Advisory Opinion #232

Parties: Oscar Bluth / Summit County

Issued: November 12, 2020

TOPIC CATEGORIES:

Interpretation of Ordinances

Requirements Imposed on Development

A county land use authority shall apply the plain language of land use regulations. If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application. A county cannot deny a land use application for inferred restrictions in its ordinances that are not plainly stated.

Here, the County's Development Code prohibits "structures" in side yard setbacks, but the County's definition does not plainly include driveways as prohibited structures. Additionally, the Development Code's prohibition on unplatted grants of "vehicular rights of way" is limited to publicly owned land for public use, and does not prohibit shared driveway easements. The Development Code therefore does not prohibit development access through a proposed shared driveway with a neighbor lot that crosses the respective side yards of the properties.

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OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

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ADVISORY OPINION

Advisory Opinion Requested By:	Oscar Bluth
Local Government Entity:	Summit County
Applicant for Land Use Approval:	Oscar & Susan Bluth & The Performance IRA 401k
Type of Property:	Residential
Date of this Advisory Opinion:	November 12, 2020
Opinion Authored By:	Richard B. Plehn, Attorney Office of the Property Rights Ombudsman

ISSUE

Is the applicant entitled to a building permit for a single-family residence under Summit County ordinances where access utilizes a shared driveway through a recorded, though unplatted, easement, or must the applicant first obtain a plat amendment?

SUMMARY OF ADVISORY OPINION

The County Land Use, Development, and Management Act provides that a land use authority shall apply the plain language of land use regulations. If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application. A County cannot deny a land use application for inferred restrictions in its ordinances that are not plainly stated.

Summit County's Development Code prohibits "structures" in side yard setbacks. However, "structure" is a defined term that does not plainly include driveways. Additionally, while the Development Code prohibits unplatted grants of "vehicular rights of way", it defines "right of way" to only include publicly owned land for public use. The Development Code gives clear direction on how to interpret defined terms found within the code; therefore, the plain language does not prohibit building a driveway for access using an unplatted shared driveway easement between two properties in respective side yard setback areas.

Finally, since the proposed driveway anticipates development activity on two parcels, the property owners of both parcels must authorize the application. Once the application contains the necessary authorizations, it is entitled to approval as it relates to the proposed driveway.

REVIEW

A Request for an Advisory Opinion may be filed at any time prior to the rendering of a final decision by a local land use appeal authority under the provisions of Title 13, Chapter 43, Section 205 of the Utah Code. An advisory opinion is meant to provide an early review, before any duty to exhaust administrative remedies, of significant land use questions so that those involved in a land use application or other specific land use disputes can have an independent review of an issue. It is hoped that such a review can help the parties avoid litigation, resolve differences in a fair and neutral forum, and understand the relevant law. The decision is not binding, but, as explained at the end of this opinion, may have some effect on the long-term cost of resolving such issues in the courts.

A Request for an Advisory Opinion was received from Oscar Bluth on March 25, 2020. A copy of that request was sent via certified mail to Thomas C. Fisher, Summit County Manager, O60 North Main, Coalville UT 84017, on March 27, 2020.

EVIDENCE

The Ombudsman's Office reviewed the following relevant documents and information prior to completing this Advisory Opinion:

1. Request for an Advisory Opinion, submitted by Oscar Bluth, received on March 25, 2020.
2. Response to Advisory Opinion Request, submitted by Jami R. Brackin, Deputy County Attorney for Summit County, dated April 28, 2020.
3. Email from Oscar Bluth, dated April 30, 2020.
4. Summit County's Comprehensive Response to request for advisory opinion, submitted by Jami R. Brackin, dated May 18, 2020.
5. Email from Oscar Bluth, dated June 10, 2020.
6. Email from Oscar Bluth, dated June 18, 2020.
7. Summit County's supplemental response, dated July 10, 2020.
8. Letter from Oscar Bluth, re: Summary, dated July 13, 2020.

BACKGROUND

The facts in this matter are simple, and not disputed. Oscar and Susan Bluth own property in the Snyderville Basin area of Summit County. The Bluth property is Lot 140 in the Summit Park subdivision (Parcel SU-M-2-140), recorded October 14, 1968. The property is zoned Hillside Stewardship with "single-family residence" as an allowed use. Both Lot 140 and adjacent undeveloped Lot 139 abut onto Matterhorn Drive, though at an extremely steep slope. At the time Mr. Bluth acquired the property in 2012, he executed a driveway easement agreement with the owner of Lot 139, recorded in 2012.

The Bluths applied for a building permit for a single-family home, and proposed to have access to the property through a shared driveway with Lot 139, wherein access would initiate from Matterhorn Drive on Lot 139, crossing the property into Lot 140 through the side frontage. The County then informed the Bluths that their proposed shared driveway violated County ordinances. The County stated that the Bluths must have their own access from Matterhorn Drive without crossing another property, or obtain a plat amendment showing a dedicated shared driveway across Lot 139 to access the property. The Bluths disagree with the County's interpretation, and believe the shared driveway is not prohibited by County ordinances, and that they are entitled to a building permit with the access proposed.

The Bluths have requested an Advisory Opinion to determine whether the Bluths' shared driveway is allowed under County ordinances and whether they are entitled to a building permit, or whether a plat amendment is necessary.

ANALYSIS

I. Jurisdiction for Advisory Opinion.

Summit County maintains a threshold argument that the Ombudsman's Office does not have jurisdiction to issue an advisory opinion on Mr. Bluth's request. Utah Code Section 13-43-205(1)(b) states that an individual may request an advisory opinion "at any time before…a final decision on a land use application" by the local appeal authority. The County asserts that because Mr. Bluth previously applied for and separately received from the County an administrative interpretation related to questions at issue with Mr. Bluth's land use application, and did not appeal that interpretation decision, he may not now ask for an advisory opinion on his land use application. However, the County's administrative interpretation does not foreclose consideration of the issue here.

Mr. Bluth applied for a building permit in March 2019. When a letter from the Community Development Department dated June 20, 2020 informed Mr. Bluth that County ordinances would require him to relocate his proposed driveway, or else obtain a plat amendment, the County notes that Mr. Bluth "requested (as a separate application) a Code Interpretation determination," and on August 8, 2019, received from the County a letter containing an administrative interpretation answering whether 1) a Plat Amendment would be necessary to construct a driveway via a private shared-driveway easement that crosses property lines, and 2) whether a driveway is a structure. The County notes that this letter "served as the final decision *on this separate application.*" (emphasis added).

The County asserts that by failing to appeal the County's administrative interpretation, this decision became final and forecloses Mr. Bluth from requesting an Advisory Opinion to determine whether the County is correctly applying the Development Code to his proposal to construct a driveway on his property. We conclude that the relevant decision in this matter for determining whether the Ombudsman's Office has authority to issue an advisory opinion under Utah Code Section 13-43-205(1)(b) is the County's final decision regarding the overall Building Permit Application #19519 to construct a driveway on Mr. Bluth's property, which has not yet occurred.

Therefore, this Office has authority to issue an Advisory Opinion on whether Mr. Bluth's building permit is entitled to approval. This includes addressing any necessary questions of ordinance interpretation by applicable standards, without regard to whether the County has its own administrative interpretation.[1]

II. Summit County Ordinances

The dispute in this matter centers on whether Mr. Bluth's development application is entitled to approval, wherein the parties reach different conclusions based on differing interpretations of Summit County Ordinances. The County Land Use, Development, and Management Act ("LUDMA") provides that a land use authority "shall apply the plain language of land use regulations," and that if a land use regulation "does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application."[2]

In interpreting land use ordinances, the standard rules of statutory construction apply.[3] Looking to the plain language of the ordinance is considered the first step of interpretation.[4] If the plain language of the ordinance is ambiguous, we resort to other modes of construction, keeping in mind the primary goal to "give effect to the [county's] intent in light of the purpose that the [ordinance] was meant to achieve."[5] Additionally, since zoning ordinances are in derogation of a property owner's use of land, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner.[6]

The County has provided two reasons for which it has determined that Mr. Bluth's application would not be entitled to approval under County ordinances.[7] First, the County has determined that

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[1] The County appears to argue for itself some deference on its interpretation, pointing to Section 10-3-2(B)(4) of the Summit County Development Code, which states that it is the Community Development Director who ". . . is delegated authority necessary to make administrative interpretations of this title and to provide such guidance as is necessary to applicants for development approval." However, as it relates to a determination of land use approval, we simply review the plain language of applicable standards. *see* UTAH CODE ANN. § 17-27a-308, which does not afford any deference to County interpretations. *See Outfront Media, LLC v. Salt Lake City Corp.,* 2017 UT 74, ¶ 12 n.13, 416 P.3d 389, 394 (clarifying that the correct standard of review for ordinance interpretation is *de novo* review for correctness as a matter of law, while noting that the court had, in the past, wrongfully afforded some level of "non-binding deference to" a local agency's interpretation of its own ordinance).

[2] UTAH CODE ANN. § 17-27a-308.

[3] *Brendle v. City of Draper*, 937 P.2d 1044, 1047 (Utah Ct. App. 1997).

[4] *Carrier v. Salt Lake County*, 2004 UT 98, ¶ 30, 104 P.3d 1208.

[5] *Id.* (internal quotations omitted)

[6] *See Patterson v. Utah County Bd. of Adjustment*, 893 P.2d 602, 606 (Utah Ct. App. 1995).

[7] While not addressed by the County, Mr. Bluth's request materials also cite to Summit County Code Section 10-4-3(b)(1), which states that a "property owner will be allowed to locate development on the parcel in the most sensitive manner for both access and structure location," as support for why his driveway proposal should be accepted by the County, asserting it is located "in the most sensitive manner" for the property. This provision likely applies only to the developer's discretion to locate development and structures *within the lot's developable envelope* as limited by other development restrictions, such as setbacks; it is not an invitation to reason against the logic of express code requirements so as to gain exception from them. Such general language cannot override express substantive provisions in the code. In short, as long as express requirements are met, the applicant chooses how to develop the property.

the proposed driveway is considered a structure and violates side yard setback requirements. Second, the County has determined that the proposal to utilize access via a shared driveway easement from adjacent property is considered an unplatted vehicular right of way that would require a plat amendment under County ordinances before being entitled to approval. We conclude that both determinations interpret the Development Code so as to unlawfully restrict property rights under LUDMA.

As a final matter, however, the County also points out that Mr. Bluth's application proposes development activity beyond his property line without the consent of the adjacent property owner. We find that the application does require the authorization of the adjacent owner in order to be entitled to approval, as addressed below.

a. Defining Structure

The Hillside Stewardship (HS) Zone within the Snyderville Basin Development Code ("Development Code") provides established setback requirements that shall be "open and free of any structure," while also providing a list of exceptions for Front, Side, and Rear Setbacks, respectively.[8] The County argues that Mr. Bluth's proposed driveway violates side yard setback requirements because a driveway is a "structure" and is not included among the stated exceptions for structures excepted from the side yard setback restriction. Mr. Bluth argues that the County's definition of "structure" does not include a driveway and therefore the side yard setback does not apply to a driveway specifically.

The Development Code provides a chapter of Definitions ("Chapter 11"), which provides a definition for structure as "[t]hat which is built or constructed, an edifice or building of any kind, installed on, above or below the surface of land or water.[9]" Both parties cite this same definition but interpret and apply it oppositely as to the term "driveway."

Mr. Bluth argues that the plain language of the definition, grammatically, reflects the use of an appositive, and that the phrase "*an edifice or building of any kind*" is a qualifier to "*that which is built or constructed*." More accurately, that would denote a restrictive appositive, specifically.[10] A phrase or language acting as a restrictive appositive narrows the language preceding it. In other words, Mr. Bluth reads the definition of structure to mean only *an edifice or building of any kind*, installed on, above or below the surface of land or water.

On the subject of grammar, the County argues that the definition of structure includes "driveway" because it is something "*built or constructed*", but glosses over the phrase "*an edifice or building of any kind*". It could be inferred that the County's position is that the phrase "*an edifice or building*

[8] *See* SUMMIT COUNTY CODE ("SCC") § 10-2-5(E) – (H).
[9] SCC § 10-11-1.
[10] Appositives point out the same persons or things by different names, usually in the form of explanatory phrases that narrow in on the precise meaning of a prior more general phrase. However, the use/misuse of commas to set off appositives can be read as either restrictive or nonrestrictive. *See generally*, BRIAN GARNER, GARNER'S DICTIONARY OF LEGAL USAGE 70 (3d ed. 2011).

of any kind" is a nonrestrictive appositive, or essentially inoperative, perhaps because it is either surplus or explanatory language in relation to "*that which is built or constructed*".[11]

As illustrated above, grammar is not the gold standard of interpretation.[12] Utah Courts confirm this by pointing out, for example, that statutes are not always carefully drafted—sometimes drafters do include language that add nothing of substance; drafters often include redundant language on purpose to cover any unforeseen gaps, or simply for no good reason at all.[13] In light of this, the two grammatical meanings offered by the parties are both plausible, and the definition, by itself, is ambiguous.[14]

The meaning of statutory language, plain or not, depends on context.[15] Appropriately, both parties urge us to look past the immediate provision to the larger ordinance for context. It is on this point that the County is confident that "structure" includes driveways because "driveway" is expressly listed as an exception to prohibited structures in the Front Setback Exceptions,[16] while absent from Side Setback Exceptions.[17] While that is a logical inference, the Development Code is not a model of clarity. Looking for other instances in the code to determine a relationship of the term "driveway" to "structure" leads to many contradictory examples. Mr. Bluth points to several provisions throughout the Development Code in which "driveway" is distinctly listed with or differentiated from "structure".[18]

Restrictions on property rights are held to a high standard; they must be plainly stated and not merely inferred.[19] The County's reliance on one other provision for context to infer that a driveway is a structure is not enough to justify denial of a land use application because as "zoning ordinances are in derogation of a property owner's common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner.[20] Driveways are not plainly restricted in side yard setbacks. Therefore, the County must interpret and apply the land

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[11] Canons of construction discourage interpretations that would result in inoperative language. *See Hall v. Dep't of Corr.*, 2001 UT 34, ¶ 15, 24 P.3d 958, 963 (the court avoids interpretations that will render portions of a statute superfluous or inoperative).

[12] *See Thayer v. Wash. Cty. Sch. Dist.*, 2012 UT 31, ¶ 37, 285 P.3d 1142 (semantic canons are not rigid rules of construction, but are rules of thumb that provide potentially useful cues for resolving ambiguity in written text).

[13] *Meinhard v. State*, 2016 UT 12, ¶ 31 n.5, 371 P.3d 37, 43.

[14] *See Epperson v. Utah State Ret. Bd.*, 949 P.2d 779, 783 n.6 (Utah Ct. App. 1997) (citing *Alf v. State Farm Fire & Cas. Co.*, 850 P.2d 1272, 1274 (Utah 1993) (Ambiguous means capable of two or more plausible meanings)

[15] *Potter v. S. Salt Lake City*, 2018 UT 21, ¶ 20, 422 P.3d 803, 806 (Sup.Ct.) (alteration in original) (citation omitted))

[16] *See* SCC § 10-2-5(F).

[17] *See* SCC § 10-2-5(G).

[18] *See e.g.,* SCC § 10-3-20(G)(2)(d)(3)(B) (reference to "proposed structures *and all other areas of disturbance* proposed for the lot/parcel, *such as the driveway*, accessory structures and yard areas") (emphases added); § 10-3-20(G)(2)(d)(5) (reference to "structure *and driveway*") (emphasis added); § 10-4-3(C)(1)(a)(3)(B) (reference to "construction of driveways *or* structures") (emphasis added); § 10-3-20(G)(2)(d)(7) (reference to "proposed structure, area of disturbance *and* driveway") (emphasis added); § 10-3-20(G)(3)(a) (reference to "*structure(s)*, structure location(s), *driveway*, drainage, *and other improvements*/development to the land") (emphases added); § 10-2-5(E)(9)(a) (reference to "all structures *and improvement*, excluding *driveways*") (emphases added); Ordinance No. 181-D (reference to "driveways, encroachments, and structures).

[19] *See* UTAH CODE ANN. § 17-27a-308.

[20] *See Patterson v. Utah County Bd. of Adjustment*, 893 P.2d 602, 606 (Utah Ct. App. 1995).

use regulation to favor, and therefore allow, the proposed driveway as it relates to side yard requirements.

b. Vehicular right of way and road easement

In addition to the assertion of side yard set back restrictions, the County additionally argues that Mr. Bluth's application, as submitted, is not entitled to approval because it first would require a plat amendment. The County points to Section 10-4-10(D)(3), which states:

"Homeowners may not grant additional **vehicular rights of way** and road easements across their property in addition to those vehicular rights of way and road easements that are already of record at the date of the plat recordation."[21]

Here, the County interprets vehicular rights of way to apply to Mr. Bluth's shared driveway easement. Because Mr. Bluth's easement was executed after the date the subdivision plat was recorded, the County concludes it was improperly granted pursuant to the above-referenced provision, and cannot be relied on for access without a plat amendment.

Mr. Bluth again disagrees, and refers to the Chapter 11 definition of "Right of Way", which provides: "Land acquired and owned *by a governmental agency or public utility* and reserved *for public use*."[22] Mr. Bluth argues that per the Development Code's definition, this provision only applies to roads, and excludes driveways.

In defending its interpretation, the County does not refer to Chapter 11 to define "right of way"; rather, it turns to definitions of the term found in Black's Law and Meriam-Webster dictionaries, both of which give a broader meaning that includes private passage over another's property. [23]

Utah Courts have held a legislative body "has the power to define statutory terms as it wishes," and does not need to "coincide with the ordinary meaning of the words."[24] The Development Code has provided definitions in Chapter 11 and states that for purposes of the development code title, terms and words shall be "used, interpreted and defined as set forth in this chapter."[25] If words are not defined in Chapter 11, they shall have a meaning consistent with "Webster's New Collegiate Dictionary, latest edition."[26]

The plain language of the Development Code gives clear direction that terms in the development code title, which would include the terms used in Section 10-4-10(D)(3), should be interpreted and defined pursuant to the definitions in Chapter 11. Because "right of way" is defined in Chapter 11,

[21] SCC § 10-4-10(D)(3) (emphasis added).
[22] SCC § 10-11-1.
[23] From the County's Supplemental Response, dated July 10, 2020: "Black's Law Dictionary defines a 'right of way' as a term 'used to describe a right belonging to a party to pass over land of another' . . . 'As used with reference to right to pass over another's land, it is only an easement'. The Merriam-Webster Dictionary defines a 'right-of-way' as '1: a legal right of passage over another person's ground'; and '2: the area over which a right-of-way exists'." (emphases in original).
[24] *See generally*, *Provo City v. Cannon*, 1999 UT App 344, ¶ 10, 994 P.2d 206, 209.
[25] SCC § 10-11-1.
[26] *Id.*

the plain language of the code provides that a vehicular right of way in section 10-4-10(D)(3) does not apply to private easements such as Mr. Bluth's shared access easement.

While it may very well have been the intent of the drafters of this ordinance that the "vehicular rights of way" provision apply to private as well as public easements,[27] that is not what the current plain language of Chapter 11 dictates. The County may amend the code for clarity in the future, but until it does so, it must apply the current plain language of the code as written to existing applications. This ensures that the rights of property owners—to freely use, develop, convey or encumber property as they wish—are respected unless plainly restricted by land use regulations to the contrary. Therefore, the Code does not require a plat amendment depicting the access as a precondition to Mr. Bluth's proposed driveway.

c. Consent of Adjacent Property Owner

While only briefly addressed, the County points out that while Mr. Bluth's application proposes to build a home on Lot 140, which is owned by Mr. Bluth, it also proposes development activity on adjacent Lot 139, as the proposed driveway commences at Matterhorn Drive on Lot 139 and continues across that property until it reaches the property line that is shared with Mr. Bluth's property. While Mr. Bluth has represented that he has the approval of the owner of Lot 139, who is willing to memorialize or sign any documentation necessary,[28] and otherwise relies on the driveway easement agreement to authorize the proposed driveway,[29] the County notes that the owner of Lot 139 is not a co-applicant and has not consented to the building permit application.

The Development Code provides that an application for development approval is deemed insufficient "if the application form is not signed by the applicant or authorized agent."[30] The applicant is defined as "[t]he property owner, or authorized agent of the property owner".[31] An authorized agent is defined as "[a]ny person with valid authority provided by the owner, as evidenced by a notarized document authorizing the agent to represent the owner, and acting on behalf of the owner of land seeking a development permit approval."[32]

It follows that any application to Summit County for development approval requires the express authorization of the owners of any and all parcels or lots that will be subject to development activity on those respective properties. While the driveway easement agreement governs obligations between Mr. Bluth as the owner of Lot 140, and the owner of Lot 139, the same does not authorize Mr. Bluth to act as an authorized agent of the owner of Lot 139 in seeking any

[27] For example, the Summit County Code has another definition for right of way—outside of Title 10—which is defined as "the privilege of the immediate use of the roadway or other property." Were this more inclusive definition applicable to the "vehicular rights of way" provision as opposed to the definition in Chapter 11, the County's interpretation that "right of way" includes both public or private property would not be debatable.
[28] *See* Email from Oscar A Bluth to Peter Barnes, Exhibit B, Summit County Comprehensive Response, dated May 18, 2020.
[29] The agreement states that the owner of Lot 140 (Mr. Bluth) "shall incur the initial cost of excavating, grading and constructing the common driveway on the easement." Driveway Easement Agreement pg. 2, Exhibit A, Summit County Comprehensive Response, dated May 18, 2020
[30] SCC § 10-3-2(B)(1).
[31] SCC § 10-11-1.
[32] *Id*.

particular development permit approval with the County. Accordingly, the owner of Lot 139 must actually sign the application before it may be approved.

CONCLUSION

The restrictions imposed by the County on Mr. Bluth's proposed development plans are not based on the plain language of County ordinances, and therefore cannot be a basis for denial of Mr. Bluth's application. Accordingly, the Code permits Mr. Bluth's driveway as proposed.

Because Mr. Bluth proposes development activity on the lot adjacent to his, the adjacent property owner must either sign the land use application or else authorize Mr. Bluth to act as an agent to represent the adjacent owner for purposes of obtaining the permit, before the application can be deemed sufficient. Once the application contains the necessary authorizations, it is entitled to approval as it relates to the proposed driveway.

Jordan S. Cullimore, Lead Attorney
Office of the Property Rights Ombudsman

NOTE:

This is an advisory opinion as defined in § 13-43-205 of the Utah Code. It does not constitute legal advice, and is not to be construed as reflecting the opinions or policy of the State of Utah or the Department of Commerce. The opinions expressed are arrived at based on a summary review of the factual situation involved in this specific matter, and may or may not reflect the opinion that might be expressed in another matter where the facts and circumstances are different or where the relevant law may have changed.

While the author is an attorney and has prepared this opinion in light of his understanding of the relevant law, he does not represent anyone involved in this matter. Anyone with an interest in these issues who must protect that interest should seek the advice of his or her own legal counsel and not rely on this document as a definitive statement of how to protect or advance his interest.

An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to a dispute involving land use law. If the same issue that is the subject of an advisory opinion is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion, the substantially prevailing party on that cause of action may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution.

Evidence of a review by the Office of the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action, except in small claims court, a judicial review of arbitration, or in determining costs and legal fees as explained above.

The Advisory Opinion process is an alternative dispute resolution process. Advisory Opinions are intended to assist parties to resolve disputes and avoid litigation. All of the statutory procedures in place for Advisory Opinions, as well as the internal policies of the Office of the Property Rights Ombudsman, are designed to maximize the opportunity to resolve disputes in a friendly and mutually beneficial manner. The Advisory Opinion attorney fees provisions, found in UTAH CODE § 13-43-206, are also designed to encourage dispute resolution. By statute they are awarded in very narrow circumstances, and even if those circumstances are met, the judge maintains discretion regarding whether to award them.

MAILING CERTIFICATE

Section 13-43-206(10)(b) of the Utah Code requires delivery of the attached advisory opinion to the government entity involved in this matter in a manner that complies with UTAH CODE § 63-30d-401 (Notices Filed Under the Governmental Immunity Act).

These provisions of state code require that the advisory opinion be delivered to the agent designated by the governmental entity to receive notices on behalf of the governmental entity in the Governmental Immunity Act database maintained by the Utah State Department of Commerce, Division of Corporations and Commercial Code, and to the address shown is as designated in that database.

The person and address designated in the Governmental Immunity Act database is as follows:

Thomas C. Fisher, County Manager
Summit County
60 North Main
PO Box 128
Coalville, Utah 84017

On this ___ Day of _____, 2020, I caused the attached Advisory Opinion to be delivered to the governmental office by delivering the same to the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the person shown above.

_____
Office of the Property Rights Ombudsman