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Office of the Homeowners'  
Association Ombudsman  
UTAH DEPARTMENT OF COMMERCE

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Division Director

## ADVISORY OPINION NO. 2025-12

|                               |  |
|-------------------------------|--|
| <u>Applicant Name:</u>        | Lynn Kenneth Packer  |
| <u>Association Name:</u>      | Hill Farms Subdivision Homeowner Association, Inc.   |
| <u>Association Type:</u>      | Community Association  |
| <u>Governing Statutes:</u>    | <a href="#">Utah Community Association Act</a><br><a href="#">Utah Revised Nonprofit Corporation Act</a> |
| <u>Advisory Opinion Date:</u> | December 29, 2025  |

## LEGEND OF DEFINED TERMS

|                            |   |
|----------------------------|---|
| <b>ARB</b>                 | Architectural Review Board  |
| <b>Assignment</b>          | Assignment of Declarant Rights, dated June 25, 2023   |
| <b>Association</b>         | Hill Farms Subdivision Homeowner Association, Inc.  |
| <b>Board</b>               | Board of Directors  |
| <b>Bylaws</b>              | Bylaws of Hill Farms Subdivision Homeowner Association, Inc., dated July 8, 2016, as subsequently amended                       |
| <b>CC&amp;Rs</b>           | Declaration of Covenants, Conditions & Restrictions for Hill Farms Subdivision, dated October 10, 2013, as subsequently amended |
| <b>CSS</b>                 | Community Solutions & Sales   |
| <b>Governing Documents</b> | The Declaration (CC&Rs), Bylaws, and Rules/Policies of the Association  |
| <b>Mr. Packer</b>          | Lynn Kenneth Packer   |
| <b>Third Declarant</b>     | Destination Homes/Larry H. Miller Real Estate   |
| <b>Office</b>              | Office of the Homeowners' Association Ombudsman   |
| <b>Original Declarant</b>  | Legacy Neighborhoods, LLC   |
| <b>Second Declarant</b>    | Golden Land Management, Inc.  |
| <b>WR</b>                  | Welch Randall Real Estate   |

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 dispute has arisen between Mr. Packer and the Association regarding the governance, maintenance, and administrative transition of the Hill Farms Subdivision. Mr. Packer contends that the Third Declarant improperly delayed the turnover of control to the homeowners, arguing that the transfer should have legally occurred in 2021 following the conveyance of the Second Declarant's remaining parcels, rather than in 2024. Consequently, he asserts that the subsequent board election was invalid, that common area landscaping was neglected due to deficient enforcement, and that his requests to inspect Association records were unlawfully denied. Conversely, the Association maintains that the transition of administrative control in July 2024 was valid and consistent with the governing documents, that the Board exercised proper discretion regarding enforcement and maintenance, and that the records requested by Mr. Packer were withheld in accordance with statutory limitations regarding member inspection rights. The main facts and timeline, as presented to the Office, are as follows:<sup>1</sup>

- On October 10, 2013, the Original Declarant executed the CC&Rs.
- On July 8, 2016, the Bylaws were adopted.
- On May 17, 2019, Mr. Packer inspected Association records at the CSS office with counsel for the Association and a CSS representative present.
- On August 22, 2019, Mr. Packer emailed CSS regarding the maintenance and completion of the common area park adjacent to his home.
- In February 2020, the Original Declarant replaced CSS with WR.
- On February 11, 2020, the First Amendment to the Bylaws was signed, modifying the quorum requirement.
- On June 7, 2021, the Original Declarant conveyed its last parcels to the Second Declarant via Warranty Deed.
- On September 9, 2021, a Phase 7 Supplemental Declaration was recorded by the Second Declarant.
- On or about March 1, 2022, Larry H. Miller Real Estate acquired Destination Homes.
- On June 25, 2023, the Assignment was executed, purporting to transfer rights from the Second Declarant to the Third Declarant. The document was not notarized or recorded.
- On February 9, 2024, the Association provided Mr. Packer documents identifying the Third Declarant, including the Assignment.
- On July 17, 2024, the Third Declarant held a board meeting to transfer the Association from Declarant to homeowner control and conducted an election for homeowner board members.
- On February 6, 2025, Mr. Packer sent a request to the Association seeking access to records and raising concerns about the Association's governance, including failure to transition the Association from Declarant to homeowner control within the statutory period, failure for the Declarant to properly maintain the Association's property and finances, and failures to provide homeowners with voting opportunities for Declarant actions.

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<sup>1</sup> Mr. Packer has raised additional claims and allegations regarding various conduct of the Association over the years; however, several of them fall outside the scope of the Office's statutory authority to review, as they require purely the interpretation of the Association's governing documents or analysis of legal principles beyond the scope of the Office's authority. Therefore, the Office lacks jurisdiction to address those specific claims and allegations under [Utah Code § 13-79-103\(4\)\(b\)](#) and [Utah Code § 13-79-104\(7\)\(a\)\(iii\)](#), and it only considers the facts and legal questions that fall within its ability to provide guidance and opinions on.

- On March 10, 2025, the Association sent Mr. Packer a letter providing certain financial and management documents, while simultaneously denying access to inspection reports, management contracts, board emails, and stating that Class A members had no voting rights until the end of administrative control. Mr. Packer contends that this denial violates Utah law and that all requested records should have been provided to maintain transparency and accountability within the Association.
- On October 10, 2025, Mr. Packer submitted his application for an Advisory Opinion to the Office.
- On November 5, 2025, Mr. Packer submitted an addendum to his Advisory Opinion application regarding common area landscaping.

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) When does the period of administrative control end within an association? (2) Do association members retain enforceable voting rights during the period of administrative control? (3) Can a declarant assign or transfer their rights and interests to a third party? (4) What are the statutory obligations of a declarant during the period of administrative control? (5) What records is an association required to maintain and produce upon request?

### 1. When Does the Period of Administrative Control End Within an Association?

**Summary:** Under Utah law, the period of administrative control in a community association generally terminates once a specific percentage of lots are sold, though this timeframe is strictly capped by statutory limits regarding the declarant's retained rights or cessation of business activity. Applying this to Mr. Packer's case, the Office lacks jurisdiction to review the matter because the period of administrative control undisputedly concluded more than a year before he submitted his request.

**General Legal Principle:** Utah Code § 57-8a-502(1) states that “unless otherwise provided for in a declaration...a period of administrative control terminates 60 days after the day on which 80% of the lots that may be created in the association are conveyed to lot owners other than a declarant.” However, Utah Code § 57-8a-502(2) places limitations on an association's declaration by stating that, regardless of what is contained in the declaration, “the period of administrative control terminates no later than the earlier of (a) the day on which the declarant no longer owns any lot and no longer possesses any development right; or (b) seven years after the day on which a declarant has ceased to offer lots, including lots that may be created, for sale in the ordinary course of business.” Accordingly, when determining when an association is handed over to homeowner control, an evaluation of the requirements in the governing documents must be conducted, which will establish the controlling time period subject to the upper limits specified in Utah Code § 57-8a-502(2).

**Application to Matter:** In this matter, neither party disputes that the conclusion of the period of administrative control occurred more than one year before Mr. Packer submitted his request to the Office. While there is a dispute as to whether that date occurred sometime in 2021 or in July 2024, under either date, the Office lacks jurisdiction to address the specific facts presented by Mr. Packer under Utah Code § 13-79-104(2)(a)(iii). However, the inclusion of these allegations provides the Office with the opportunity to educate regarding the general legal principles above, which would govern a dispute of this nature.

### 2. Do Association Members Retain Enforceable Voting Rights During the Period of Administrative Control?

**Summary:** Under Utah law, community association voting rights are primarily determined by the association's bylaws, with the Utah Revised Nonprofit Corporation Act serving to fill gaps where the Community Association Act and governing documents are silent. Accordingly, while these principles would generally guide the parties regarding the votes that occurred in July 2024, the Office cannot address the specific issues raised in the advisory opinion request because they occurred more than one year prior to Mr. Packer's submission of his request.

**General Legal Principle:** The Utah Community Association Act does not contain any explicit references to the voting rights of homeowners other than those sections that explicitly allow a declarant to take action or otherwise operate an association without the general voting requirements, such as Utah Code § 57-8a-104(1)(a)(ii) (giving a declarant the authority to amend the governing documents without a

homeowner vote). If an association is also a nonprofit corporation, which is the case here, then the general voting requirements of [Utah Code § 16-6a-711](#) apply, which provides in [Section 711\(2\)\(b\)](#) that “unless provided in the bylaws, each member entitled to vote may cast one vote...on each matter submitted for a vote of members...” Furthermore, [Utah Code § 16-6a-602](#) permits a nonprofit association to have multiple classes of membership, each with distinct qualifications and rights, which can be defined and designated in an association’s bylaws. Therefore, because [Utah Code § 16-6a-602](#) and [Utah Code § 16-6a-711](#) explicitly provide that an association’s bylaws can specify voting requirements for members of the association, including rights among differing voting classes, an association should look to its governing documents for the voting rights and processes applicable to the association and rely on Utah law in the event the governing documents are silent on some or all of the voting rights and requirements of the association.

**Application to Matter:** The information provided to the Office by the parties in this matter indicates that the votes at issue occurred on or around July 2024. Therefore, while the general principles above would apply, the Office lacks jurisdiction under [Utah Code § 13-79-104\(2\)\(a\)\(iii\)](#) to address the specific voting issues raised in Mr. Packer’s Advisory Opinion request, as they were known or should have been known more than one year before Mr. Packer submitted his request. However, the inclusion of these allegations provides the Office with the opportunity to educate regarding the general legal principles above, which would govern a dispute of this nature.

### 3. [Can a Declarant Assign or Transfer Their Rights and Interests to a Third Party?](#)

**Summary:** Utah law explicitly allows declarants to transfer or assign their rights and interests in an association to successors, defining key statutory terms to include those who receive such assignments. Applying this to Mr. Packer, because the period of administrative control concluded more than a year before he submitted his request, the Office lacks jurisdiction to address the matter.

**General Legal Principle:** Utah law specifically contemplates and allows a declarant to transfer or assign their rights and interests in an association to another person or entity. [Utah Code § 57-8a-102\(7\)](#) makes this clear by defining “declarant” to include “the person’s successor and assign.” Similarly, [Utah Code § 57-8a-102\(21\)](#) describes the “period of administrative control” as “the period during which the person who filed the association’s governing documents *or the person’s successor in interest* retains authority.” (emphasis added). Under these definitions, a declarant has the right to transfer or otherwise assign their rights and interests in an association to another party under Utah law.

**Application to Matter:** Neither party disputes that the conclusion of the period of administrative control occurred more than one year before Mr. Packer submitted his request to the Office. While the general legal principles above would apply, with the conclusion of the period of administrative control, the sufficiency of any transfer of interests and rights of the Original and Second Declarant became moot for purposes of determining a violation of Utah law under [Utah Code § 13-79-104\(7\)\(a\)\(iii\)](#) and the Office lacks jurisdiction to address the specific facts presented by Mr. Packer under [Utah Code § 13-79-104\(2\)\(a\)\(iii\)](#). However, the inclusion of these allegations provides the Office with the opportunity to educate regarding the general legal principles above, which would govern a dispute of this nature.

### 4. [What are the Statutory Obligations of a Declarant During the Period of Administrative Control?](#)

**Summary:** Although Utah law generally exempts declarants from various responsibilities during the period of administrative control, they are still required to reasonably maintain common areas, enforce

community rules, and ensure proper financial management and disclosure. In the current matter, however, the Office cannot address Mr. Packer’s request regarding the Declarant’s obligations related to landscape maintenance and rule enforcement because the issues have been ongoing since approximately 2015, and the period of administrative control ended at the latest in July 2024. Therefore, the specific allegations raised by Mr. Packer fall outside the Office’s jurisdiction under [Utah Code § 13-79-104\(2\)\(a\)\(iii\)](#).

**General Legal Principle:** Utah law generally exempts a declarant from various obligations and responsibilities during the period of administrative control. However, under [Utah Code § 57-8a-502\(5\)](#), a declarant is required to reasonably manage the common areas, enforce community rules, establish a solid financial foundation by collecting funds and maintaining accurate records, and fully disclose any subsidies, material property conditions, or financial interests that may affect the association. Relevant to the current matter, [Utah Code § 57-8a-224\(5\)](#) exempts a declarant from many of the maintenance costs and requirements of common areas during the period of administrative control, thereby only requiring that reasonable maintenance efforts are undertaken during this period.

**Application to Matter:** The information provided to the Office by the parties in this matter indicates that the issues raised by Mr. Packer in his Advisory Opinion request have been ongoing since approximately 2015, and the period of administrative control ended at the latest in July 2024. Therefore, the Office lacks jurisdiction under [Utah Code § 13-79-104\(2\)\(a\)\(iii\)](#) to address the specific issues raised in Mr. Packer’s Advisory Opinion request.

#### 5. [What Records is an Association Required to Maintain and Produce Upon Request?](#)

**Summary:** Under Utah law, associations must provide access to specific records upon a detailed, good-faith request, but they are permitted to redact privileged information and are not obligated to produce documents outside of statutory requirements. In this matter, the Association complied with Utah law by providing Mr. Packer with all statutorily required records while properly exercising its discretion to withhold attorney-client privileged materials and other non-statutory documents.

**General Legal Principle:** Under [Utah Code § 57-8a-227\(1\)](#) and [Utah Code § 16-6a-1601](#), an association is required to maintain and provide access to the following records to its members:

# HOA/ASSOCIATION RECORD-KEEPING ESSENTIALS

| FOUNDATIONAL DOCUMENTS   | MEETING & DECISION RECORDS   | FINANCIAL RECORDS   | OPERATIONAL RECORDS  |
|--|--|---|--|
|   |   |   |   |
| <br>Articles of Incorporation & Bylaws                  | <br>Meeting Minutes<br>(for at least the last 3 years)              | <br>Most recent Budget & Financial Statement                               | <br>List of current Directors & Officers    |
| <br>Governing Documents                                 | <br>Records of actions taken without a meeting                      | <br>Profit & Loss Statements and Balance Sheets<br>(for the last 3 years) | <br>Record of Members<br>(names, addresses) |
| <br>Board Resolutions<br>(on member rights/obligations) | <br>Written communications to all members<br>(for the last 3 years) | <br>Most recent Reserve Analysis   | <br>Most recent Annual Report               |
|  |  | <br>General Accounting Records  | <br>Current Certificates of Insurance       |

While requests for records may be made under [Utah Code § 16-6a-1602](#), such requests must be made in good faith and for a proper purpose, as outlined in [Utah Code § 16-6a-1602\(3\)\(a\)](#). Additionally, [Utah Code § 16-6a-1602\(3\)\(b\)-\(c\)](#) requires that the request include sufficient detail to allow the association to understand the records being requested and how those records are tied to the stated purpose of the request. When fulfilling a request, an association is allowed to redact information from the required documents under [Utah Code § 57-8a-227\(1\)\(b\)](#) if the information contains social security numbers, bank account numbers, or is subject to attorney-client privilege.

**Application to Matter:** In this matter, it is undisputed by the parties that the Association provided Mr. Packer with records responsive to his request that fall within the statutory requirements of [Utah Code § 57-8a-227\(1\)](#) and [Utah Code § 16-6a-1601](#) as outlined above. The dispute centers on Mr. Packer's request for additional records and documents that fall outside the list of statutory requirements, as well as those records that have been deemed attorney-client privileged. Specifically, in addition to the documents required under Utah law, which were provided to Mr. Packer by the Association, Mr. Packer further requested copies of maintenance and inspection reports, management contracts, and Board emails. The Association withheld these records on the basis that it was not required to disclose this information to Mr. Packer, and because attorney-client communication and other privileged materials were contained within the Board emails. Under Utah law, the Association is permitted to withhold information that is subject to attorney-client privilege. Because it is not required by statute, the Association has the discretion to determine whether to produce additional records, such as management contracts and inspection reports. Accordingly, the Association has not violated Utah law by withholding information and documents from Mr. Packer that it is not legally required to provide.

## CONCLUSION

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

1. **Declarant Control:** The Office lacks jurisdiction to review the matter because the period of administrative control undisputedly concluded more than a year before Mr. Packer submitted his request, rendering the disagreement over the exact termination date irrelevant to the Office.
2. **Member Voting Rights:** The Office lacks jurisdiction to review the matter because the specific votes and interests in question occurred more than a year before Mr. Packer submitted his request.
3. **Declarant Transfer Rights:** Because the period of administrative control concluded more than a year before he submitted his request, the validity of any such transfer is legally moot for purposes of an Advisory Opinion, and the Office consequently lacks jurisdiction to address the matter.
4. **Declarant Obligations:** The Office cannot address Mr. Packer's request regarding the Declarant's obligations related to landscape maintenance and rule enforcement because the issues have been ongoing since approximately 2015, and the period of administrative control ended in, at the latest, July 2024. Therefore, the specific allegations raised by Mr. Packer fall outside the Office's jurisdiction under [Utah Code § 13-79-104\(2\)\(a\)\(iii\)](#).
5. **Recordkeeping & Production Requirements:** The Association complied with Utah law by providing Mr. Packer with all statutorily required records while properly exercising its discretion to withhold attorney-client privileged materials and other non-statutory documents.



Erin Rider (Dec 29, 2025 14:34:50 MST)

**Erin Rider**

*Director*



Office of the Homeowners'  
Association Ombudsman  
UTAH DEPARTMENT OF COMMERCE

## 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/>.