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Office of the Homeowners'
Association Ombudsman
UTAH DEPARTMENT OF COMMERCE

MARGARET W. BUSSE
Executive Director

ERIN RIDER
Division Director

ADVISORY OPINION NO. 2026-09

<u>Applicant Name:</u>	Matthew Wolfe
<u>Association Name:</u>	Glenwild Community Association
<u>Association Type:</u>	Community Association
<u>Governing Statutes:</u>	Utah Community Association Act Utah Revised Nonprofit Corporation Act
<u>Advisory Opinion Date:</u>	03/20/2026

LEGEND OF DEFINED TERMS

Architectural Guidelines	Glenwild Architectural Design Guideline and Standards, dated November 2024, as subsequently amended
ARC	Glenwild Architectural Review Committee
Association	Glenwild Community Association
Board	Board of Directors
CC&Rs	Declaration of Covenants, Conditions and Restrictions for Glenwild, dated August 2, 2000, as subsequently amended
Governing Documents	The CC&Rs (Declaration), Bylaws, and Rules/Policies of the Association
Mr. Wolfe	Matthew Wolfe
Office	Office of the Homeowners' Association Ombudsman

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. Wolfe and the Association regarding the proposed installation of a permanent basketball standard at the Wolfe residence within the Association. Mr. Wolfe maintains that his application satisfies all objective criteria outlined in the Architectural Guidelines and that the data indicates potential noise levels remain within municipal limits. Conversely, the ARC and Board have denied the request, citing concerns related to the standard's visibility and its potential to create a noise nuisance for adjacent neighbors. The Association asserts it holds broad discretionary authority to deny improvements based on community impact and neighbor opposition. At the same time, Mr. Wolfe alleges that the denial constitutes arbitrary or selective enforcement, given other approved amenities within the Association. The material facts and timeline, as presented to the Office and approved by the parties, are as follows:

- In April 2022, Mr. Wolfe purchased the property located at Lot 61 in the Association.
- Construction commenced on the Wolfe residence in May 2024.
- On August 1, 2025, Mr. Wolfe's contractor, 4C Group, submitted an email request to the Association for potential approval to install a basketball standard on Lot 61, including a site plan and product specifications. While Mr. Wolfe's contractor emailed the proposed plans and other documents, the request, including the ARC's formal application, was not submitted in accordance with Section 7.2 of the Architectural Guidelines.
- On August 8, 2025, the ARC drafted a letter stating the proposed standard did not meet guidelines due to visibility from the road and neighboring homes. The letter suggested the ARC would consider an adjustable standard that could be lowered to six (6) feet when not in use.
- Mr. Wolfe's contractor received the letter from the ARC on August 12, 2025.
- On September 3, 2025, the contractor forwarded the ARC letter to Mr. Wolfe, outlining options to remove the standard, use a movable one, or utilize a lowering mechanism.
- The contractor emailed an updated landscaping plan featuring additional grasses and shrubs intended to screen the standard from view to the Association on September 8, 2025.
- On September 24, 2025, Mr. Wolfe emailed the Association and the ARC to address reported concerns. Mr. Wolfe stated the proposal complied with written guidelines regarding backboard transparency and post color, offered to lower the standard when not in use, and requested an on-site meeting.
- Mr. Wolfe met on-site with the ARC Chairman and the Association manager on September 26, 2025. During this meeting, Mr. Wolfe was informed that potential noise, rather than visuals, was the primary issue, despite this issue not having been raised in the ARC's initial response. The ARC suggested that Mr. Wolfe contact the surrounding homeowners regarding the proposed basketball standard. The Association manager subsequently emailed Mr. Wolfe a list of contact information for surrounding homeowners to gauge community support.
- On September 29, 2025, Mr. Wolfe emailed neighbors to describe the equipment, landscaping mitigation, and intent to limit usage hours.
- A neighboring resident responded to Mr. Wolfe on October 2, 2025, expressing opposition to the standard, citing the Association's tranquil environment.
- The ARC issued a formal denial letter to Mr. Wolfe on October 7, 2025. The letter stated that the ARC reached a 3-3 deadlock vote, which constituted a denial. The denial cited CC&R Sections 3.31 and 3.5, Architectural Guideline 3.16, and written opposition from adjacent homeowners.

- On November 3, 2025, the Association manager notified Mr. Wolfe that he would be allowed 15 minutes to address the Board on November 10, 2025, regarding the denial.
- The Board held a meeting where they heard arguments from Mr. Wolfe and six opposing neighbors on November 10, 2025. Mr. Wolfe attempted to present video evidence of decibel readings but encountered technical difficulties.
- On November 11, 2025, Mr. Wolfe emailed the Board a link to videos and decibel readings taken from various points on the property and street to demonstrate that noise levels remained within municipal limits.
- The Board sent a letter to Mr. Wolfe on November 14, 2025, stating they chose not to overturn the ARC's decision and that the denial remained final.
- On November 21, 2025, Mr. Wolfe was informed by the Association manager that the Association had been advised to communicate regarding this matter solely in writing.
- Mr. Wolfe emailed the Association on November 25, 2025, specifying that his request was for the Board to ask the ARC to reconsider based on the new noise evidence. The Association manager responded that the Board and ARC had reviewed the videos, but the evidence did not change the ARC members' opinion.
- Mr. Wolfe submitted a request for an Advisory Opinion to the Office on December 1, 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 is an association's or architectural review committee's scope of discretion related to architectural and design review and approval?

1. [What is an Association's or Architectural Review Committee's Scope of Discretion Related to Architectural and Design Review and Approval?](#)

Summary: Under Utah law, homeowners' associations must enforce rules uniformly and cannot block reasonable activities on a person's property that follow local laws. In this case, the ARC wrongly denied Mr. Wolfe's request for a basketball standard based on neighbor complaints and noise concerns rather than the Association's written rules. This decision violated Utah law because, while the ARC can exercise some discretion, it must enforce rules uniformly and cannot prohibit reasonable activity when Mr. Wolfe is otherwise complying with local noise ordinances. Consequently, Mr. Wolfe must be allowed to continue the approval process based solely on the objective standards set forth in the Governing Documents.

General Legal Principle: Under Utah law, a declaration constitutes a contract between an association and its members, and the terms, rights, and limitations it contains govern the association. *Swan Creek Vill. Homeowners Ass'n v. Warne*, 2006 UT 22, ¶ 50. If permitted in the declaration, [Utah Code § 57-8a-217](#) allows an association to adopt, modify, or remove rules, including design criteria. In so doing, under [Utah Code § 57-8a-217\(1\)\(b\)](#), an association's board must ensure that any adoption of, or action taken with respect to, a rule or design criteria does not violate or exceed the requirements of the rules or other governing documents, does not conflict with the specific exclusions and limitations contained in [Utah Code § 57-8a-218, 219](#), or other state laws, and complies with the exercise of good business judgment as outlined in *Fort Pierce Indus. Park Phases II, III & IV Owners Ass'n v. Shakespeare*, 2016 UT 28. Rules must also be reasonable, as stated in [Utah Code § 57-8a-218\(23\)](#).

An association's ability to adopt and enforce rules, however, is not without limitation. Once an association adopts a rule or design criteria, [Utah Code § 57-8a-218\(1\)\(a\)](#) requires that "a rule shall treat similarly situated lot owners similarly." Additionally, under [Utah Code § 57-8a-218](#), there are several limitations on what an association can and cannot restrict. In the context of architectural and design reviews, [Utah Code § 57-8a-218\(13\)](#) states that "a rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review." Further, [Utah Code § 57-8a-218\(7\)](#) prohibits an association from implementing or enforcing a rule or design criteria that interferes "with a reasonable activity of a lot owner within the confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances." [Utah Code § 57-8a-102\(17\)\(a\)](#) defines a lot as "a lot, parcel, plot, or other division of land designated for separate ownership or occupancy and shown on a recorded subdivision plat or the boundaries of which are described in a recorded governing document." In practice, these statutes together require uniform and consistent application of the rules or design criteria to all similarly situated homeowners.

Application to Matter: To address the question presented by Mr. Wolfe, we must evaluate whether the Architectural Guidelines and the ARC's application of them in this instance comply with the

legal requirements stated above. Section 3.16 of the Architectural Guidelines provides that “wall-mounted or freestanding basketball goals may be allowed subject to ARC approval. Support posts of a freestanding basketball goal shall be painted to blend unobtrusively with its visual backdrop surrounding, and the backboard must be clear.” Section 3.31 of the CC&Rs states that “no basketball goal, backboard or similar structure or device...shall be placed or constructed on any lot without the prior written approval of the Architectural Review Committee....” Section 1.1 of the Architectural Guidelines states that “the ARC specifically reserves the right to make subjective, as well as objective, determinations of whether the goals of the Architectural Standards and Design Criteria have been met by a particular submittal.” Finally, Section 3.5 of the CC&Rs states, in relevant part, that “no odors, loud noises or loud music shall be permitted to arise or emit [from a lot]...so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property.”

As highlighted in the general legal principle above, the Architectural Guidelines are rules. They are therefore subject to the same requirements and processes as other rules under [Utah Code § 57-8a-217](#), as well as the same limitations and restrictions under [Utah Code § 57-8a-218](#). Once the Architectural Guidelines have been duly adopted by the Board, the role of the ARC under [Utah Code § 57-8a-218\(1\)\(a\)](#) is to enforce them uniformly. Utah courts have consistently ruled that “the parties to a contract are deemed to intend that the [contract] terms...be construed in a manner which assumes the parties intended that the duties and rights created by the contract should be performed and exercised in good faith.” *Vander Veer v. Groove Entm’t Techs.*, 2019 UT 64, ¶ 26 (quoting *Brebany v. Nordstrom, Inc.*, 812 P.2d 55 (Utah 1991)) (alterations in original). [Utah Code § 57-8a-217\(2\)\(c\)](#) supports this position by requiring the Association to provide a copy of all adopted rules and design standards to all homeowners. The purpose of this requirement is to provide homeowners with notice of what is and is not permitted and required within the community, as well as a clear understanding of the obligations and considerations of the Association, Board, and ARC. This requirement furthers the goal of uniform enforcement and ensures there are no questions about the standards for homeowner restrictions, property modifications, potential fines, and related matters. This is not to say that the ARC cannot exercise any discretion in overseeing its duties; indeed, it would be impractical not to afford the ARC some discretion in ensuring that homeowners comply with design standards. Such a requirement would create an onerous burden on the Board to lay out every conceivable design criterion, making it nearly impossible for the Board or ARC to function. But discretion is not a blank check, particularly when it comes to the ARC enforcing standards or requirements that the Board has not properly adopted, that it lacks the authority to enforce, or when such discretion prevents the even and uniform application and enforcement as required under [Utah Code § 57-8a-218\(1\)\(a\)](#).

Upon receiving Mr. Wolfe’s proposal, the ARC evaluated it against the requirements of the Architectural Guidelines and identified concerns that needed to be addressed, as permitted under Sections 2.1-2.3. These changes and concessions included adding vegetation and concealment measures, as well as incorporating a height-adjustable standard that could be lowered when not in use to address height concerns. These additional requirements were a proper and valid use of the ARC’s authority to ensure compliance with Section 3.16 of the Architectural Guidelines, and the ARC would have been within its authority to deny Mr. Wolfe’s application had he not complied with these reasonable requests. However, once Mr. Wolfe updated his proposal, concerns about potential noise and neighbor objections arose, and the suggestion was made that he seek neighbor approval as part of his application. This is the procedural step at issue in this Advisory Opinion.

Nothing in the Architectural Guidelines or the CC&Rs requires neighbor approval for a basketball standard to be approved. "The impact on adjacent neighbors" is cited in Section 3.1 of the Architectural Guidelines as something to consider when doing a site plan. Still, the requirement to consider adjacent neighbors cannot violate statutory requirements for uniform enforcement of the rules. The ARC's denial letter to Mr. Wolfe states, in its entirety:



October 7, 2025

Mr. Matthew Wolfe
Glenwild, Lot 61, 1170 Snow Berry St

Dear Mr. Wolfe,

The Architectural Review Committee (ARC) has carefully reviewed your appeal regarding the installation of a basketball standard at your property, Lot 61. After considering the written opposition submitted by adjacent homeowners, as well as the discussions among ARC members, the Committee reached a 3-3 deadlock vote on your request. Approval requires a majority vote. The deadlock constitutes a denial of the basketball standard installation and is final. Please see Glenwild Covenants, Conditions and Restrictions (CC&Rs) 5.10.2

In reaching this outcome, the ARC considered the relevant provisions within the Glenwild governing documents, including the CC&Rs and the Architectural Design Guidelines (ADGs). Specifically, Section 3.31 of the CC&Rs and 3.16 of the ADGs requires prior written approval from the ARC for any basketball goals, backboards, or similar play structures, including consideration of both appearance and location. In addition, Section 3.5 of the CC&Rs prohibits nuisances such as loud noises or disturbances that may be detrimental to neighboring properties or inconsistent with the tranquil character of the Glenwild community.

These governing provisions grant the ARC broad authority and discretion to evaluate proposed improvements based on their potential aesthetic, environmental, and community impacts. The ARC's role, as defined by the CC&Rs and Guidelines, is to preserve harmony, visual integrity, and quality of life within Glenwild. This authority includes the ability to approve or deny applications based on subjective assessments of noise, visual impact, and neighborhood consistency. The ARC exercised that discretion in this matter, resulting in an evenly divided vote among its members.

Sincerely,

Glenwild Architectural Review Committee


Ultimately, the ARC denied Mr. Wolfe's request for a basketball standard on his property for two reasons: 1) the objection of his neighbors, and 2) nuisance concerns. [Utah Code § 57-8a-218\(7\)](#) prohibits a rule or design criteria from interfering with the reasonable activities of Mr. Wolfe within the confines of his lot, including the amenities therein, to the extent they do not violate municipal nuisance laws and ordinances. Basketball standards come with a certain amount of noise, so the fact that the Association allows them at all suggests they must also reasonably tolerate the noise that accompanies them. Nevertheless, even though he had already made multiple changes to comply with the Architectural Guidelines' requirements in Section 3.16, and as identified by the ARC in their initial response to his application, once the nuisance concerns were raised, Mr. Wolfe provided evidence to the Association that the noise levels associated with the basketball standard would comply with municipal ordinances and that other homes within the Association have basketball standards of a similar design. Additionally, he also assured the neighbors that his family was "conscious of usage hours and committed to limiting use to reasonable daylight hours." Mr. Wolfe complied in every way with the requirements of [Utah Code § 57-8a-218\(7\)](#); therefore, the ARC's denial of his application based purely on nuisance concerns is a direct violation of [Utah Code § 57-8a-218\(7\)](#).


Finally, by allowing neighbors to provide objections that the ARC ultimately relied on when denying Mr. Wolfe's application, the Association has violated the fundamental requirement of [Utah Code § 57-8a-218\(1\)\(a\)](#) that rules be enforced uniformly. Consideration *of* the neighbors does not mean that consideration is given *to* the neighbors. The ARC cannot possibly enforce the rules evenly in compliance with [Utah Code § 57-8a-218\(1\)\(a\)](#) when every decision is subject to the whims of whoever lives next door. Therefore, in addition to the paragraph above, the ARC also violated Utah law by denying Mr. Wolfe's basketball standard based on the objections of his neighbors. Since Mr. Wolfe was only partway through the application process before he was denied, he should be allowed to resume the review and approval process in accordance with the objective and identifiable standards contained within the Governing Documents, and in compliance with [Utah Code § 57-8a-218\(1\)\(a\)](#) and [Utah Code § 57-8a-218\(7\)](#).

CONCLUSION

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

1. **Architectural & Design Review:** The ARC wrongly denied Mr. Wolfe's request for a basketball standard based on neighbor complaints and noise concerns rather than the Association's written rules. This decision violated Utah law because, while the ARC can exercise some discretion, it must enforce rules uniformly and cannot prohibit reasonable activity when Mr. Wolfe is otherwise complying with local noise ordinances. Consequently, Mr. Wolfe must be allowed to continue the approval process based solely on the objective standards set forth in the Governing Documents.


Erin Rider (Mar 20, 2026 10:44:03 MDT)
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/>.