



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

ADVISORY OPINION NO. 2025-08

<u>Applicant Name:</u>	A. Tom Nelson
<u>Association Name:</u>	The Ridge at St. George Townhome Association
<u>Association Type:</u>	Condominium Association
<u>Governing Statutes:</u>	Utah Condominium Ownership Act Utah Revised Nonprofit Corporation Act
<u>Advisory Opinion Drafter:</u>	Christoffer T. Binning, Esq.
<u>Advisory Opinion Date:</u>	December 2, 2025

LEGEND OF DEFINED TERMS

Association	The Ridge at St. George Townhome Association
Board	Board of Directors
Bylaws	Amended By-Laws of The Ridge at St. George Townhome Association, dated November 16, 1993, as subsequently amended
CC&Rs	Amended Declaration of Covenants, Conditions and Restrictions of The Ridge at St. George, dated November 16, 1993, as subsequently amended
GAAP	Generally Accepted Accounting Principles
Governing Documents	The Declaration (CC&Rs), Bylaws, and Rules/Policies of the Association
Mr. Nelson	A. Tom Nelson
Office	Office of the Homeowners' Association Ombudsman
Request	Request for an Advisory Opinion

Summaries of each legal question are included at the start of each section. These summaries aim to provide a clear and straightforward answer to the question and should be read in conjunction with the complete analysis.

INTRODUCTION & BACKGROUND FACTS

A series of disputes has arisen between Mr. Nelson and the Association regarding the Association's budget process, assessment calculations, and annual meeting notices. The Association denies these allegations, asserts that it has provided proper notice for meetings, and that it correctly completes its budget and imposes assessments in accordance with the Governing Documents. The core facts and timeline, as understood by the Office, are as follows:

- Over the past several years, but at least as far back as 2021, Mr. Nelson has argued that the Association has been improperly calculating its budget and failing to comply with GAAP.
- One of the improper calculations alleged by Mr. Nelson during this period is that assessment calculations for the different home sizes within the Association result in smaller homes effectively subsidizing larger homes within the community.
- On November 26, 2024, the Association sent notice of the January 11, 2025, annual meeting to all homeowners via email. The email notice contained a copy of the annual meeting agenda and the 2025 Board-approved budget.
- On January 2, 2025, Mr. Nelson sent a letter to the Board outlining the basis for his position that assessments were being improperly calculated and that the budget did not comply with GAAP and Utah law. In this letter, Mr. Nelson specifically referenced the annual meeting scheduled for January 11, 2025.
- On January 11, 2025, the Association's annual meeting was held in accordance with the emailed notice.
- On January 25, 2025, the Association sent Mr. Nelson a copy of the 2025 budget via the U.S. Postal Service.
- Following the delivery of the 2025 budget via the U.S. Postal Service, Mr. Nelson continued to raise his concerns with the Association, but the parties were unable to resolve the concerns.
- This series of events led to Mr. Nelson submitting the Request to the Office on October 18, 2025.

Since the dispute remains unresolved, the Office issues this Advisory Opinion pursuant to [Utah Code § 13-79-104](#).

ANALYSIS OF QUESTIONS PRESENTED & GOVERNING LEGAL PRINCIPLES

This dispute raises the following legal questions for the Office: (1) what are the requirements for an association when adopting and approving a budget; (2) how is an association required to calculate assessments; and (3) what notice is required from an association before an annual meeting.

1. What are the Requirements for an Association When Adopting and Approving a Budget?

Summary: Utah law does not require condominium associations to prepare and adopt an annual budget, nor does it impose any specific requirements or standards related to the budgeting process, other than what may be included in an association's governing documents. In this matter, the Office lacks jurisdiction to opine on the particular claims made by Mr. Nelson as they were known more than one year before he submitted the Request.

General Legal Principle: The Condominium Ownership Act itself does not require an association to prepare and approve a new annual budget. Instead, Utah Code § 57-8-17 states that an association must keep its *most recent* annual budget on file and provide a copy to any homeowner who requests it. This language does not require an association to adopt a new budget annually, only that it maintains a copy of the most recently adopted budget that is being used for the association's operation. Just because the Condominium Ownership Act does not require a budget, however, does not mean that there are not other applicable laws that would require an association to adopt and provide one. An association is also required to reasonably comply with the requirements and obligations outlined in its governing documents, as specified in Utah Code § 57-8-8, including any budget preparation and adoption requirements that may be stipulated therein.

Additionally, for an association registered as a nonprofit corporation or in situations where it is explicitly referenced and incorporated by the Condominium Ownership Act, an association must also comply with the requirements of the Utah Revised Nonprofit Corporation Act. Importantly, however, even if an association is registered as a nonprofit corporation, the Utah Revised Nonprofit Corporation Act also does not impose any specific requirements for preparing and adopting an annual budget. Utah Code § 16-6a-822(3) provides that board members are entitled to rely on information provided to them by third parties whom the board member has a reasonable basis to believe have accurate information. Accordingly, unless otherwise stipulated in the governing documents, an association's board may rely on information provided to it by a management company, accounting firm, or other outside individual or group when adopting a budget, and is allowed to reasonably rely on the data and information provided without the requirement that the board conduct an independent analysis or recalculation of what is provided. Under Utah law, as long as an association operates within its last approved budget, to the extent one exists pursuant to the governing documents, makes the relevant financial documents available, and complies with any additional budgeting requirements contained within its governing documents in accordance with Utah Code § 57-8-8, it is not otherwise required to create a new budget in accordance with any standardized requirements.

Application to Matter: For years, Mr. Nelson has expressed concerns to the Board related to the preparation of the Association's budget. However, these concerns have been ongoing and were known to Mr. Nelson for more than one year before he submitted the Request. Accordingly, the Association lacks jurisdiction to address the specific allegations made by Mr. Nelson pursuant to Utah Code § 13-79-104(2)(a)(iii), but provides the general legal principle above as a helpful explanation of the applicable legal requirements.

2. [How is an Association Required to Calculate Assessments?](#)

Summary: Utah law requires an association to assess each unit owner for common expenses based on their ownership interest, as more fully detailed and outlined in the association’s governing documents. In this case, the Office lacks jurisdiction to opine on the particular claims made by Mr. Nelson as they were known more than one year before he submitted the Request.

General Legal Principle: [Utah Code § 57-8-24](#) requires an association to assess each unit owner based on their respective percentage or interest in the common expenses. Under [Utah Code § 57-8-3\(6\)](#), common expenses are defined as “all sums lawfully assessed against the unit owners; expenses of administration, maintenance, repair, or replacement of the common areas and facilities; expenses agreed upon as common expenses by the association of unit owners; and expenses declared common expenses by [the Condominium Ownership Act], or by the declaration or the bylaws.” Furthermore, as stated previously, [Utah Code § 57-8-8](#) requires that an association’s board reasonably comply with the requirements of its governing documents, specifically any obligations related to the type, amount, or adjustments of assessments that can be levied on association members.

Application to Matter: In this matter, while Mr. Nelson raises concerns related to the calculation of assessments throughout the Association, these concerns have been ongoing and were known to Mr. Nelson for more than one year before he submitted the Request. Accordingly, the Association lacks jurisdiction to address the specific allegations made by Mr. Nelson pursuant to [Utah Code § 13-79-104\(2\)\(a\)\(iii\)](#), but provides the general legal principle above as a helpful explanation of the applicable legal requirements.

3. [What Notice is Required from an Association Before an Annual Meeting?](#)

Summary: Utah law allows an association to provide notice of an annual meeting to members in various ways so long as it is fair and reasonable when all the circumstances surrounding the notice are considered. Additionally, an association must generally comply with any notice requirements contained in its governing documents. In this case, since Mr. Nelson had actually received notice of the meeting and had never demanded that he be provided with notice only via mail, the notice of the annual meeting sent to Mr. Nelson via email was fair and reasonable, considering all the circumstances. Additionally, Mr. Nelson waived his right to object to any deficiencies in the notice process by attending the meeting and failing to raise his objections at that time.

General Legal Principle: [Utah Code § 57-8-57\(2\)\(a\)](#) requires that, at least 48 hours before a board meeting, the Association provide written notice to all members who request such notice. This notice is to be delivered via email and must provide information regarding the date/time/place of the meeting, as well as methods of remote attendance if available under [Utah Code § 57-8-57\(2\)\(b\)](#). Additionally, [Utah Code § 57-8-42\(1\)](#) provides that a method of notice outlined in the [Utah Revised Nonprofit Corporation Act](#) constitutes fair and reasonable notice to homeowners before a meeting. Under [Utah Code § 57-8-42\(2\)\(b\)](#), any notice provided that is not outlined in the [Utah Revised Nonprofit Corporation Act](#) may still qualify as fair and reasonable after considering all the circumstances. Importantly, [Utah Code § 57-8-42\(3\)\(a\)](#) provides that an association can give notice via electronic means if authorized in its governing documents. At the same time, however, [Utah Code § 57-8-42\(3\)\(b\)](#) states that a homeowner can require an association to provide notice by mail if they deliver a written demand.

Given that [Utah Code § 57-8-42](#) explicitly references and incorporates the [Utah Revised Nonprofit Corporation Act](#), an association must also review and comply with the notice requirements contained therein. [Utah Code § 16-6a-704\(1\)](#) requires that notice of meetings be provided to members in accordance with an association’s bylaws, and that the notice be fair and reasonable. [Utah Code § 16-6a-704\(2\)](#) further provides that while the specific requirements of [Utah Code § 16-6a-704\(3\)](#) constitute fair and reasonable notice, there may be other methods of notification that are fair and reasonable when all the circumstances are considered. Further, [Utah Code § 16-6a-705\(2\)\(a\)](#) provides that a member waives any objection to a lack of notice or deficiency in the notice requirements if they attend the meeting in question and do not explicitly object to the meeting based on the deficiency in the notice process.

Application to Matter: In this matter, Article III, Section 3 of the Bylaws requires that “written notice of each meeting of the members shall be given...by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting.” However, under [Utah Code § 16-6a-704\(2\)](#), even though the Bylaws require mailed notice, all the circumstances surrounding the November 26, 2024, notice must be evaluated to determine if the email notice sent to Mr. Nelson by the Association constitutes fair and reasonable notice under Utah law. Critical to this determination is the fact that the Bylaws have not been updated since 1993, when email and other forms of electronic notice were not yet available. In fact, several Utah laws, including [Utah Code § 57-8-57\(2\)](#), now specifically provide that notice of meetings *shall* be given via email, which preempts any requirement to the contrary in the CC&Rs pursuant to [Utah Code § 57-8-40\(5\)](#).

Additionally, based on the information provided by the parties, Mr. Nelson did receive actual notice of the meeting, as he specifically referenced the January 11, 2025 meeting in his January 2, 2025 letter. While it is unclear whether Mr. Nelson received actual notice through the November 26, 2024, email, through word of mouth, or through some other method, the method is ultimately immaterial given that Mr. Nelson attended the January 11, 2025, meeting and did not raise an objection to the notice process. Accordingly, even though the Bylaws state that notice shall be provided by mail, when considering all the circumstances surrounding the actual notice provided by the Association and received by Mr. Nelson, the notice provided by the Association via email was fair and reasonable. Furthermore, Mr. Nelson ultimately waived his right to object to the method of receiving notice under [Utah Code § 16-6a-705\(2\)\(a\)](#) by attending the meeting without objecting to the delivery method used. Going forward, should Mr. Nelson submit a written demand to the Association under [Utah Code § 57-8-42\(3\)\(b\)](#), the Association would then be required to provide him notice via mail; however, until then, and under the current facts presented by the parties, the Association has not violated Utah law by sending notice to Mr. Nelson via email.

CONCLUSION

Based on the information provided by the parties and the governing Utah statutes, the Office concludes as follows:

1. **Budget Requirements:** The Office lacks jurisdiction to address Mr. Nelson's specific allegations because they have been ongoing and were known to Mr. Nelson more than one year before he submitted the Request.
2. **Assessment Calculations:** The Office lacks jurisdiction to address Mr. Nelson's specific allegations because they have been ongoing and were known to Mr. Nelson more than one year before he submitted the Request.
3. **Annual Meeting Notice:** When all the circumstances are considered, the notice of the annual meeting sent to Mr. Nelson via email was fair and reasonable, as Mr. Nelson actually received notice of the meeting and had never demanded that he only be provided notice via mail. Further, Mr. Nelson waived his right to object to the form of the notice, as he attended the meeting and did not object at that time



Erin Rider (Dec 2, 2025 13:34:22 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 intended as legal advice and does not establish an attorney-client relationship. 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/>.