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Office of the Homeowners'  
Association Ombudsman  
UTAH DEPARTMENT OF COMMERCE

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Division Director

## ADVISORY OPINION NO. 2026-14

<u>Applicant Name:</u>	Pamela Ratz
<u>Association Name:</u>	SunRiver St. George Community 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>	

## LEGEND OF DEFINED TERMS

<b>Association</b>	SunRiver St. George Community Association
<b>CC&amp;Rs</b>	2021 Amended and Restated Declaration of Covenants, Conditions, and Restrictions for SunRiver St. George Community Association, dated December 18, 2021, as subsequently amended
<b>Board</b>	Board of Trustees
<b>Bylaws</b>	2021 Amended and Restated Bylaws of SunRiver St. George Community Association, Inc., dated December 18, 2021, as subsequently amended
<b>Governing Documents</b>	The Declaration (CC&Rs), Bylaws, and Rules/Policies of the Association
<b>Ms. Ratz</b>	Pamela Ratz
<b>Office</b>	Office of the Homeowners' Association Ombudsman
<b>Petition</b>	November 2025 Homeowner Petition
<b>Special Meeting</b>	February 12, 2026, Recall Vote Meeting

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. Ratz and the Association regarding the procedural validity of a homeowner petition seeking Ms. Ratz's removal from the Board. Ms. Ratz maintains that the petition is legally deficient because the signatures lack dates required to verify owner eligibility and asserts that the Board's vote to accept the petition was compromised by conflicts of interest among participating members. The Association, following a majority vote by its Board, maintains that the petition is valid and has proceeded with the formal process of calling and holding a special meeting of the owners to vote on the removal. The dispute centers on the interpretation of Utah law and the Bylaws concerning petition requirements, Board member recusal protocols, and the legal standards for proxy solicitation and voting. The material facts and timeline, as presented to the Office, are as follows:

- On August 28, 2025, a homeowner submitted the Petition to the Board during its Board meeting. The Petition had over 231 signatures. Ms. Ratz argued that the Petition could not be properly validated because the vast majority of the signatures lacked dates.
- On January 13, 2026, a legal opinion letter was provided to Ms. Ratz by her attorney, concluding that the Petition was deficient and statutorily vulnerable because the lack of dates prevented the verification of owner eligibility.
- On January 15, 2026, the Board held a meeting to determine whether to call a special owners' meeting based on the Petition.
- During the January 15 meeting, Ms. Ratz formally objected to the validity of the undated signatures on the Petition.
- The Board voted 4-3 to accept the Petition as valid and proceed with calling the Special Meeting.
- Four of the Board members who voted to validate the Petition had personally signed or had family members sign for their respective lots.
- On January 23, 2026, the Association's management company distributed a "Special Owners Meeting Notice" to the community to vote on the removal of Ms. Ratz.
- On February 2, 2026, Ms. Ratz submitted her request for an Advisory Opinion to the Office.
- On February 12, 2026, the Association held the Special 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) Was the petition for the special meeting legally valid? (2) What are the requirements and obligations related to conflicts of interest? (3) What are the requirements for proxy voting?

### 1. Was the Petition for the Special Meeting Legally Valid?

**Summary:** Under Utah law, a homeowners' association's own governing documents can override statutory defaults regarding special meetings because the relevant statutes include language authorizing deviation from those requirements. If the governing documents provide a specific process for members to request a meeting, those rules must be followed instead of the state's default requirements. While some specific details, such as record dates, are strictly set by statute, the association has the power to create its own procedures for signatures and voting eligibility. In this case, the Association's Bylaws did not require signatures to be dated, so the undated signatures on the Petition were legally valid. Because the Association followed its Governing Documents in calling the special meeting, the Petition and resulting special meeting were lawful.

**General Legal Principle:** In order to answer the question presented to the Office, there are three sub-questions and legal principles that must be answered: (A) What are the requirements for creating a valid petition for a special meeting? (B) Who is entitled to sign such a petition? (C) Who is entitled to vote at the meeting once it has been called?

#### A. What Are the Requirements for Creating a Valid Petition for a Special Meeting?

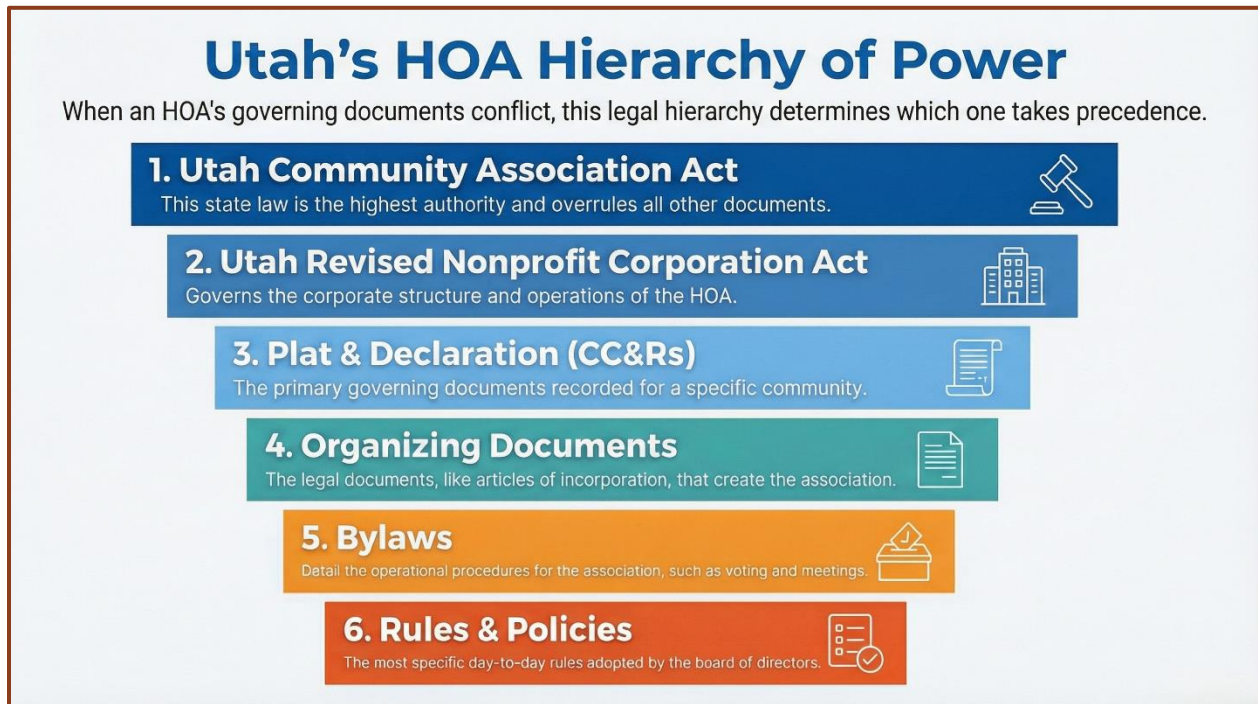
Within the [Community Association Act](#) and the [Revised Nonprofit Corporation Act](#), there are multiple sections that include language such as, but not limited to, “unless stated otherwise in the bylaws” or “except as otherwise provided in the declaration.” The question presented is whether this language requires that the relevant governing document include a modification of each provision of a specific statute in order to modify the statutory default, or whether any language in the governing documents related to the subject of that section or subsection preempts the statutory default, even if not every element is included. As relevant to the present matter, [Utah Code § 16-6a-702\(1\)](#) states that:

- (1) a nonprofit corporation shall hold a special meeting of its members:
  - a. on call of:
    - i. its board of directors; or
    - ii. the person or persons authorized by the bylaws or resolution of the board to call a special meeting; or
  - b. **unless otherwise provided in the bylaws**, if the nonprofit corporation receives one or more written demands for the meeting that:
    - i. state the purpose or purposes for which the meeting is to be held; and
    - ii. are signed and dated by members holding at least 10% of all the votes entitled pursuant to the bylaws to be cast on any issue proposed to be considered at the meeting.

(emphasis added)

Community associations in Utah are subject to multiple sections within the Utah code, as well as the association's governing documents (the declaration, bylaws, rules, policies, guidelines, and resolutions).

[Utah Code § 57-8a-228\(5\)](#) outlines the hierarchy of these laws and documents, including which controls over the others in the event of a conflict, as follows:



A conflict requires that one set of regulations directly “permits or licenses that which” another set “forbids and prohibits, and vice versa.” *Barker v. Labor Comm’n*, 2023 UT App 31, ¶ 11; *see also Reedeker v. Salisbury*, 952 P.2d 577, 587 (discussing that other statutes or rules can apply when the higher-level documents are silent).

In determining how to apply the “unless otherwise provided in the bylaws” clause of [Utah Code § 16-6a-702\(1\)\(b\)](#), the structure of the provision is essential. [Subsection 702\(1\)\(b\)](#) begins with “unless otherwise provided in the bylaws,” and then proceeds to outline the default requirements for calling a special meeting. The manner in which this subsection as a whole should be read, therefore, is that all default requirements contained in [Utah Code § 16-6a-702\(1\)\(b\)](#) are there in the event the bylaws are silent on the requirements for calling a special meeting as a whole. If the bylaws contain a different method, percentage requirement, or system for homeowners to call a special meeting, they will control and supersede the entirety of [Utah Code § 16-6a-702\(1\)\(b\)](#). The fact that an association’s bylaws may not have one of the default requirements does not necessarily mean that the bylaws are invalid or that portions of the statutory language should be imputed into the bylaws’ requirements. Accordingly, the Office finds that when there is any language in the governing documents related to the method and requirements for homeowners to call a special meeting, that language preempts the statutory default found in [Utah Code § 16-6a-702\(1\)\(b\)](#), even if not every element of the default language is included.

B. *Who is Entitled to Sign Such a Petition?*

[Utah Code § 16-6a-702\(1\)](#), however, is not the only requirement for calling a special meeting. [Utah Code § 16-6a-702\(2\)](#) also requires an association’s board to set a record or fixed date, which determines which members are entitled to demand a special meeting, including who is entitled to sign a petition such as the one at issue in this matter. This record date “is the later of (1) the earliest of any of the demands

pursuant to which the meeting is called or (2) the date that is 60 days before the date of the first of the demands is received by the [association].” Importantly, the record date requirements contained in [Utah Code § 16-6a-702\(2\)](#) are not subject to modification by an association’s bylaws, so any discrepancy or conflict contained within an association’s governing documents related to the record date for determining which owners are entitled to demand a special meeting would be invalid under [Utah Code § 57-8a-228\(5\)](#).

C. *Who is Entitled to Vote at the Meeting Once it Has Been Called?*

In addition to, and separate from setting a record date to determine which members are eligible to **demand** a special meeting under [Utah Code § 16-6a-702\(2\)](#), an association must also set a separate record date to determine which members are eligible to **vote** during that special meeting under [Utah Code § 16-6a-706](#). [Utah Code § 16-6a-706\(2\)](#) provides that “the bylaws may fix or provide the manner of fixing a date as the record date for determining the members entitled to vote at a members’ meeting.” If an association’s bylaws do not provide a method for determining the date, then the statutory defaults of [Utah Code § 16-6a-706\(2\)\(b\)-\(c\)](#) would apply. [Utah Code § 16-6a-706\(2\)\(b\)](#) states that “if the bylaws do not fix or provide for fixing a record date...the board may fix a future date as the record date.” [Utah Code § 16-6a-706\(2\)\(c\)](#) further clarifies that if the bylaws and the board have not fixed the record date for determining voting eligibility, then “members entitled to vote at the meeting are the members of the nonprofit corporation on the date of the meeting and who are otherwise eligible to vote.” Similar to [Utah Code § 16-6a-702\(1\)\(b\)](#), therefore, if an association’s governing documents contain any guidance or requirements related to fixing the record date for voting, the statutory defaults are disregarded.

**Application to Matter:** In this matter, Ms. Ratz argues that the Petition is invalid because many of the signatures were undated. Ms. Ratz contends that, because the Bylaws are silent on the date requirement, the Association must impute that requirement from Utah law into the Bylaws. Ms. Ratz argues that, without the signatures being dated, there is no way for the Board to verify an individual homeowner was eligible to sign the Petition or vote at any resulting special meeting. The Association argues that, because the Bylaws contain specific procedures and requirements for homeowners to call a special meeting, those requirements control, and the statutory language becomes inapplicable in this situation. The Association also argues that signature verification and the determination of voting rights were conducted in accordance with the Bylaws-established record date.

Section 3.2 of the Bylaws states in relevant part that:

Special meetings may be called by a majority of the Board of Trustees, the President, or upon the written request of owners holding not less than ten percent (10%) of the voting interests of the Association. Any written request for a special meeting presented by the owners shall be delivered to the President and shall include the original signature of each owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures.

Neither party disputes that the Petition complied with the requirements for calling a special meeting as outlined in the Bylaws. The sole contention from Ms. Ratz is that, because there is no date requirement contained in the Bylaws, the statutory requirement that signatures be dated must be imputed into the requirements. Ms. Ratz contends that this is required not only under [Utah Code § 57-8a-228\(5\)](#) due to the alleged conflict of authority, but also because there is no way for the Board to determine the record date, who is entitled to demand the special meeting, or who is entitled to vote at that meeting.

A. *Homeowners and the Association are Entitled to Rely Solely on Section 3.2 of the Bylaws*

As discussed above, [Utah Code § 16-6a-702\(1\)\(b\)](#) grants the Association the power to adopt procedures and requirements as it sees fit, and the statutory defaults only become binding if the Association has elected not to adopt its own procedures. Because the Association has a method for members to demand a special meeting in Section 3.2 of the Bylaws, the defaults in [Utah Code § 16-6a-702\(1\)\(b\)](#) do not apply to the Association. Therefore, homeowners did not violate Utah law by relying on the requirements of Section 3.2 when gathering signatures for the Petition, and the Association did not violate Utah law by relying on those requirements in validating the Petition.

B. *Utah Law Provides a Method for Determining Record Date Without Dated Signatures*

Having determined that the Association complied with the general requirements for members to call a special meeting under Section 3.2 of the Bylaws, the Office must also assess Ms. Ratz's concerns regarding the record date for determining who is entitled to sign the Petition and to demand the special meeting. Because [Utah Code § 16-6a-702\(2\)](#) does not provide the Association the discretion to modify the record date for determining eligibility to demand a special meeting, the record date is determined by statute. [Utah Code § 16-6a-702\(2\)](#) provides that the record date for eligibility is the later of either (1) the earliest of any of the demands, or (2) 60 days before the date the first of the demands is received by the Association. In this instance, the homeowners' demand for a special meeting was delivered when the Petition received the required number of signatures and was sent to the Association. Therefore, whether the individual signatures are dated or not, Utah law provides a clear procedure for determining the record date for eligibility, divorced from the dates of the individual signatures, because it is based on when the demands are received by the Association. Under [Utah Code § 16-6a-702\(2\)](#), the record date for determining who is eligible to sign the Petition is the date the Petition was presented to the Association, as that date is "the earliest of any of the demands pursuant to which the meeting is called." Once the record date is set, the Board is required to use that date to verify which signatories owned property as of that date and were therefore eligible to sign the Petition. In this case, the signatures in the Petition were those of homeowners, which the Board stated it verified upon receiving the Petition before certifying and scheduling the Special Meeting. Therefore, the Association complied with Utah law in determining the record date for eligibility to sign the Petition.

C. *The Association's Bylaws Provide Establishment of the Voting Eligibility Record Date*

Finally, a separate and distinct record date must be established to determine who is eligible to receive notice of and to vote at the special meeting. While the record date discussed in Subsection B above identifies those eligible to demand a special meeting (in this instance, by signing the Petition), the record date at issue here identifies those eligible to receive notice of and to vote at the resulting meeting. While these dates may include the same individuals, depending on various intervening factors (e.g., moving in or out of the community, failing to pay assessments, etc.), some individuals may meet the eligibility requirements for one record date but not the other. [Utah Code § 16-6a-706\(1\)\(a\)](#) states that "the bylaws may fix or provide the manner of fixing a date as the record date for determining the members entitled to notice of a members' meeting," and [Utah Code § 16-6a-706\(2\)\(a\)](#) states that "the bylaws may fix or provide the manner of fixing a date as the record date for determining the members entitled to vote at a members' meeting." While both provisions contain statutory defaults that would take effect if the Governing Documents are silent on either issue, those do not apply to the Association as the Governing Documents contain clear requirements for determining both the record date and eligibility for notice and voting.

Section 3.6 of the Bylaws states, in relevant part, that:

For the purpose of determining owners entitled to notice of or to vote at any meeting of the owners, or any adjournment thereof, the Board may designate a record date, which shall be no more than sixty (60) and no less than ten (10) days prior to the meeting. If no record date is designated, the date on which notice of the meeting is sent shall be deemed to be the record date for determining owners entitled to notice of or to vote at the meeting. The persons or entities appearing in the records of the Association on such record date as the owners of record of lots in the Association shall be deemed to be the owners of record entitled to notice of and to vote at the meeting of the members and any adjournments thereof.

Additionally, Section 5.3 of the CC&Rs states that “the Association shall have all other rights and remedies available by applicable law, including the right to assess fines, restrict use of the amenities and suspend voting interest for any period during which any assessment against an owner’s lot remains unpaid.” Under both Section 3.6 of the Bylaws and Section 5.3 of the CC&Rs, the Board may set a record date for determining eligibility for notice and voting related to the special meeting. Once the Board establishes the record date pursuant to Section 3.6 of the Bylaws, that date is used to verify the voting rights of all members in accordance with Section 5.3 of the CC&Rs. Even if the Board does not establish a record date, Section 3.6 of the Bylaws makes it clear that the record date is the date the notice of the Special Meeting was sent to homeowners. In addition to the Board validating the signatures on the Petition to determine whether the threshold for calling the Special Meeting had been met, the Board subsequently stated that only homeowners who met the eligibility requirements had their votes counted during the Special Meeting. Therefore, the Board and Association complied with the record date and eligibility requirements under Utah law and the Governing Documents.

Ultimately, the Association complied with Utah law throughout the special meeting process. First, the Association’s Bylaws contain procedures for homeowners to demand a special meeting, which override the statutory defaults contained in [Utah Code § 16-6a-702\(1\)\(b\)](#), including the requirement that all signatures be dated. Next, the establishment of a record date for determining homeowners eligible to sign the Petition is outlined in [Utah Code § 16-6a-702\(2\)](#), which the Association stated that it followed by verifying signatures upon receipt of the Petition. Finally, both the Bylaws and CC&Rs contain provisions on determining the record date and eligibility for homeowner notice and voting at the special meeting, which the Association stated that it followed. Because [Utah Code § 16-6a-706\(1\)-\(2\)](#) grants the Association authority to establish these requirements through its Governing Documents, the statutory defaults are inapplicable. Therefore, the Association has not violated Utah law, and the special meeting was lawfully demanded, verified, and called.

## 2. [What are the Requirements and Obligations Related to Conflicts of Interest?](#)

**Summary:** Under Utah law, association board members must act in good faith and in the best interests of the association, while specific rules prevent them from entering into "conflicting interest transactions" like private contracts or financial deals without proper disclosure. In this case, Board members who signed and then validated the Petition did not violate Utah law regarding conflicts of interest because validating the Petition is an official duty rather than a financial contract or business deal. Even if a conflict were possible, the action was legally fair because the Petition would have received enough support to move forward even without the Board members' signatures. Therefore, the Board acted within its legal authority and did not engage in any prohibited conduct or violate Utah law.

**General Legal Principle:** [Utah Code § 16-6a-822\(2\)](#) requires board members to “discharge the director or officer’s duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the director or officer reasonably believes to be in the best interests of the nonprofit corporation.” [Utah Code § 16-6a-825](#) addresses conflicting transactions within a nonprofit corporation, including an association. [Utah Code § 16-6a-825\(1\)](#) defines a conflicting interest transaction as “a contract, transaction, or other financial relationship between a nonprofit corporation and (1) a director of the nonprofit corporation, (2) a party related to a director, or (3) an entity in which a director of the nonprofit corporation is a director or officer or has a financial interest.” While conflicting interest transactions may generally be invalidated, [Utah Code § 16-6a-825\(4\)](#) provides exceptions to this general principle. Specifically, [Utah Code § 16-6a-825\(4\)](#) states:

- (a) If the conditions of [Subsection \(4\)\(b\)](#) are met, a conflicting interest transaction may not be void or voidable or be enjoined, set aside, or give rise to an award of damages or other sanctions in a proceeding by a member or by or in the right of the nonprofit corporation, solely because:
  - (i) the conflicting interest transaction involves:
    - (A) a director of the nonprofit corporation;
    - (B) a party related to a director; or
    - (C) an entity in which a director of the nonprofit corporation is a director or officer or has a financial interest;
  - (ii) the director is present at or participates in the meeting of the nonprofit corporation's board of directors or of the committee of the board of directors that authorizes, approves, or ratifies the conflicting interest transaction; or
  - (iii) the director's vote is counted for the purpose described in [Subsection \(4\)\(a\)\(ii\)](#).
- (b) [Subsection \(4\)\(a\)](#) applies if:
  - (i)
    - (A) the material facts as to the director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the board of directors or the committee; and
    - (B) the board of directors or committee in good faith authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors are less than a quorum;
  - (ii)
    - (A) the material facts as to the director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the members entitled to vote on the conflicting interest transaction; and
    - (B) the conflicting interest transaction is specifically authorized, approved, or ratified in good faith by a vote of the members entitled to vote thereon;
  - (iii) the conflicting interest transaction is consistent with a provision in the articles of incorporation or bylaws which:
    - (A) commits the nonprofit corporation to support one or more other nonprofit corporations, charitable trusts, or charitable entities; or
    - (B) authorizes one or more directors to exercise discretion in making gifts or contributions to one or more other nonprofit corporations, charitable trusts, or charitable entities; or
  - (iv) the conflicting interest transaction is fair as to the nonprofit corporation.

Therefore, if the conditions of [Subsection \(4\)](#) have been met, the transaction may not be invalidated and will be binding on the association. The process for addressing and resolving conflicting interest transactions within an association is further outlined below.

The infographic is titled "Conflicting Interest Transactions" and includes the subtitle "Can the Deal Still Go Through?". It references "Utah Code 16-6a-825". A warning icon with a red 'X' and the text "NO LOANS Personal liability if violated." is present. The main question is "How Can a Conflicting Deal Still Be Approved?" with the instruction "Follow any ONE of these paths:". Four paths are listed: 1. DISCLOSE: Share all the facts with the board. Then let the uninvolved directors vote to approve. 2. MEMBER VOTE: Share all the facts with voting members. Let them approve the deal directly. 3. FAIR DEAL: The deal is completely fair to the nonprofit — no special advantage taken. 4. CHARITY RULE: The deal follows our bylaws for supporting other charities. A central "OR" icon connects the paths. A bottom banner states: "When in doubt: DISCLOSE FIRST – then let others decide." Icons for "A Director", "Their Family", and "Their Company" are shown in the top left.

**Application to Matter:** Ms. Ratz argues that it was a conflict of interest for Board members to vote on the validity of the Petition and the Special Meeting because they, or someone in their household, had signed the Petition. Importantly, however, Board members validating the Petition they signed does not constitute a conflicting interest transaction as defined in [Utah Code § 16-6a-825\(1\)](#), because the validation of the Petition does not involve a contract, transaction, or other financial relationship; rather it is an act taken in the Board member's official capacity to represent the interests of the Association as a whole and comply with their duties under the Governing Documents. Therefore, the requirements of [Utah Code § 16-6a-825](#) do not apply to this situation, and the only obligations imposed on the Board members are those found in [Utah Code § 16-6a-822\(2\)](#).

There is nothing in Utah law that states that, when a homeowner becomes a Board member, they forfeit their homeowner rights, including the right to sign the Petition, vote at the Special Meeting, or engage in other activities provided to homeowners under Utah law and the Governing Documents. Additionally, even if the requirements of [Utah Code § 16-6a-825](#) did apply, the threshold requirement for proceeding with the Special Meeting far exceeded the number of Board members who signed the Petition, so even if their signatures were removed, based on the Association's statements to the Office, the Special Meeting would still have occurred, which means the decision to allow the Board members to validate the Petition can reasonably be seen fair under [Utah Code § 16-6a-825\(4\)\(b\)\(iv\)](#) and within the Board's discretion to advance the best interests of the Association under [Utah Code § 16-6a-822\(2\)\(c\)](#). Accordingly, the Association did not violate Utah law, and the Board members did not engage in conduct prohibited by a conflict of interest.

### 3. [What are the Requirements for Proxy Voting?](#)

**Summary:** Utah law and association bylaws allow members to vote by proxy, but any removal of a director must occur at a specific meeting where the meeting notice clearly states the purpose of the meeting. While the first proxy form used in this case was valid because it correctly identified the vote to remove Ms. Ratz, the second form failed to specify that purpose. Because this second form was a holdover from a previous year and did not follow Bylaw requirements for specificity, any proxies submitted using that form would be invalid.

**General Legal Principle:** [Utah Code § 16-6a-712\(1\)](#) states that “unless otherwise provided by the bylaws, a member entitled to vote may vote or otherwise act in person or by proxy.” [Utah Code § 16-6a-712\(2\)](#) states that “a member may appoint a proxy by signing an appointment form, either personally or by the member’s attorney-in-fact.” [Utah Code § 16-6a-808](#) outlines the requirements and procedures for removing association board members and directors. In full, [Utah Code § 16-6a-808\(1\)](#) states that:

- (1) Directors elected by voting members or directors may be removed as provided in Subsections (1)(a) through (f).
  - (a) The voting members may remove one or more directors elected by them with or without cause unless the bylaws provide that directors may be removed only for cause.
  - (b) If a director is elected by a voting group, only that voting group may participate in the vote to remove that director.
  - (c) Unless otherwise provided in the bylaws, a director may be removed:
    - (i) when the director is elected by the voting members, only if a majority of the voting members votes to remove the director; or
    - (ii) when the director is elected by a voting group, only if a majority of the voting group votes to remove the director.
  - (d) A director elected by voting members may be removed by the voting members only:
    - (i) at a meeting called for the purpose of removing that director; and
    - (ii) if the meeting notice states that the purpose, or one of the purposes, of the meeting is removal of the director.
  - (e) An entire board of directors may be removed under Subsections (1)(a) through (d).
  - (f)
    - (i) Except as provided in Subsection (1)(f)(ii), a director elected by the board of directors may be removed with or without cause by the vote of a majority of the directors then in office or such greater number as is set forth in the bylaws.
    - (ii) A director elected by the board of directors to fill the vacancy of a director elected by the voting members may be removed without cause by the voting members but not the board of directors.
  - (g) A director who is removed pursuant to this section may deliver to the division for filing a statement to that effect pursuant to [Section 16-6a-1608](#).

When an association seeks to remove a board member pursuant to its governing documents and [Utah Code § 16-6a-808](#), it must occur at a meeting called for that purpose, and the notice for such meeting must state that the purpose, or one of the purposes, of the meeting is to vote on the removal of a board member.

**Application to Matter:** In this matter, Ms. Ratz raises concerns regarding the fairness of proxies associated with the Special Election. Specifically, Ms. Ratz argues that, at least from the outset, the proxy

form was biased because it allegedly authorized only a vote in favor of removal. After homeowners raised concerns about the proxy form, a different form was provided. The Association argues that two proxy forms were used throughout the Special Meeting process, neither of which included any biased information, while a third form was distributed by a homeowner and never used by the Board for voting at the Special Meeting. Section 3.8 of the Bylaws states, similar to [Utah Code § 16-6a-712](#) above, that “at each meeting of the owners, each owner entitled to vote shall be entitled to vote in person or by proxy provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the owner or by the owner’s attorney when duly authorized in writing.” Section 3.8 of the Bylaws further provides that “such instrument authorizing a proxy to act shall be dated, signed by at least one (1) Owner, set forth the specific matters or issues upon which the proxy is authorized to act, and may allow the proxy to vote on any issue arising at any particular meeting or meetings.”

In her request, Ms. Ratz provided a copy of the first proxy form (shown below) for the Special Meeting to the Office. This form contains standard language, confirming that the proxy is valid for purposes of the Special Meeting, including the vote to be taken, and conveying a homeowner’s voting interest to another individual. This is the information required under Section 3.8 of the Bylaws, which states the purpose of the meeting and proxy: voting to remove Ms. Ratz as a Board member.

**SUNRIVER ST GEORGE COMMUNITY HOMEOWNERS ASSOCIATION, INC.**  
**SPECIAL MEETING PROXY – REMOVAL VOTE of Pam Ratz**

Owner of Record Name: \_\_\_\_\_

Property Address & Lot #: \_\_\_\_\_

\_\_\_\_\_

(Additional Lot #s if owned): \_\_\_\_\_

As provided in the Bylaws for SunRiver St George Community Association, Inc., I give my proxy to (check one):

\_\_\_\_\_ (Please legibly PRINT proxy holder name.)

...as my true and lawful attorney, substitute, and proxy for me and in my name, place, and stead, to attend and vote at the Special Meeting of the members of the SunRiver St George Community Association, Inc., to remove Pam Ratz and to cast my vote on the question of removal of a sitting Board/Trustee member, as fully and with the same effect as I might or could were I personally present, with full power of substitution and revocation. I hereby revoke any proxy or proxies heretofore given by me to any person or persons whatsoever for this meeting. This proxy is valid only for the special meeting to remove Pam Ratz and any adjournment(s) thereof.

It is understood that if I can attend the meeting, this proxy can be revoked, and I may vote in person.

Member Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**ATTACHMENT A – PROXY SUBMISSION INSTRUCTIONS**

While Ms. Ratz may disagree with the language included regarding the purpose of the Special Meeting on the first proxy form, there is nothing in Utah law that prohibits the Association from including information sufficient to ensure homeowners understand what the proxy is related to or what votes will be taken under the proxy voting process. In fact, the information on the first proxy form meets the requirements of Section 3.8 of the Bylaws and complies with the language of [Utah Code § 16-6a-808](#). Accordingly, the Association did not violate Utah law by including the purpose of the Special Meeting on the first proxy form.

The Association also provided a copy of the second proxy form (shown below), which was given to homeowners after concerns about bias in the first form were raised, and also used to establish proxy voting during the Special Meeting. Similar to the first form, there is nothing contained within the second form that establishes any bias. While the second form does not include specific information about the purpose of the Special Meeting, it does not prevent a homeowner from assigning general proxy rights, nor does it require a specific vote.

**SUNRIVER ST GEORGE COMMUNITY ASSOCIATION, INC.  
2024 ANNUAL MEETING PROXY**

Owner of Record Name: \_\_\_\_\_

Property Address and Lot #: \_\_\_\_\_

(ADDITIONAL LOT #S if owned) \_\_\_\_\_

As provided in the bylaws for SunRiver St George Community Association, I give my proxy to (check one):

\_\_\_\_\_ (Please legibly PRINT proxy holder name.)

SunRiver St George Community Association, Inc. Board of Trustees

For Quorum Purposes Only

as my true and lawful attorney, substitute, and proxy for me and in my name, place and stead, to vote at the 2024 annual meeting of the members, held April 11, 2024, of the SunRiver St George Community Association, St. George, Utah, and at any adjournment or adjournments thereof and/or to vote on any subsequent balloting as fully and with the same effect as I might or could were I personally present, with full power of substitution and revocation; and I hereby revoke any proxy or proxies heretofore given by me to any person or person whatsoever for the purposes referenced below. This proxy shall extend only to the aforementioned annual meeting, any adjournment or adjournments thereof.

It is understood that if I can attend the Meeting, this proxy can be revoked, and I may vote in person.

**Member Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

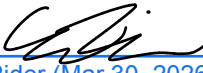
Importantly, while [Utah Code § 16-6a-712](#) does not require specific information regarding the scope of the proxy form to be included, the Association must also comply with its Governing Documents under [Utah Code § 57-8a-212.5](#). Section 3.8 of the Bylaws requires that a proxy form must include “the specific matters or issues upon which the proxy is authorized to act, and may allow the proxy to vote on any issue


arising at any particular meeting or meetings.” The second proxy form does not provide any specifics regarding the vote to remove Ms. Ratz as a Board member, nor does it authorize voting at the Special Meeting. It appears that the second proxy form is a holdover form used during the 2024 annual meeting, and that it authorizes voting during that meeting and any adjournments. Therefore, to the extent the Association relied upon and accepted the second proxy form for voting at the Special Meeting, it violated Utah law, and any votes cast with the second proxy form would be invalidated.

## CONCLUSION

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

1. **Statutory Language Omitted from Governing Documents:** The Association's Governing Documents override statutory defaults regarding special meetings because the relevant statutes include language authorizing deviation from the statutory requirements. While some specific details, such as record dates, are strictly set by statute, the Association has the power to create its own valid procedures for signatures and voting eligibility. In this case, the Association's Bylaws did not require signatures to be dated, so the undated signatures on the Petition were legally valid. Because the Association followed its own Governing Documents rather than Utah's statutory defaults, the request for a special meeting was lawful.
2. **Conflicts of Interest:** Board members who signed and then validated the Petition did not violate Utah law regarding conflicts of interest because validating the Petition is an official duty rather than a financial contract or business deal. Even if a conflict were possible, the action was legally fair because the Petition would have received enough support to move forward even without the Board members' signatures. Therefore, the Board acted within its legal authority and did not engage in any prohibited conduct or violate Utah law.
3. **Proxy Voting:** While the first proxy form used in this case was valid because it correctly identified the vote to remove Ms. Ratz, the second form failed to specify that purpose. Because this second form was a holdover from a previous year and did not follow Bylaw requirements for specificity, any proxies submitted using that form would be invalid.

  
Erin Rider (Mar 30, 2026 12:37:25 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/>.