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Office of the Homeowners'  
Association Ombudsman  
UTAH DEPARTMENT OF COMMERCE

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## ADVISORY OPINION NO. 2026-11

<u>Applicant Name:</u>	Hyrum Kirton
<u>Association Name:</u>	Pine Hollow Property Owners Association
<u>Association Type:</u>	Community Association
<u>Governing Statutes:</u>	<a href="#">Utah Community Association Act</a> <a href="#">Utah Revised Nonprofit Corporation Act</a>
<u>Advisory Opinion Date:</u>	03/26/2026

## LEGEND OF DEFINED TERMS

<b>Association</b>	Pine Hollow Property Owners Association
<b>CC&amp;Rs</b>	Declaration of Protective Covenants, Easements, Equitable Servitudes and Liens Applying to Pine Hollow Estates, , Plat #1 & Plat #2 in Wasatch County, State of Utah, dated March 1, 1971, as subsequently amended
<b>Board</b>	Board of Directors
<b>Bylaws</b>	Amended and Restated Bylaws of Pine Hollow Property Owners Association, dated April 27, 2022, as subsequently amended
<b>Governing Documents</b>	The Declaration (CC&Rs), Bylaws, and Rules/Policies of the Association
<b>Mr. Kirton</b>	Hyrum Kirton
<b>Office</b>	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. Kirton and the Association regarding the equitable allocation of costs for a community-wide waterline replacement project and the Association's compliance with records production requirements. Mr. Kirton, a lot owner without an existing water connection, challenges the requirement to pay a substantial connection fee—initially set at \$25,000 and later reduced—to access the new infrastructure, arguing that his payment of the same special assessments as active water users should entitle him to a connection. Conversely, the Association maintains that the connection fee is necessary to recoup past historical costs and has adjusted the fee amount during the course of the project while asserting that it has fulfilled its legal obligations to provide all required governing and financial documents to Mr. Kirton via the community website.<sup>1</sup> The material facts and timeline, as presented to the Office, are as follows:

- On March 1, 1971, the CC&Rs were signed, establishing the community and providing that the owners of each lot are entitled to one service connection to the culinary water mains for a connection fee.
- Between 2015 and 2016, the Association experienced bacteria and water pressure issues, and the Association was notified by the Utah Department of Drinking Water that the water system could be shut down if the issues were not resolved. After negotiations, a three-phase plan was agreed upon to improve the water system. To implement phase one of that plan, all lot owners paid a special assessment of approximately \$3,000 per lot to install a partial water line and individual shut-off cylinders (meter boxes). Meter boxes are only installed on lots with active water connections.
- On April 27, 2022, the Bylaws were signed, which restated rules for common charges, special assessments, and Board authority that had also been in previous versions of the Bylaws.
- Between January and March 2023, the Board met to discuss a water system upgrade estimated at nearly \$2.5 million. The Board planned a special assessment of \$3,000 per lot per year for 7 years.
- On April 26, 2023, during the annual owners meeting, a proposed waterline replacement assessment failed to pass, receiving 40 votes in favor and 11 against, falling short of the required 44 votes.
- Between January and March 2024, the Board met and decided to hold a second vote for the waterline replacement upgrade during the 2024 annual meeting.
- On April 24, 2024, during the annual owners meeting, the waterline replacement assessment passed with 46 votes in favor, 13 against, and one abstention. The assessment was set at \$2,850 per lot, per year.
- Also, during the 2024 annual owners meeting, the Board announced that engineering would be finalized for the water system upgrade, and construction would hopefully be scheduled for 2025. A proposal by a lot owner to exempt owners of multiple unbuildable lots from the special assessment failed in a straw poll, with 2 in favor and 26 against.
- On August 18, 2025, the Board selected RB Construction for the waterline project, with construction scheduled to begin after Labor Day.
- On August 20, 2025, the Board notified the community via email regarding the selection of the contractor and the project timeline.
- On August 21, 2025, Mr. Kirton replied to the Board's announcement, requesting information on lateral water line requirements and asking for a connection to be added to his lot.

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<sup>1</sup> Mr. Kirton also raised allegations related to water quality and health concerns. The Office does not opine on these allegations pursuant to [Utah Code § 13-79-104\(7\)\(a\)\(iii\)](#), as resolution of these allegations is beyond the statutory authority and scope of the Office.

- On August 25, 2025, the Association notified Mr. Kirton via email that a \$25,000 connection fee was required for lots not previously connected to the system. Mr. Kirton responded that same day, arguing the fee is unjustified because non-water users pay the same special assessments as active users.
- On October 14, 2025, Mr. Kirton emailed the Board after the contractor closed the trenching in front of his property without providing a connection.
- On October 15, 2025, the Association notified Mr. Kirton via email that the main trench was being closed on all cabins and that the meter connections would be made later. Additionally, the Association notified Mr. Kirton that the Board would be meeting to discuss lowering the new connection fee.
- On October 16, 2025, the Board emailed the community announcing a temporary reduction of the connection fee from \$25,000 to \$15,000 during construction, categorized as an \$11,000 "impact fee" and \$4,000 for materials and labor. Mr. Kirton formally requested the compliance documents required by Utah law to justify the imposition of an impact fee. The Board subsequently retracted the term "impact fee" and described it as an error.
- Between October 17 and 31, 2025, Mr. Kirton submitted multiple requests for association records, including but not limited to historical connection fee data, Board minutes, financial statements, engineering studies, and a list of lot owners.
- On October 31, 2025, the Board notified Mr. Kirton that additional time was needed to respond to his records requests.
- On November 1, 2025, the Board informed Mr. Kirton that all legally required documents were available on the HOA website.
- On December 8, 2025, Mr. Kirton filed his request for an Advisory Opinion with the Office.
- On December 17, 2025, the Board updated the community that the contractor was connecting individual cabin meter setters to the new main line.
- On December 18, 2025, the Board emailed Mr. Kirton voting tally documents for the 2024 annual meeting. Mr. Kirton replied with a list of 19 specific historical and financial documents he asserts had not been provided.
- Between December 18, 2025, and February 15, 2026, additional documents requested by Mr. Kirton were either provided directly to him or were uploaded to the Association's website and made available to all homeowners.
- On February 4, 2026, the Board met to further discuss the new connection fee and voted to lower the fee to \$2,000, with the requesting owner paying for all material and labor for the connection installation, while being supervised by a representative of the Board.
- On February 5, 2026, Mr. Kirton was informed of the change in connection fee requirements via email.
- Mr. Kirton has provided the Association with several proposals related to the water connection fees and management of water-related finances. The Board has agreed to present these proposals, as written by Mr. Kirton, to owners prior to the April 2026 annual meeting, along with the Board's opinions on those proposals. Mr. Kirton's proposed changes are scheduled to be voted on by homeowners during the 2026 annual meeting.

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 records is an association required to maintain and provide to homeowners upon request? (2) Can an association impose a fee to establish a water connection to a lot? (3) What are the requirements for imposing a special assessment?

### 1. What Records is an Association Required to Maintain and Provide to Homeowners Upon Request?

**Summary:** Under Utah law, homeowners' associations must provide members with high-level financial summaries and membership lists, though they are not required to share every detailed internal document. Associations generally need only provide records from the last three years and must fulfill valid requests within 2 weeks of receiving them. In this case, Mr. Kirton requested a wide variety of specific records regarding water costs and invoices, but the Association argued it had already provided all legally required documents. Because most of the requested items were either too detailed or too old to fall within the disclosure requirements, the Association is not required to produce them. The only record Mr. Kirton asked for that the Association is legally obligated to provide is the current membership list. Consequently, the Association has violated the law only if it failed to share that specific membership list with Mr. Kirton.

**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, including during the period of administrative control:

**HOA/ASSOCIATION RECORD-KEEPING ESSENTIALS**

FOUNDATIONAL DOCUMENTS	MEETING & DECISION RECORDS	FINANCIAL RECORDS	OPERATIONAL RECORDS
 Articles of Incorporation & Bylaws Governing Documents Board Resolutions (on member rights/obligations)	 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)	 Most recent Budget & Financial Statement Profit & Loss Statements and Balance Sheets (for the last 3 years) Most recent Reserve Analysis General Accounting Records	 List of current Directors & Officers Record of Members (names, addresses) Most recent Annual Report Current Certificates of Insurance

Importantly, under [Utah Code § 16-6a-1601\(2\)](#), an association is required to keep “appropriate accounting records.” However, this term is not defined within the Nonprofit Corporations Act. According to [basic financial principles](#), accounting records are the primary financial summary reports that provide an overview of an organization's economic health, including balance sheets, income statements, and cash flow

statements. While homeowners may seek other information related to an association's finances, and its board is welcome to provide such information if it chooses, Utah law does not require disclosure of anything beyond these summary, high-level documents to homeowners unless the disclosure requirements of [Utah Code § 57-8a-502\(5\)\(f\)\(ii\)](#) are implicated by the requested documents or information. 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.

As part of the homeowner's request, under [Utah Code § 57-8a-227\(3\)\(b\)\(i\)](#), they may elect either to inspect or copy the documents. If a homeowner requests copies of the documents, they may elect to have those copies produced either as hard copies or electronic scans per [Utah Code § 57-8a-227\(3\)\(b\)\(ii\)](#). Under [Utah Code § 57-8a-227\(3\)\(b\)\(iii\)\(D\)](#), a homeowner may elect for the association to email the requested documents to the email address provided in the request. Once a homeowner has made a valid request for records under [Utah Code § 57-8a-227\(1\)](#) and [Utah Code § 16-6a-1601](#), an association is required to fulfill that request and provide the documents and records within two weeks after the day the request is received under [Utah Code § 57-8a-227\(4\)\(a\)](#). When an association produces copies or electronic scans of requested documents, under [Utah Code § 57-8a-227\(4\)\(b\)\(ii\)](#), it may charge the requesting homeowner "the reasonable cost of the copies and for time spent meeting with the lot owner." However, these costs "may not exceed the actual cost that the association paid to a recognized third party duplicating service to make the copies or electronic scans or 10 cents per page and \$20 per hour for the employee's, manager's, or other agent's time." If the request is for electronic transmission of the documents, however, under [Utah Code § 57-8a-227\(4\)\(b\)\(iii\)](#), an association may not charge the homeowner for any costs associated with fulfilling the request. [Utah Code § 57-8a-227\(5\)](#) provides penalties against an association that fails to comply with the production requirements, including payment of the reasonable costs of inspecting and copying the requested documents, \$25 per day paid to the requesting homeowner, and reasonable attorney fees incurred by the homeowner in obtaining the requested documents.

**Application to Matter:** In this matter, Mr. Kirton requested a variety of financial, historical, and water records associated with the Association. In particular, Mr. Kirton's record request sought:

- "Invoices for costs over \$25,000;
- Reserve Approval and intent of the board for the reserve assessment;
- Assessment documentation;
- Financial statements prior to 2021;
- List of lot owners with current contact info;
- List of lots with water or without water for dues;
- Collection attempts and correspondence;
- Threatened or actual legal claims against the HOA;
- Past costs or special assessments associated with the water system and who paid for what;
- The special assessment language that was passed to support the current assessed special assessment of \$2,950 dollars per year;
- What the CUWCD shares are on our financial statements;
- A copy of the lower water line special assessment and meter box assessments; and
- What is currently expected of a new water user to pay to connect, and why, and what is to be done by the lot owner."

Mr. Kirton argues that these records are necessary for fully evaluating the connection fee and other costs associated with connecting a homeowner's property to the Association's water system. The Association argues that it has made all documents required under Utah law available on its website and that many of the requested documents fall outside the documents it is obligated to provide.

As outlined above, the Association is not required to provide Mr. Kirton with every conceivable document that he requests. These limitations include time limits for documents, as well as limitations on records and documents that provide only high-level overviews of the Association's financial records. Based on the above list of requested records Mr. Kirton submitted to the Association, most of them are not required to be disclosed by the Association. Additionally, documents more than 3 years old, including meeting minutes and summary financial documents, are not required to be provided by the Association. Accordingly, of the documents Mr. Kirton argues were not provided to him, the only record the Association is required to produce is the Association's membership list. Therefore, to the extent the Association has not provided this record to Mr. Kirton, it has violated Utah law.

## 2. [Can an Association Impose a Fee to Establish a Water Connection to a Lot?](#)

**Summary:** Under Utah law, homeowners must pay their share of costs and fees as set by an association's board based on its governing documents. While Mr. Kirton argues that the water connection fee is too high, the Association's CC&Rs specifically allow the Board to set and collect these charges. Since Utah law does not require these fees to be based on exact costs, the Board has the authority to decide the amount it deems necessary. As a result, the Association did not violate the law by charging Mr. Kirton the connection fee.

**General Legal Principle:** [Utah Code § 57-8a-201\(1\)](#) states that “an owner shall pay the owner's proportionate share of the common expenses and any other assessments levied by the association.” [Utah Code § 57-8a-201\(2\)](#) provides that “an [assessment] shall be in the amount and at the time determined by the board of directors in accordance with the terms of the declaration or bylaws.” Under [Utah Code § 57-8a-102\(1\)](#), an assessment is “a charge imposed or levied by the association on or against a lot or lot owner and in accordance with a governing document recorded with the county recorder.” Accordingly, an association's board determines the assessment amounts, including charges beyond annual and special assessments, and the payment schedules for those assessments, in accordance with the requirements contained in its governing documents.

**Application to Matter:** Mr. Kirton argues that the connection fee imposed by the Association for his home to be connected to the Association's water system is excessive and used as a punitive measure against new owners seeking to build and connect their property to the system. The Association argues that the connection fee is authorized in the Governing Documents, and that the payment is used for the water system and to recoup costs previously incurred by water users that were not then passed on to the non-water users within the Association. Paragraph E of the CC&Rs provides that “the owner of each lot shall be entitled to one service connection to [the Association's] water mains for a connection fee and to continuing supplies of water for periodic or annual charges.” Under the plain language of the CC&Rs, the Association may charge a connection fee to each homeowner who wishes to exercise their entitlement to a service connection, at an amount determined by the Board. While this connection fee should arguably be based on the costs incurred and future expenses associated with connecting the additional home to the

water system, there is no requirement under Utah law that it be so. Accordingly, the Association did not violate Utah law by charging Mr. Kirton the connection fee in an amount it deemed prudent.<sup>2</sup>

### 3. [What are the Requirements for Imposing a Special Assessment?](#)

**Summary:** Under Utah law and an association’s rules, all homeowners must pay their fair share of common expenses and assessments as determined by the board and governing documents. Although Mr. Kirton argued he should not have to pay for a waterline project that does not connect to every home, the Bylaws specifically allow the Association to charge all owners for repairs to shared resources based on their ownership interest. Because this assessment was for a common element and was properly approved by a homeowner vote, it is legally valid and binding on all members. Therefore, the Association acted within its authority, and all homeowners are required to pay the assessment regardless of whether their homes use the water system.

**General Legal Principle:** [Utah Code § 57-8a-201\(1\)](#) states that “an owner shall pay the owner’s proportionate share of the common expenses and any other assessments levied by the association.” [Utah Code § 57-8a-201\(2\)](#) provides that “an [assessment] shall be in the amount and at the time determined by the board of directors in accordance with the terms of the declaration or bylaws.” Under [Utah Code § 57-8a-102\(1\)](#), an assessment is “a charge imposed or levied by the association on or against a lot or lot owner and in accordance with a governing document recorded with the county recorder.” Accordingly, an association’s board determines the assessment amounts and payment schedules in accordance with the requirements contained in its governing documents.

**Application to Matter:** In this matter, Mr. Kirton challenges the validity and enforceability of the Association's special assessment imposed on all homeowners related to the waterline project. Specifically, Mr. Kirton argues that homeowners should not be required to bear an equal share of the special assessment, since not every home is connected to the water system. The Association contends that because the proposed special assessment was presented to and approved by homeowners at the annual member meeting, it is valid and binding on all homeowners. Article VII, Section 1(C) of the Bylaws provides that “the Board shall have the right to levy Special Assessment to meet the Common Expenses. All Special Assessments relative to the Common Elements shall be levied against all Lot Owners in proportion to their respective ownership.” Accordingly, the Association has the authority to impose special assessments on homeowners, and all homeowners are equally obligated to pay them based upon their ownership interests in the Association. Further, the special assessment at issue is for the express purpose of upgrading and repairing the Association’s water system, and was voted on and approved by the homeowners at the annual owners meeting. Therefore, the special assessment is valid and binding, and the Association did not violate Utah law in requiring all homeowners to pay it.

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<sup>2</sup> It should be noted that while the initial connection fee amount given to Mr. Kirton was \$25,000, it appears that amount is now considerably lower at \$2,000, with the homeowner also being responsible for the materials and labor to complete the connection. Notwithstanding the change in fee amount, however, the legal principles above still apply.

## CONCLUSION

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

1. **Records:** Mr. Kirton requested a wide variety of specific records regarding water costs and invoices, but the Association argued it had already provided all legally required documents. Because most of the requested items were either too detailed or too old to fall within the disclosure requirements, the Association is not required to produce them. The only record Mr. Kirton asked for that the Association is legally obligated to provide is the current membership list. Consequently, the Association has violated the law only if it failed to share that specific membership list with Mr. Kirton.
2. **Water Connection Fees:** While Mr. Kirton argued that a water connection fee was too high, the Association's CC&Rs specifically allow the Board to set and collect these charges. Since Utah law does not require these fees to be based on exact costs, the Board has the authority to decide the amount it deems necessary. As a result, the Association did not violate the law by charging Mr. Kirton the connection fee.
3. **Special Assessments:** Although Mr. Kirton argued he should not have to pay for a waterline project that does not connect to every home, the Bylaws specifically allow the Association to charge all owners for repairs to shared resources based on their ownership interest. Because this assessment was for a common element and was properly approved by a homeowner vote, it is legally valid and binding on all members. Therefore, the Association acted within its authority, and all homeowners are required to pay the assessment regardless of whether their homes use the water system.



Erin Rider (Mar 26, 2026 10:32:40 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/>.