

COUNCIL BILL NO. 19-08
ORDINANCE NO. 19-08

1 AN ORDINANCE REPEALING CHAPTER 15.06 OF THE BUTTE-SILVER BOW
2 MUNICIPAL CODE (BSB-MC) AND REPLACING IT BY ESTABLISHING A NEW
3 CHAPTER OF THE BUTTE-SILVER BOW MUNICIPAL CODE (BSB-MC) TO BE
4 NUMBERED 8.14 AND TO BE ENTITLED "DANGEROUS BUILDINGS", ESTABLISHING
5 PROCEDURES AND PROVISIONS FOR ENFORCEMENT AND PROVIDING FOR AN
6 EFFECTIVE DATE HEREIN.

7 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF COMMISSIONERS OF
8 THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA:

SECTION 1: New Chapter: There is hereby created a new Chapter
of the Butte-Silver Bow Municipal Code (B-SB MC) to
be named "DANGEROUS BUILDINGS" and numbered Chapter
8.14.

9 SECTION 2: New Section: There is hereby created a new section
10 of the Butte-Silver Bow Municipal Code (B-SB MC) to
11 be numbered 8.14.010 which shall read as follows:
12 8.14.010 Purpose. The purpose of this chapter is
13 to protect the public health, safety and welfare by
14 establishing a method to be cumulative with and in
15 addition to any other remedy provided by the

1 International Existing Building Code, or otherwise
2 available by law, whereby buildings or structures,
3 which from any cause, endanger the life, limb,
4 health, property, safety or welfare of the general
5 public or their occupants, may be required to be
6 repaired, vacated or demolished.

7 SECTION 3: New Section: There is hereby created a new section
8 of the Butte-Silver Bow Municipal Code (B-SB MC) to
9 be numbered 8.14.020 which shall read as follows:

10 8.14.020 SCOPE. The provisions of this chapter shall
11 apply to all dangerous buildings, as hereinafter defined,
12 which are now in existence or which may hereafter
13 become dangerous within the City-County of Butte-
14 Silver Bow, Montana.

15 SECTION 4: New Section: There is hereby created a new section
16 of the Butte-Silver Bow Municipal Code (B-SB MC) to
17 be numbered 8.14.030 which shall read as follows:

18 8.14.030 Alterations, Additions and Repairs. All
19 buildings or structures which are required to be
20 repaired under the provisions of this chapter shall
21 be required to obtain the appropriate permits as

required by the City-County of Butte-Silver Bow, MT.

SECTION 5: New Section: There is hereby created a new section
of the Butte-Silver Bow Municipal Code (B-SB MC) to
be numbered 8.14.040 which shall read as follows:

8.14.040 Definitions:

The following definitions shall apply unless the
context clearly indicates or requires a different
meaning.

B. "CODE ENFORCEMENT OFFICER" means an enforcement
officer of the City-County Community Enrichment
Department, the City-County Fire Department, the
City-County Planning/Building Code Department or any
other City-County Department, officer or employee
appointed by the Chief Executive with the
appropriate qualifications whose job duties include
enforcing the regulations of this chapter by
addressing buildings or structures, which from any
cause, endanger the life, limb, health, property,
safety or welfare of the general public or their
occupants.

1 C. "COUNCIL of COMMISSIONERS" means the members
2 elected to serve as the governing body of the City-
3 County of Butte-Silver Bow.

4 D. "DANGEROUS BUILDING" means for the purpose of
5 this chapter, any building or structure which has
6 any or all of the conditions or defects hereinafter
7 described, as determined by a Code Enforcement
8 Officer and/or by an outside registered design
9 professional, provided that such conditions or
10 defects exist to the extent that the life, health,
11 property or safety of the public or its occupants
12 are endangered:

13 1. Whenever the exterior walls or other
14 vertical structural members list, lean or
15 buckle to such an extent that a plumb line
16 passing through the center of gravity does
17 not fall inside the middle one third of the
18 base.

19 2. Whenever the stress in any materials,
20 member or portion thereof, due to all dead
21 and live loads, is more than one and one

1 half times the working stress or stresses
2 allowed in the International Existing
3 Building Code for buildings of similar
4 structure, purpose or location.

5 3. Whenever any portion thereof has been
6 damaged by fire, earthquake, wind, flood or
7 by any other cause, to such an extent that
8 the structural strength or stability
9 thereof is materially less than it was
10 before such catastrophe and is less than
11 the minimum requirements of the
12 International Existing Building Code for
13 buildings of similar structure, purpose or
14 location.

15 4. Whenever any portion or member or
16 appurtenance thereof is likely to fail, or
17 become detached or dislodged, or to
18 collapse and thereby injure persons or
19 damage property.

20 5. Whenever any portion of a building, or any
21 member, appurtenance or ornamentation on

1 the exterior thereof is not of sufficient
2 strength or stability, or is not so
3 anchored, attached or fastened in place so
4 as to be capable of resisting a wind
5 pressure of one half of that specified in
6 the International Existing Building Code
7 for buildings of similar structure, purpose
8 or locations without exceeding the working
9 stresses permitted in the International
10 Existing Building Code for such buildings.

11 6. Whenever any portion thereof has wracked,
12 warped, buckled or settled to such an
13 extent that walls or other structural
14 portions have materially less resistance to
15 winds or earthquakes than is required in
16 the case of similar new construction.

17 7. Whenever the building or structure, or any
18 portion thereof, because of (i)
19 dilapidation, deterioration or decay; (ii)
20 faulty construction; (iii) the removal,
21 movement or instability of any portion of

1 movement or instability of any portion of
2 the ground necessary for the purpose of
3 supporting such building, (iv) the
4 deterioration, decay or inadequacy of its
5 foundation; or (v) any other cause, is
6 likely to partially or completely collapse.

7 8. Whenever, for any reason, the building or
8 structure, or any portion thereof, is
9 manifestly unsafe for the purpose for which
10 it is being used.

11 9. Whenever the building or structure,
12 exclusive of foundation, shows 33 percent
13 or more damage or deterioration of its
14 supporting member or members, or 50 percent
15 damage or deterioration of its non-
16 supporting members, enclosing or outside
17 walls or coverings.

18 10. Whenever the building or structure has been
19 so damaged by fire, wind, earthquake or
20 flood, or has become so dilapidated or
21 deteriorated as to become (i) an attractive

1 nuisance to children; (ii) a harbor for
2 vagrants, criminals or immoral persons; or
3 as to(iii) enable persons to resort thereto
4 for the purpose of committing unlawful or
5 immoral acts.

6 11. Whenever any building or structure has been
7 constructed, exists or is maintained in
8 violation of any specific requirement or
9 prohibition applicable to such building or
10 structure provided by the building
11 regulations of the City-County, as
12 specified in the International Existing
13 Building Code, or any law or ordinance of
14 the State of Montana or the City-County
15 relating to the condition, location or
16 structure of buildings.

17 12. Whenever any door, aisle, passageway,
18 stairway or other means of exit is not so
19 arranged as to provide safe and adequate
20 means of exit in case of fire or panic.

21 13. Whenever the walking surface of any aisle,

1 passageway, stairway or other means of exit
2 is so warped, **worn**, loose, torn or
3 otherwise unsafe as to not provide safe and
4 adequate means of exit in case of fire or
5 panic.

6 14. Whenever any building or structure which,
7 whether or not erected in accordance with
8 all applicable laws and ordinances, has in
9 any non-supporting part, member or portion
10 less than 50 percent, or in any supporting
11 part, member or portion less than 66
12 percent of the (i) strength, (ii) fire-
13 resisting qualities or characteristics, or
14 (iii) weather-resisting qualities or
15 characteristics required by law in the case
16 of a newly constructed building of like
17 area, height and occupancy in the same
18 location.

19 15. Whenever a building or structure, is used
20 or intended to be used for dwelling
21 purposes, and has an inadequate sewer or

1 water system as determined by a registered
2 sanitarian with the City-County's health
3 department.

4 16. Whenever any building or structure, is in
5 such a condition as to constitute a
6 "condition of public health importance" as
7 defined in Section 50-1-101(2) MCA.

8 17. Whenever any building or structure, because
9 of obsolescence, dilapidated condition,
10 deterioration, damage, inadequate exits,
11 lack of sufficient fire-resistive
12 construction, faulty electric wiring, gas
13 connections or heating apparatus, or other
14 cause, is determined by the City-County's
15 fire marshal to be a fire
16 hazard.18. Whenever any building or
17 structure is in such a condition as to
18 constitute a public nuisance as defined in
19 Montana law.

20 18. Whenever any portion of a building or
21 structure remains on a site after the

1 demolition or destruction of the building
2 or structure or whenever any building or
3 structure is abandoned for a period in
4 excess of six months so as to constitute
5 such building or portion thereof an
6 attractive nuisance or hazard to the
7 public.

8 E. "OWNER" means those shown to be the owner or
9 owners on the records of the offices of the City-
10 County of Butte-Silver Bow's Clerk and Recorder
11 and/or Assessor; and/or other person, firm or
12 corporation in control of the freehold of the
13 premises or lessor stated herein. Any person with
14 a shared interest in the property may have a joint
15 and several obligation for compliance with the
16 provisions of this chapter.

17 F. "POSTED" means a building that has been posted
18 with a Notice of Dangerous Building and Order to
19 Repair or Demolish by a Code Enforcement officer
20 that meets the criteria of a Dangerous Building

21 G. "REGISTERED DESIGN PROFESSIONAL" means an

1 individual who is registered or licensed to practice
2 their respective design profession as defined by the
3 statutory requirements of the professional
4 registration laws of the State of Montana.

5 SECTION 6: New Section: There is hereby created a new section
6 of the Butte-Silver Bow Municipal Code (B-SB MC) to
7 be numbered 8.14.050 which shall read as follows:

8 8.14.050 COMMENCEMENT OF PROCEEDINGS: When the Code
9 Enforcement Officer, or when needed a registered
10 design professional, has inspected or caused to be
11 inspected any building and found and determined that
12 such building is a Dangerous Building, he or she
13 shall commence proceedings to cause the repair,
14 vacation or demolition of the building.

15 A. Notice and Directives of Code Enforcement
16 Officer. The Code Enforcement Officer shall issue
17 a notice directed to the Owner of the building. The
18 notice shall contain the following information and
19 directive(s):

- 20 1. The street address and a legal description
21 sufficient for identification of the

1 premises upon which the building is
2 located.

3 2. A statement that the Code Enforcement
4 Officer has found the building to be a
5 Dangerous Building with a brief and concise
6 description of the conditions found to
7 render the building a Dangerous Building
8 under this chapter.

9 3. A statement of the action required to be
10 taken as determined by the Code Enforcement
11 officer as follows:

12 a. If the Code Enforcement Officer has
13 determined that the building or
14 structure must be repaired, the notice
15 shall require that all required permits
16 be secured and the work physically
17 commenced within such time (not to
18 exceed 60 days) and completed within
19 such time as the Code Enforcement
20 Officer determines is reasonable under
21 the circumstances.

1 b. If the Code Enforcement Officer has
2 determined that the building or
3 structure must be vacated, he or she
4 shall direct that the building or
5 structure be vacated within a time
6 certain from the date of the notice as
7 determined by the Code Enforcement
8 Officer to be reasonable.

9 c. If the Building, Official and/or the
10 Health Department and/or the Fire
11 Department, in conformity with Section
12 2.64.150 of Chapter 2.64 of the Butte-
13 Silver Bow Municipal Code entitled
14 Historic Preservation Program has
15 determined that the building or
16 structure must be demolished, the
17 notice shall require that the building
18 be vacated within such time as the
19 Building Official, and/or the Health
20 Department and/or the Fire Department
21 determines is reasonable (not to exceed

1 60 days from the date of the notice);
2 that all required permits be secured
3 within 60 days from the date of the
4 notice; and that the demolition be
5 completed within such time as the
6 Building Official and/or the Health
7 Department and/or the Fire Department
8 shall determine is reasonable.

9 4. Statements advising that if any required
10 repair or demolition work (without vacation
11 being required) is not commenced within the
12 time specified, the Code Enforcement
13 Officer (i) will order the building vacated
14 and posted to prevent further occupancy
15 until the work is completed, and (ii) may
16 proceed to cause the work to be done and
17 charge the costs against the property or
18 its owner.

19 5. Statements advising (i) that any Owner
20 person having any record title or legal
21 interest in the building may appeal from

1 the notice and directive of the Code
2 Enforcement Officer, to the Building Board
3 of Appeals provided the appeal is made in
4 writing and filed within thirty (30) days
5 from the date of the notice and directive;
6 and (ii) that failure to appeal will
7 constitute a waiver of all right to a
8 hearing and determination of the matter.

9 B. Service of Notice and Directive: The notice and
10 directive, and any amended or supplemental notice
11 and directive, shall be served upon the record owner
12 and posted on the property; and one copy shall be
13 served on each of the following if known to the Code
14 Enforcement Officer or disclosed from official
15 public records: the holder of any mortgage or deed
16 of trust; the owner or holder of any lease of record;
17 and the holder of any other estate or legal interest
18 of record in or to the building or the land on which
19 it is located. The failure of the Code Enforcement
20 Officer to serve any person required herein to be
21 served shall not invalidate any proceedings

1 hereunder as to any other person duly served or
2 relieve any such person from any duty or obligation
3 imposed by the provisions of this section.

4 C. Method of Service. Service of the notice and
5 directive shall be made upon all persons entitled
6 thereto either personally or by mailing a copy of
7 such notice and directive by certified mail, postage
8 prepaid, return receipt requested, to each such
9 person at their address as it appears on the last
10 tax statement of the City-County or as known to the
11 Code Enforcement Officer. If no address or any such
12 person so appears or is known to the Code Enforcement
13 Officer, then a copy of the notice and directive
14 shall be so mailed, addressed to such person, at the
15 address of the building involved in the proceedings.
16 The failure of any such person to receive such notice
17 shall not affect the validity of any proceedings
18 taken under this section. Service by certified mail
19 in the manner provided herein shall be effective on
20 the date of mailing.

21 D. Proof of Service. Service of the notice and

1 directive shall be certified to at the time of
2 service by a written declaration executed by the
3 persons effecting service, declaring the time, date
4 and manner in which service was made. The
5 declaration, together with any receipt card returned
6 in acknowledgment of the receipt by certified mail
7 shall be affixed to the copy of the notice and order
8 and retained by the Code Enforcement Officer that
9 initiated the proceedings.

10 SECTION 7: New Section: There is hereby created a new section
11 of the Butte-Silver Bow Municipal Code (B-SB MC) to
12 be numbered 8.14.060 which shall read as follows:

13 8.14.060 REPAIR, VACATION AND DEMOLITION STANDARDS:

14 The following standards shall be followed by the
15 Code Enforcement Officer in ordering the repair,
16 vacation or demolition of any dangerous building or
17 structure:

18 A. Any building declared a dangerous building by
19 a Code Enforcement Officer under this code shall
20 comply with the following:

- 21 1. The building shall be repaired in

1 accordance with an abatement plan and time
2 table established by the Code Enforcement
3 officer and in compliance with all City-
4 County local laws including compliance
5 with Chapter 2.64 of the Butte-Silver Bow
6 Municipal Code entitled Historic
7 Preservation Program and permitting
8 requirements and/or

9 2. The building shall be demolished in a
10 manner compliant with all City-County
11 local laws, including compliance with
12 Chapter 2.64 of the Butte-Silver Bow
13 Municipal Code entitled Historic
14 Preservation Program, and in compliance
15 with all permitting requirements and/or

16 3. If the building does not constitute an
17 immediate danger to the life, limb or
18 property or safety of the public, it may
19 be vacated, secured and maintained against
20 entry.

21 B. If the building or structure is in such

1 condition as to make it immediately dangerous to the
2 life, limb, property or safety of the public or its
3 occupants, it shall be ordered to be vacated.

4 a. Every notice to vacate shall be
5 signed by the Code Enforcement
6 Officer and posted at or upon each
7 exit of the building in
8 substantially the following form:

9 **DO NOT ENTER**

10 **UNSAFE TO OCCUPY**

11
12 It is a misdemeanor to occupy this
13 building or to remove or deface this
14 notice.

15 b. Whenever such notice is posted, the
16 Code Enforcement Officer shall
17 include with the notice an
18 explanation reciting the emergency
19 and specifying the conditions which
20 necessitate the posting. No person
21 shall remain in or enter any building
22 which has been so posted, except that

1 entry may be made to repair, demolish
2 or remove such building under
3 permit. No person shall remove or
4 deface any such notice after it is
5 posted until the requested repairs,
6 demolition or removal have been
7 completed and a certificate of
8 occupancy issued pursuant to the
9 provision of the International
10 Existing Building Code.

11 SECTION 8: New Section: There is hereby created a new section
12 of the Butte-Silver Bow Municipal Code (B-SB MC) to
13 be numbered 8.14.070 which shall read as follows:

14 8.14.070 Appeal of Notice and Directive of Code
15 Enforcement Officer. Any person entitled to service
16 under Section 8.14.050 of this chapter may appeal
17 from the notice and directive of the Code Enforcement
18 Officer or any action of the Code Enforcement Officer
19 under this chapter to the Building Board of Appeals.
20 The appeal shall be filed within ~~E-6~~ thirty (± 30) from
21 the date of the service of such notice and directive

1 or action of the Code Enforcement Officer; provided
2 however, that if the building or structure is in
3 such condition as to make it immediately dangerous
4 to the life, limb, property or safety of the public
5 or adjacent property and is ordered vacated and
6 posted in accordance with Section 8.14.060 of this
7 chapter, such appeal shall be filed within five (5)
8 days from the date of the service of the notice and
9 directive of the Code Enforcement Officer.

10 SECTION 9:

New Section: There is hereby created a new section
11 of the Butte-Silver Bow Municipal Code (B-SB MC) to
12 be numbered 8.14.080 which shall read as follows:

13 8.14.080 Failure to Comply with Notice and Directive
14 of Code Enforcement Officer. If no appeal is made,
15 the Notice and Directive of the Code Enforcement
16 Officer shall become final and any person who fails,
17 neglects or refuses to comply with such Notice and
18 Directive is guilty of a misdemeanor. In addition,
19 the Code Enforcement Officer may initiate any
20 appropriate action to abate such building as a public
21 nuisance.

1 SECTION 10: New Section: There is hereby created a new section
2 of the Butte-Silver Bow Municipal Code (B-SB MC) to
3 be numbered 8.14.090 which shall read as follows:

4 8.14.090. EXTENSION OF TIME TO PERFORM WORK. Upon
5 receipt of an application from the person required
6 to conform to the order and by agreement of such
7 person to comply with the order if allowed
8 additional time, the Code Enforcement Officer may
9 grant an extension of time, not to exceed an
10 additional one hundred twenty (120) days, within
11 which to complete said repair, rehabilitation or
12 demolition, if the Code Enforcement Officer
13 determines that such an extension of time will not
14 create or perpetuate a situation imminently
15 dangerous to life or property. The Code
16 Enforcement Officer's authority to extend time is
17 limited to the physical repair, rehabilitation or
18 demolition of the premises and will not in any way
19 affect the time to appeal the notice and directive.

20 SECTION 11: New Section: There is hereby created a new section
21 of the Butte-Silver Bow Municipal Code (B-SB MC) to

1 be numbered 8.14.100 which shall read as follows:

2 8.14.100. Failure to Repair or Demolish.

3 If the Owner fails to comply with the Code
4 Enforcement Officer's notice and directive pursuant
5 to the requirements set forth herein, or in the
6 event of an appeal, within ten days of the decision
7 of the Building Board of Appeals upholding such
8 notice and directive, the Code Enforcement Officer
9 may direct that the repair or demolition be
10 accomplished by personnel of the City-County or by
11 private contract pursuant to the City-County's
12 contractual procedures set forth in Chapter 3.12 of
13 the Butte-Silver Bow Municipal Code.

14 SECTION 12: There is hereby created a new section of the Butte-
15 Silver Bow Municipal Code (B-SB MC) to be numbered
16 8.14.110 which shall read as follows:

17 8.14.110 Notice of Costs and Right to Protest.

18 A. Within twenty days after the repair or
19 demolition of the Dangerous Building is
20 accomplished by personnel of the City-County or by
21 private contract, the Owner will be notified of the

1 costs of such repair or demolition, including
2 administrative costs. If the Owner fails to pay the
3 bill in thirty days, the Code Enforcement officer
4 shall certify the amount of the charges to the Clerk
5 and Recorder for collection.

6 B. Any person interested in or affected by the
7 proposed charge may file written protests or
8 objections with the Clerk and Recorder and request
9 a hearing before the Council of Commissioners.
10 Each protest or objection must contain a
11 description of the property and grounds of the
12 protest or objection. The Clerk and Recorder shall
13 endorse on every such protest or objection the date
14 of receipt.

15 C. The Clerk and Recorder shall present the amount
16 of the charges certified by the Code Enforcement
17 Officer and any protests or objections to the
18 Council of Commissioners for consideration, who
19 shall fix a time, date and place for consideration
20 of the certified cost report and any protests or
21 objections thereto.

1 SECTION 13: There is hereby created a new section of the Butte-
2 Silver Bow Municipal Code (B-SB MC) to be numbered
3 8.14.120 which shall read as follows:

4 8.14.120 Tax Liability for payment of charges.

5 A. If any charges to be paid by the Owner pursuant
6 to Section 8.14.110 have not been paid within thirty
7 (30) days, following notification or in the case of
8 a written objection, within thirty days following
9 the decision of the Council of Commissioners, the
10 Clerk and Recorder shall certify the amount thereof,
11 with the description of the premises charged and
12 shall extend the same to the assessment list as a
13 special tax on the real property. If the real
14 property for any reason is exempt from general
15 taxation, the amount of the charge may be removed by
16 direct claim against the Owner and collected in the
17 same manner as personal taxes.

18 B. The City-County shall notify the responsible
19 party that a lien has been placed on the property by
20 certified mail, return receipt requested.

21 SECTION 13: There is hereby created a new section of the Butte-

Silver Bow Municipal Code (B-SB MC) to be numbered
8.14.130 which shall read as follows:

8.14.130 Repair and Demolition Fund. The Council of
Commissioners shall establish a special revolving
fund to be designated as the repair and demolition
fund. Payments shall be made out of said fund upon
the request of a Code Enforcement Officer to defray
the costs and expenses which may be incurred by the
City-County in doing or causing to be done the
necessary work or repair or demolition of dangerous
buildings.

SECTION 14: 8.14.140 Severability. If any provision of this
chapter or a section thereof, in any circumstances
is held invalid, the validity and application of the
remainder of the provisions or sections shall not be
affected.

SECTION 15: 8.146.150 Remedies Not Exclusive. The procedure
established in this chapter are in addition to other
legal remedies established by law which may be
pursued to address violations of this chapter. The
use of this chapter shall be at the sole discretion

1 of the City-County.

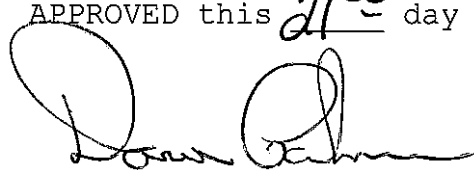
2 SECTION 16: REPEALER. Chapter 15.06 of the Butte-Silver Bow
3 Municipal Code entitled "Code for the Abatement of
4 Dangerous Buildings" is hereby repealed in its
5 entirety.

6 Section 17: Effective Date. This Ordinance shall be in full
7 force and effect from and after thirty (30) days
8 after its passage and approval.

9 PASSED this 21st day of August, 2019.

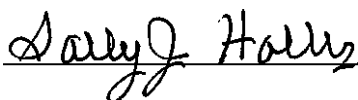
10
11 
12 JOHN MORGAN
13 CHAIRMAN OF THE COUNCIL OF COMMISSIONERS
14

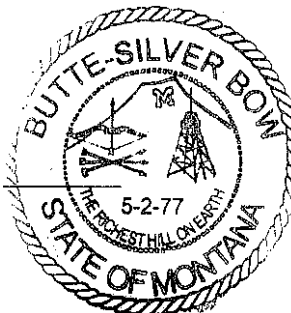
15 APPROVED this 21st day of August, 2019.

16
17 
18
19 DAVE PALMER
20 CHIEF EXECUTIVE
21

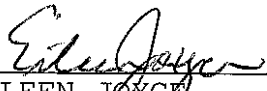
22 ATTEST:

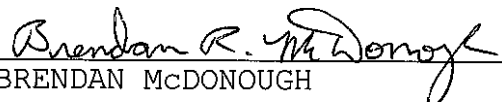
23
24 SALLY J. HOLLIS
25 CLERK AND RECORDER
26

27 
28
29
30
31



1 APPROVED AS TO FORM:
2
3

4 
5 EILEEN JOYCE
6 COUNTY ATTORNEY
7

8 
9 BRENDAN McDONOUGH
10 CHAIRMAN, JUDICIARY COMMITTEE
11