4) damages. *Abraham v. Nelson*, 2002 MT 94, ¶ 11, 309 Mont. 366, 46 P.3d 628. At all times, the County had a duty to act reasonably and prudently towards my clients and follow applicable law. As described above, county employees repeatedly acted unreasonably and violated or acted under a misapprehension of applicable law causing damage to my clients.

Moreover, the unreasonable and unlawful acts of county employees, and their propensity to commit additional unreasonable and unlawful acts against my clients was known to the REHD, and the resulting damages to my clients was foreseeable. Therefore, the REHD negligently supervised its employees causing my clients' damage.

Constitutional Claims

a cause of action for money damages is available for violation of those rights guaranteed by Article II, Sections 10 and 11 of the Montana Constitution. In addition, we conclude that a direct cause of action for money damages is available for violation of the Plaintiffs' rights guaranteed by Article II, Section 17 of the Montana Constitution, and remand for further consideration of the Plaintiffs' claims for damages pursuant to all three sections of Article II.

Dorwart v. Caraway, 2002 MT 240, ¶48, 312 Mont. 1, 16, 58 P.3d 128, 137.

By unlawfully entering my clients' Property, Ms. Arnold violated Article II, Section 11 of the Montana Constitution.

Invasion of individual privacy by a fellow citizen is a bad thing. Invasion by the state or its agents is worse. A culture of governmental disregard for the right to privacy would be worst of all. To avoid that possibility in the face of sometimes

short-sighted popular and political sentiment will take a vigilant judiciary with a full arsenal of remedies.

Id. at ¶48, 312 P.3d at 141.

Moreover, by misapplying the regulatory process, County employees violated my clients' due process rights under Article II, Section 17 of the Montana Constitution.

Abuse of Process

County employees attempted to use the regulator process to compel and coerce my clients to take actions they were not legally required to do, including submitting written statements and applying for unnecessary permits, and paying a fine, which amounts to abuse of process. *Ammondsom v. Northwestern Corp.*, 2009 MT 331, 353 Mont. 28, 220 P.3d 1.

Civil Conspiracy

The elements of a civil conspiracy are "(1) two or more persons; (2) an object to be accomplished; (3) a meeting of the minds on the object or course of action; (4) one or more unlawful overt acts; and (5) damages as the proximate result thereof.

Schumacker v Meridian Oil Co., 1998 MT 79, ¶18, 288 Mont. 217, 221, 956 P.2d 1370, 1373.

On information and belief, at least two county employees communicated and agreed, and worked in concert toward the objective to limit my clients' lawful use and enjoyment of their property rights. To this end, on or more unlawful acts were committed, including but not necessarily limited to trespass on the Property, unlawful application of regulatory authority, causing damage to my clients.

Actual Malice

The actions of county employees as described above were undertaken with malice towards and a desire to harm my clients. As such, punitive damages are warranted.

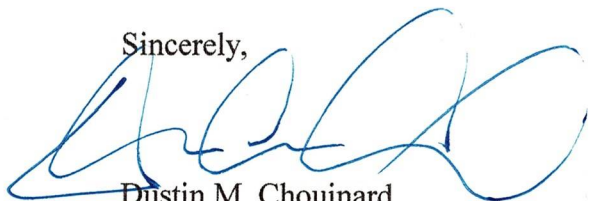
Injunctive Relief

To ensure that the unlawful actions toward my clients and the Property cease, my clients are entitled to a declaration that the Property and its use by Bear Creek Wellness Center is in full compliance with all regulations under RCEH's authority pursuant to Mont. Code Ann. §27-8-201 et seq. and Mont. Code Ann. §27-8-313. Moreover, also pursuant to §27-8-313, my clients are entitled to additional supplemental relief in the form of attorney's fees and costs.

Conclusion

Thus far my client has incurred at least \$12,040 in unnecessary expenses, a result of county employees' actions as described above, in addition to damages to be established at trial. Please contact me if you wish to engage and resolve the issues discussed in this notice.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dustin M. Chouinard', with a large, stylized flourish at the end.

Dustin M. Chouinard
Attorney at Law
DMC/bm