



SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor



Office of the Homeowners'
Association Ombudsman
UTAH DEPARTMENT OF COMMERCE

MARGARET W. BUSSE
Executive Director

ERIN RIDER
Division Director

OFFICE OF THE HOMEOWNERS' ASSOCIATION OMBUDSMAN **ADVISORY OPINION NO. 2025-04**

Applicant Name: Darren Nord
Association Name: Aspen Cove at Scofield Owners Association
Association Type: Community Association
Advisory Opinion Date: November 4, 2025
Advisory Opinion Drafter: Christoffer T. Binning, Esq.

INTRODUCTION & BACKGROUND FACTS

This Advisory Opinion addresses a dispute between lot owner Darren Nord (“Mr. Nord”) and the Aspen Cove at Scofield Owners Association (the “Association”) over a special assessment. Mr. Nord argues the assessment is no longer necessary because the Association’s reserve fund is fully funded, even though the assessment was approved according to the processes outlined in the Association’s Declaration of Covenants, Conditions, Restrictions, Assessments, Liens, and Easements, dated July 28, 2016, as amended (the “CC&Rs”). The Association argues that the assessment was authorized and approved by Association members during the 2024 annual meeting, and that it is necessary to ensure the reserve remains well-funded after several anticipated capital expenditures are incurred.

During their 2024 annual meeting, members approved a \$500 special assessment for both the 2024 and 2025 budgets (collectively, the “Special Reserve Assessments”) to strengthen the reserve fund, instead of increasing annual dues. The dispute in question began on March 15, 2025, when the Association invoiced Mr. Nord \$465 for the 2025 Special Reserve Assessment, after a \$35 credit. On May 5, Mr. Nord questioned the invoice, noting he had already paid his annual dues. On June 23, 2025, the Association’s President sent an email to all members of the Association stating that the reserve account was “currently FULLY FUNDED” and “nearly 10% overfunded,” despite a recent cost increase for a water pump replacement. Mr. Nord again challenged the 2025 Special Reserve Assessment, arguing that since the reserve was fully funded, the assessment was no longer necessary. The Secretary/Treasurer explained that the “fully funded” status was a temporary snapshot, pending planned expenses for upgrades, including water monitoring, security cameras, and gate access. Mr. Nord then requested an Advisory Opinion from the Office of the Homeowners’ Association Ombudsman (the “Office”) on September 17, 2025. Since the parties have been unable to resolve the matter, the Office issues this Advisory Opinion pursuant to [Utah Code § 13-79-104](#).

ANALYSIS & OPINION

This dispute questions the necessity of the 2025 Special Reserve Assessment. Mr. Nord claims that payment is no longer needed because the Association’s President stated that the reserve fund was fully funded, making additional collection unnecessary and excessive. He also states that, as an undeveloped lot owner, he doesn’t benefit from planned upgrades, which he believes should be paid through general fees.


The Association argues the assessment is mandatory for all lot owners, as outlined in the CC&Rs and approved by the members during the 2024 annual meeting. They assert that the “fully funded” status is temporary, given upcoming spending on infrastructure, which will deplete the fund. Collecting the assessment is necessary to ensure the reserve fund can cover future costs, as intended by the membership.

[Utah Code § 57-8a-211\(5\)](#) requires the Association to provide a copy of the most recent reserve study to each member annually. Under [Utah Code § 57-8a-211\(6\)](#), the Association, through its Board of Directors (the “Board”), must include a line item in the annual budget dedicated to the reserve fund. When the Board sets the amount for this reserve fund line item, they may choose what they believe to be “prudent” under [Utah Code § 57-8a-211\(6\)\(a\)](#) or the amount determined by the Association’s governing documents, whichever is higher, as outlined in [Utah Code § 57-8a-211\(6\)\(b\)](#) and Section 9.10 of the Aspen Cove at Scofield Homeowners’ Association Bylaws, dated May 1, 2014, as amended (the “Bylaws”). Sections 6.2–6.5 of the CC&Rs specify that the Association may levy annual and special assessments with the consent of the members. Relevant to the dispute between the parties, Section 6.5 of the CC&Rs allows the Association to impose a special assessment “for the purpose of defraying in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the Developed and/or Undeveloped Common Areas...” Although Section 6.11 of the CC&Rs does exempt certain property from such assessments, Mr. Nord’s lot does not fall into any of the listed exceptions, meaning he remains subject to all assessments duly authorized and approved by the Board and the members.

While members of the Association have the right, under [Utah Code § 57-8a-211\(7\)](#) and Sections 6.4 and 6.5 of the CC&Rs, to veto assessments, this did not happen with the Special Reserve Assessments. Instead, the Association’s members actively voted in favor of the Special Reserve Assessments to prevent an increase in annual dues, a fact that neither party disputes. Nothing in Utah law or the Association’s governing documents prohibits the Board from proposing or the members from approving a special assessment to proactively build the Association’s reserve fund to cover known or anticipated costs and avoid raising annual assessments. While [Utah Code § 57-8a-211](#) requires the Association to maintain a reserve fund to cover expected costs, it does not specify a maximum amount for the fund. Furthermore, [Utah Code § 57-8a-212.5](#) mandates that lot owners must adhere to the Association’s governing documents just as the Board does. Since the Office has found no violation of Utah law in the Association’s implementation of the 2025 Special Reserve Assessment, Mr. Nord is required to comply under [Utah Code § 57-8a-212.5](#).

CONCLUSION

In the dispute between Mr. Nord and the Association regarding the 2025 Special Reserve Assessment, the Office finds that no violation of Utah law has occurred. Utah law does not set a maximum limit on the amount the reserve account can hold for known and anticipated expenses related to common areas and facilities. Accordingly, when the Association’s members voted affirmatively to approve the 2025 Special Reserve Assessment to strengthen the reserve fund, Mr. Nord became, and remains, subject to it.



[Erin Rider \(Nov 4, 2025 15:13:03 MST\)](#)

Erin Rider
Director



INFORMATION REGARDING ADVISORY OPINIONS

This document is an Advisory Opinion issued by the Office of the Homeowners' Association Ombudsman as an alternative dispute resolution method pursuant to [Utah Code § 13-79-104](#). The Office's jurisdiction is limited to alleged violations of state statutes, as outlined in [Utah Code § 13-79-103](#) and [Utah Code § 13-79-104](#). The opinions here are based on a review of the specific facts provided and may not correspond with outcomes in other cases where circumstances or laws differ. This opinion is not legal advice, does not establish an attorney-client relationship, and does not represent the official views of the State of Utah or the Department of Commerce. All parties are encouraged to seek legal counsel to protect their interests.

While this Advisory Opinion is not legally binding on any party, it could have potential consequences if the matter proceeds to litigation. Under Utah law, the opinion and related findings are not admissible as evidence in court, except for the specific purpose of evaluating attorney fees and costs. If a cause of action discussed in this opinion is litigated and resolved according to it, the prevailing party may recover reasonable attorney fees and court costs incurred from the date this opinion was issued. A court may also impose a civil penalty if it finds that the opposing party knowingly and intentionally violated the law. The decision to grant such awards rests within the court's discretion.

NOTICE TO ASSOCIATIONS

Condominium Associations must register with the Department of Commerce through the Office of the Homeowners' Association Ombudsman under [Utah Code § 57-8-13.1](#), and Community Associations must register under [Utah Code § 57-8a-105](#). Due to an updated registration system, any association that registered prior to September 2025 is required to complete a new registration, regardless of whether they have previously registered with the Department of Commerce. All associations must also renew their registration annually. Information about this process and the registration application is available at <https://commerce.utah.gov/hoa/new-registration/>.