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Lieutenant Governor



Office of the Homeowners'
Association Ombudsman
UTAH DEPARTMENT OF COMMERCE

MARGARET W. BUSSE
Executive Director

ERIN RIDER
Division Director

ADVISORY OPINION NO. 2026-06

<u>Applicant Name:</u>	Autumn Jennings
<u>Association Name:</u>	Black Bear Condominiums
<u>Association Type:</u>	Condominium Association
<u>Governing Statutes:</u>	Utah Condominium Ownership Act Utah Revised Nonprofit Corporation Act
<u>Advisory Opinion Date:</u>	02/27/2026

LEGEND OF DEFINED TERMS

Association	Black Bear Condominiums
Board	Black Bear Condominiums Board of Trustees
CC&Rs	Declaration of Condominium of the Black Bear Condominiums, dated April 22, 1997, as subsequently amended
Governing Documents	The Declaration (CC&Rs), Bylaws, and Rules/Policies of the Association
Ms. Jennings	Autumn Jennings
Office	Office of the Homeowners' Association Ombudsman
Reserve Study	Black Bear Lodge at Deer Valley Resort Reserve Funding Study, updated January 2026

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 Ms. Jennings and the Association regarding the validity of a special assessment for roof replacement and the Association's compliance with financial and procedural requirements under state law and its governing documents. Ms. Jennings alleges that the Association failed to conduct and provide a proper reserve study and mismanaged funds, leading to an underfunded reserve account and an unexpected financial burden on owners. Conversely, the Association maintains that a majority of the homeowners legally approved the special assessment to address necessary capital repairs, asserts that its financial management and use of reserve funds have been appropriate, and states that it has taken steps to provide owners with updated reserve analyses.¹ The material facts and timeline, as presented to the Office, are as follows:

- On April 23, 1997, the Association's CC&Rs were recorded in Summit County, Utah.
- Ms. Jennings became an owner of property within the Association in 2018.
- Historically, the Board has maintained a policy of low dues, which resulted in lower contributions to the reserve account for several years, but at least since 2020. This policy has been communicated to Association owners at various times.
- In January 2024, the Association issued an Annual Report stating that the roof had an anticipated remaining useful life of seven to ten years.
- The Association held a special meeting in August 2025 to discuss a proposed special assessment for roof replacement and other maintenance, with an initial estimate of approximately \$3.5 million.
- In response to the information provided during the special meeting, in August 2025, Ms. Jennings requested the reserve study, reserve balance, and reserve expenditures.
- The Annual Homeowners Meeting was held on November 1, 2025, with 73.33% of the HOA represented, including Ms. Jennings. The Board reported that the 18-year-old roof needed to be replaced sooner than expected due to environmental degradation.
- During the November 1, 2025, annual meeting, Ms. Jennings addressed her concerns regarding the Association's reserve study and amounts in the reserve fund. The Association maintained that it did possess a reserve study and that reserve funding rates were approximately 11% of the Association's gross income. Additionally, the Association's property manager outlined several methods for funding and maintaining the Association's reserve fund and stated that the Association used the threshold funding method. Following this presentation, there was a lengthy discussion of budgeting and allocating funds to the reserve fund, with Ms. Jennings and another owner providing substantive input. Several former Board members commented on the historical reasons for keeping reserve funds low.
- Following the above conversation during the November 1, 2025, meeting, a special assessment was proposed totaling \$67,000 for a single unit and \$134,000 for a double unit. The special assessment passed with 70% of owners voting in favor, including Ms. Jennings.

¹ Ms. Jennings also raises allegations regarding the Board not holding open meetings; however, from the information provided, it appears that this issue was known or should have been known by Ms. Jennings more than one year before she submitted her request to the Office. Accordingly, the Office lacks jurisdiction to address these allegations under [Utah Code § 13-79-104\(2\)\(a\)\(iii\)](#). Additionally, Ms. Jennings initially argued that the Association had failed to register with the Office as required under [Utah Code § 57-8-13.1](#). However, in reviewing the Office's registry, it appears the Association is properly registered; therefore, the Office sees this issue as moot and therefore beyond the Office's statutory scope under [Utah Code § 13-79-104\(7\)\(a\)\(iii\)](#).

- Following the November 2025 annual meeting, Ms. Jennings and one other homeowner requested the budget and recent meeting minutes.
- On November 19, 2025, the Association provided Ms. Jennings with the recent annual meeting minutes, September 2025 balance sheet, and year-to-date budget through September 2025.
- On November 20, 2025, Ms. Jennings requested a copy of the Association’s reserve analysis.
- On November 24, 2025, Ms. Jennings sent a second request for documentation related to the reserve analysis and reserve fund.
- The Association provided a Dropbox link to the governing documents, meeting minutes, and statutorily permitted financial documents to all homeowners on November 24, 2025. The Association did not provide a copy of the reserve analysis at that time because it was still being finalized.
- The first installment of the special assessment became due in December 2025.
- On January 17, 2026, the Association provided all homeowners with a copy of the finalized reserve analysis.

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

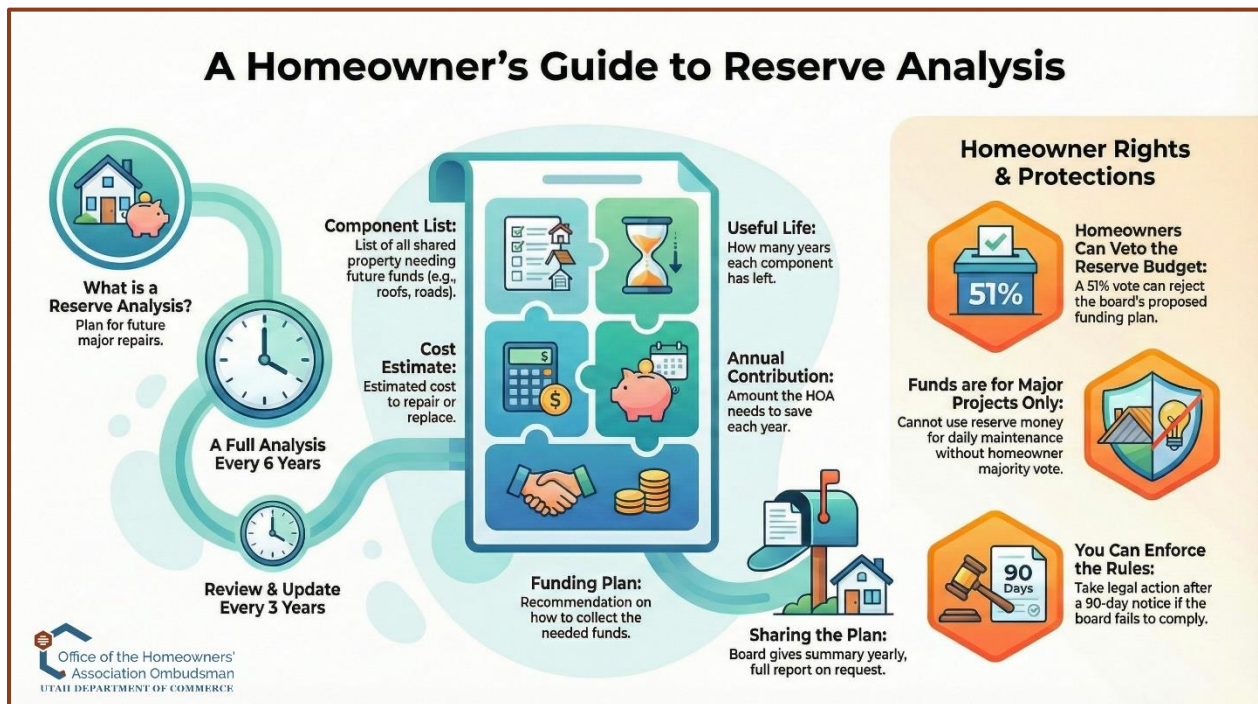
ANALYSIS OF QUESTIONS PRESENTED & GOVERNING LEGAL PRINCIPLES

This dispute raises the following legal questions for the Office: (1) What are the requirements for a reserve study, and how may reserve funds be used? (2) What are the requirements and obligations associated with special assessments? (3) What records is an association required to maintain and produce upon request?

1. What are the Requirements for a Reserve Study, and How May Reserve Funds be Used?

Summary: Under Utah law, homeowner associations are required to conduct regular reserve analyses to identify maintenance costs for common-area components and to maintain a separate fund dedicated to those future repairs and replacements. In the present matter, the Association met these legal requirements because its reserve study provided the necessary component details, and the Board acted within its statutory discretion to determine funding levels and approve expenditures for common area maintenance.

General Legal Principle: [Utah Code § 57-8-7.5\(2\)](#) provides that an association “shall cause a reserve analysis to be conducted no less frequently than every six years and review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years.” This analysis, under [Utah Code § 57-8-7.5\(3\)](#), may be conducted by an association’s management committee or by a third-party organization retained by the association. An association’s reserve analysis, as outlined in [Utah Code § 57-8-7.5\(4\)](#), must include “a list of the components identified in the reserve analysis that will reasonably require reserve funds, a statement of the probable remaining useful life of each component identified in the reserve analysis, an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis, an estimate of the total annual contribution to a reserve fund necessary to meet the anticipated costs and prepare for any general budget shortfalls, and a reserve funding plan.”



In addition to the requirement that an association conduct, review, and update a reserve analysis, each association must also establish and maintain a dedicated reserve fund. Under [Utah Code § 57-8-7.5\(1\)\(c\)](#), reserve funds means “money to cover the cost of repairing, replacing, or restoring common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association...or a shortfall in the general budget if the shortfall occurs while a state of emergency declared in accordance with [Utah law] is in effect...” [Utah Code § 57-8-7.5\(9\)\(c\)](#) requires that “a management committee shall maintain a reserve fund separate from other funds of the association of unit owners.” [Utah Code § 57-8-7.5\(6\)](#) states that this reserve fund should be funded, at least in part, through a separate line item included in an association’s annual budget in an amount the association’s management committee determined to be prudent based on the reserve analysis or in an amount outlined in the governing documents if that amount is higher than what may be considered prudent by the management committee. Under [Utah Code § 57-8-7.5\(9\)](#), a management committee may not use the reserve funds for a purpose other than the purposes the reserve fund was established for, unless a majority vote of unit owners permits its use or there is a general budget shortfall that the reserve funds may cover as outlined in [Utah Code § 57-8-7.5\(1\)\(c\)\(ii\)](#).



Application to Matter: In this matter, Ms. Jennings argues that the Association has failed to prepare compliant reserve studies because they have general categories rather than specific line items attributable to the maintenance, repair, and replacement of the overall common property. Additionally, Ms. Jennings alleges that the Association has failed to fund the reserve account adequately and that several expenditures from that account are outside the fund's purpose. The Association argues that, because the Association’s manager performs the reserve analysis and includes all the common area property meeting the statutory requirements for inclusion in the study, there has been no violation of the law. Further, the Association maintains that all expenses paid from the reserve fund are directly related to the maintenance and replacement of common-area items, which are expressly permitted and required under Utah law and the CC&Rs.

In determining whether the reserve study provided by the Association complies with [Utah Code § 57-8-7.5\(4\)](#), the issue between the parties relates to whether the report contains sufficient detail and information pertaining to “a list of components.” There does not appear to be any dispute regarding whether the reserve study contains the other requirements of the statute, namely, the probable remaining useful life, the estimated cost to repair or replace, the estimated necessary reserve contribution, and the recommended funding plan. Based on the information provided by the parties, including a copy of the Reserve Study, all required elements are contained within the document. While Ms. Jennings argues that the document lacks sufficient detail on the individual components of each larger common area category, “Exhibit B” clearly outlines the specific line items, down to the component being worked on and the work it entails. The table contained within the body of the document appears to be an overview of the larger items, with the individual components, their anticipated year of repair or replacement, and the anticipated cost at that time being provided in much greater detail in the exhibit. Under [Utah Code § 57-8-7.5\(4\)](#), there is no specific requirement or form that the Association must use in conducting and reporting the reserve analysis. Although Ms. Jennings may prefer that the Reserve Study be presented in a different format, there is no requirement under Utah law that the Association does so, and the Association has not violated Utah law by providing the Reserve Study to homeowners in the format provided to the Office.

[Utah Code § 57-8-7.5\(6\)](#) provides the Board with discretion in determining the amount collected and put into the Association’s reserve fund. Other than applying a standard of “prudence,” the law does not set a minimum amount that must be contributed unless required in the CC&Rs, as clarified in [Utah Code § 57-8-7.5\(6\)\(b\)](#). In reviewing the CC&Rs, there is no requirement regarding the specific amount that must be contributed to the reserve fund annually. Therefore, the Board has the discretion to set the reserve funding amount at a level it deems prudent. Based on the information provided by the parties, the Board has informed homeowners on multiple occasions that it is the Association’s policy to fund the reserve account at a lower level to keep annual assessments lower, and to address large expenditures through special assessments if there is a reserve shortfall. There has been nothing presented by the parties to suggest that the homeowners have rejected this long-standing policy at any point. Although this policy may mean reserve funds are lower, funding reserves through a combination of dues and special assessments is not necessarily imprudent, especially if members approve and are prepared to pay the special assessments.

Additionally, Section 9.9 of the CC&Rs provides that the reserve fund is established “for the periodic maintenance, repair and replacement of improvements to the Common Areas and Limited Common Areas the Association is obligated to maintain, repair or replace.” This language is in line with the definition of reserve funds in [Utah Code § 57-8-7.5\(1\)\(c\)\(i\)](#), which defines them as “money to cover the cost of repairing, replacing, or restoring common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association.” Therefore, under both the statutory and Governing Document uses of the Association’s reserve fund, so long as the expense in question is tied to the maintenance, repair, or replacement of those items contained within the Reserve Study and the common areas, the Association can use its reserve funds to pay those expenses if the general budget is insufficient to do so. Based on the information provided by the parties, the Association has not violated Utah law regarding either the funding or use of the reserve account.

2. What are the Requirements and Obligations Associated with Special Assessments?

Summary: Under Utah law, homeowners' associations are authorized to levy both general and special assessments for common expenses based on ownership interest, provided these charges align with the association's governing documents and statutory definitions. In this matter, the special assessment is legally binding because it was approved by the required majority of homeowners, including Ms. Jennings herself, in accordance with the Association's CC&Rs.

General Legal Principle: [Utah Code § 57-8-24\(2\)\(b\)](#) requires an association to impose assessments on each homeowner, based upon their percentage or other ownership interest, for common expenses of the Association unless otherwise provided for in the governing documents. [Utah Code § 57-8-3\(1\)\(a\)](#) clarifies that an assessment is “any charge imposed by the association, including common expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or [the condominium ownership act].” This definition is broad enough to allow an association to impose assessments, whether annual or special, as necessary to address the association's needs. Further, if an association's governing documents permit the imposition of special assessments outside the general assessments imposed annually through the adoption of the budget, those provisions are often valid. Any special assessment imposed by an association in accordance with the requirements contained in its governing documents and Utah law is also valid and enforceable, assuming all requirements contained therein have been complied with, as required by [Utah Code § 57-8-8](#).

Application to Matter: In this matter, the parties do not appear to dispute whether the procedural requirements for imposing the special assessment were satisfied as required under Section 9.3 of the CC&Rs; instead, Ms. Jennings argues that the special assessment is invalid because it only arose from the Association's failure to maintain a reserve fund to adequately cover capital expenditures. However, as discussed above, the Board has discretion in determining the amounts used to fund the reserve account, so long as they are prudent. While Ms. Jennings may disagree with the Association's policy of using special assessments to keep annual assessments low, that does not mean the Association is not allowed to adopt and follow this policy. Based on the information provided by the parties, approximately 70% of homeowners, including Ms. Jennings herself, voted for the special assessment at the November 1, 2025, meeting, so it cannot be said that the other homeowners were unaware of or unsupportive of this policy. Additionally, even if there were issues with funding the reserve account, Section 9.3 of the CC&Rs explicitly allows a special assessment like the one at issue. Section 9.3 states that the Board may “levy, at any time and from time to time, upon the affirmative vote of at least fifty-one percent (51%) of the voting power of the Condominiums...special assessments...for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration (including, without limitation, Common Expenses).” This language provides a clear framework under which the Association may impose a special assessment for any Association expense, provided that it complies with the voting requirements. Therefore, even if Ms. Jennings disputes the purpose of the special assessment, the fact that the Association complied with the terms of Section 9.3 of the CC&Rs and the requisite number of homeowners voted in favor of the special assessment makes it binding and valid against all homeowners under [Utah Code § 57-8-24\(2\)\(b\)](#).

3. What Records is an Association Required to Maintain and Produce Upon Request?

Summary: Utah law requires homeowners' associations to provide members with specific financial records and reserve studies within two weeks of receiving a valid, good-faith request. In this case, the Association met its duty to provide the appropriate financial summaries to Ms. Jennings, and so long as the Association provided the reserve analysis to Ms. Jennings within 14 days of its completion, it has complied with the statutory requirements of Utah law.

General Legal Principle: Under [Utah Code § 57-8-17\(1\)](#) 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**
 - Articles of Incorporation & Bylaws
 - Governing Documents
 - Board Resolutions (on member rights/obligations)
- MEETING & DECISION RECORDS**
 - Meeting Minutes (for at least the last 3 years)
 - Records of actions taken without a meeting
 - Written communications to all members (for the last 3 years)
- FINANCIAL RECORDS**
 - Most recent Budget & Financial Statement
 - Profit & Loss Statements and Balance Sheets (for the last 3 years)
 - Most recent Reserve Analysis
 - General Accounting Records
- OPERATIONAL RECORDS**
 - List of current Directors & Officers
 - Record of Members (names, addresses)
 - Most recent Annual Report
 - 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. Once a homeowner submits a valid request for records, [Utah Code § 57-8-17\(4\)](#) requires an association to comply with the request and produce the requested records within 2 weeks. [Utah Code § 57-8-17\(5\)](#) also imposes a monetary penalty on an association that fails to comply with the disclosure requirements and timeline, which can include a \$25 penalty per day paid to the requesting homeowner, any costs incurred for inspecting and copying the records, and attorney fees incurred by the requesting homeowner in obtaining the records.

Further, and as relevant to this matter, [Utah Code § 57-8-7.5\(5\)](#) requires that an association provide a summary of the most recent reserve analysis or update to homeowners annually, and that it provides a copy of the complete analysis to a homeowner who requests one. While [Utah Code § 57-8-7.5\(5\)\(b\)](#) does not provide a timeframe for delivering a copy of the complete analysis to a requesting homeowner, it is required to provide one upon request, a requirement also identified in [Utah Code § 57-8-17\(1\)\(a\)\(ii\)\(D\)](#). Therefore, an association is required to produce a requested copy of the complete reserve analysis in the

same manner and time as other records as required under [Utah Code § 57-8-17\(4\)](#). Therefore, if a homeowner requests a complete copy of an association's reserve analysis or update, the association has no reason not to produce such records within two weeks of the request.

Application to Matter: In this matter, Ms. Jennings alleges that the Association has failed to provide the requested records related to the Association's financial transactions, as well as documents related to the reserve fund, its use, and a complete copy of the current reserve analysis or update. The Association argues that it has fully complied with Utah law by providing Ms. Jennings with copies of all records to which she is entitled. Based on the information provided to the Office, it appears that two distinct types of documents are being requested, each requiring its own analysis.

First, Ms. Jennings argues that the Association is required to provide more detailed accounting records and statements that provide homeowners with specific information regarding Association expenditures. While information and records of this type may be helpful to Ms. Jennings and other homeowners, under Utah law, the Association is not required to provide these records. [Utah Code § 16-6a-1601\(2\)](#) requires the Association to keep and produce "appropriate accounting records." While this term is not defined, [basic financial principles](#) typically consider appropriate accounting records to be the main financial summary reports that provide an overview of an organization's economic health, such as balance sheets, income statements, and cash flow statements. Therefore, so long as the Association has provided these records to Ms. Jennings and to other homeowners who have requested them within the time frame set forth in [Utah Code § 57-8-17\(4\)](#), it has complied with Utah law. However, to the extent the Association failed to provide the required documents within the time period, it has violated Utah law with respect to the response time, even if all required documents were provided, and must take affirmative steps to ensure future requests comply with every section and requirement of [Utah Code § 57-8-17](#) and [Utah Code § 16-6a-1601 through 1610](#).

Second, Ms. Jennings alleges that the Association has failed to provide the requested reserve analysis in a timely manner as required by Utah law. The Association argues that the current analysis is available to homeowners and that the required summary analysis is provided to homeowners annually. Additionally, the Association argues that the reserve analysis could not be provided to Ms. Jennings within the required 14 days because it was still being finalized when she submitted her request, and that the finalized document was provided to all homeowners upon completion. To the extent this is true, there is no violation of Utah law by the Association. The 14-day deadline cannot practically apply to a request for an incomplete reserve analysis. Once the analysis is complete, however, the 14-day deadline begins on any outstanding request. While it is true that the Association only has to proactively provide the summary analysis annually, it must also respond to a request for the summary or the complete analysis and provide it whenever that request is submitted. Here, so long as the Association provided the reserve analysis to Ms. Jennings within 14 days after the completion of the report, there was no violation of Utah law.

CONCLUSION

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

1. **Reserve Studies & Funds:** The Association has complied with Utah law because its reserve study provided the necessary component details, and the Board acted within its statutory discretion to determine prudent funding levels and approve expenditures for common area maintenance.
2. **Special Assessments:** The special assessment is legally binding because it was approved by the required majority of homeowners in accordance with Utah law and the Association's CC&Rs, regardless of any relation to the Board's reserve funding strategies or policies.
3. **Record Requests:** The Association met its statutory duty to provide the appropriate financial summaries to Ms. Jennings, and so long as the Association provided the reserve analysis to Ms. Jennings within 14 days of its completion, it has complied with the statutory requirements of Utah law.



[Erin Rider \(Feb 27, 2026 13:41:46 MST\)](#)

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/>.