



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah
Department of Commerce

OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

Request for an Advisory Opinion:

Street Address:

160 East 300 South, Second Floor
Salt Lake City, UT 84111

(801) 530-6391
1-877-882-4662 (Toll-free statewide)
(801) 530-6338-Fax

Mailing Address:

PO Box 146702
Salt Lake City, UT 84114

Person Requesting the Advisory Opinion: _____

Mailing Address: _____

City, State, Zip: _____

Telephone - Day: _____ Telephone – Evening: _____

Best time to call: _____ Email (if available) _____

The person making the Request is:

Municipality Applicant Other (Specify) _____

Property: Where is the property located? (complete street address, if available)

Briefly state the question to be examined by this Advisory Opinion:

Facts: Attach an additional sheet describing the facts involved in the issues that are the subject of this request. What action has been taken by the government entity or may be contemplated by the government entity that has given rise to the issues?

Municipality or County Involved:

Mailing Address: _____

City, State, Zip: _____

Telephone: _____ Email (if available) _____

Local Contact: What official at that government entity should be contacted about this matter? (Provide title and contact information)

Telephone: _____ Email (if available) _____

Name of Property Owner as Shown at the County Recorder's Office. (Be sure to be specific and note exact name of trust, partnership, corporation, multiple owners, etc.)

Mailing Address: _____

City, State, Zip: _____

Telephone: _____ Email (if available) _____

Other Essential Parties (attach additional sheets if necessary):

Mailing Address: _____

City, State, Zip: _____

Telephone: _____ Email (if available) _____

Issues: An advisory opinion is requested for the issue(s) indicated:

- Impact Fees Act
- Conditional Use Permits.
- Conditions and exactions on development.
- Whether an applicant is entitled to approval of a land use application because the application conforms to the local land use maps, zoning maps, and land use ordinances (Vesting).
- Whether a local government entity has imposed on the holder of an issued land use permit a requirement that is not expressed in the land use permit, documents on which the land use permit is based, the state land use statutes, or the local ordinances.
- Whether a local government entity has withheld issuance of a certificate of occupancy because of the applicant's failure to comply with a requirement that is not expressed in the land use permit, documents on which the land use permit is based, the state land use statutes, or the local ordinances.
- Whether a municipality is complying with the mandatory provisions of applicable land use ordinances.
- Whether a local government has provided substantive review within a timely manner and with reasonable diligence of land use applications, required improvements, and warranty work.
- Limits on fees for review and approving building plans.
- Nonconforming uses and noncomplying structures.

Process: At what stage is the local government entity in the process of reviewing this application or issue? Check all that apply:

- Staff or other local government officials are discussing the issue.
- A formal application has been filed and the staff is reviewing it.
- We have had a meeting before a planning commission.
- We have had a meeting before the city council, county commission, or county council.
- A final decision has been made by the final decision maker prior to an appeal.
- We are considering filing a local land use appeal from the final decision.
- We have filed an appeal but no hearing has been held.
- An appeals authority has announced a final decision, but has not reduced it to writing.
- The appeals authority has issued a final decision in writing.

NOTE: An advisory opinion cannot be requested after a local appeals authority has issued a final decision. It cannot be requested if no one filed a necessary appeal before the deadline to file and the local decision therefore cannot be appealed to an appeal authority or court. Those involved in requesting an advisory opinion must be sure to file timely appeals or the issues involved will be rendered moot. Please call the ombudsman for more information.

Who is to Prepare the Advisory Opinion:

An attorney from the Office of the Property Rights Ombudsman will prepare the Advisory Opinion at no additional cost (other than the \$150.00 application fee). Any party to an Advisory Opinion may request that an approved outside attorney prepare the Advisory Opinion. If an outside attorney is chosen, the parties will be responsible to pay that attorney's charges and fees. A list of attorneys approved to prepare Advisory Opinions is attached.

In some circumstances, the OPRO may choose to appoint an outside attorney to prepare an Advisory Opinion. In those cases, the parties must also bear the costs for the outside attorney. No outside attorney will be appointed unless the parties are notified and agree to be responsible for the additional costs.

_____ **Please check here if you want the Advisory Opinion prepared by the OPRO staff.**

_____ **Please check here if you want to propose an attorney other than the OPRO staff to prepare the Advisory Opinion.** In addition, please provide the name(s) and address(es) of professionals from the attached list who are acceptable to the person making the request and who could prepare the Advisory Opinion.

Name: _____

Mailing Address: _____

City, State, Zip: _____

Telephone: _____ Email (if available) _____

As the person making this request, I hereby understand and agree as follows:

- The ombudsman's office will work to mediate a solution to this dispute in lieu of issuing an advisory opinion, but the opinion will be issued if the party requesting it prefers that the opinion be issued.
- If the ombudsman's office appoints a professional to provide the opinion, I will pay an equal share of the cost of professional services with the other parties to the dispute and provide financial assurances of the payment.
- If the ombudsman's office determines that the issue is not appropriate for an advisory opinion, then none will be provided.

Please submit this form to the Office of the Property Rights Ombudsman, along with application payment in the amount of **\$150.00**, made payable to the Office of the Property Rights Ombudsman. The fee paid to initiate this opinion is non-refundable.

This form and all submissions accompanying this form will be considered a public record and provided to all other parties listed. If any party desires that any information provided to the ombudsman office be kept confidential, that party must notify the staff attorneys at the ombudsman office before providing such information.

I/we hereby request that the Office of the Property Rights Ombudsman provide mediation and/or arbitration of the matter(s) described in this request.

Date this form completed: _____

Signed:

Person making request

Office of the Property Rights Ombudsman
List of Attorneys Interested in Providing Advisory Opinions

Kevin E. Anderson

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The attorney's listed have consented to have their names placed on the list. In order to be listed, the Utah Land Use and Eminent Domain Advisory Board, which is part of the Office of the Property Rights Ombudsman in the Utah State Department of Commerce, has reviewed and approved their names. No specific representation as to qualifications, expertise, or impartiality is made by the Office or the Board. There are some very qualified attorneys whose names are not on this list, primarily because they tend to focus their services and representation either for government entities or for private interests. Because of their sterling reputation as advocates for one side or the other, they may not tend to also enjoy or wish to enjoy a reputation as a neutral. Before engaging the services of a professional neutral; individuals are urged to make their own investigations and interview several candidates to determine which may be the best to assist them in a specific case.