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Office of the Homeowners' Association Ombudsman
UTAH DEPARTMENT OF COMMERCE

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ADVISORY OPINION NO. 2026-26

Applicant Name:	Lewis Katz
Association Name:	Cove Point Homes Association
Association Type:	Community Association
Governing Statutes:	Utah Community Association Act Utah Revised Nonprofit Corporation Act
Issued Date:	**07/07/2026**

LEGEND OF DEFINED TERMS

Association	Cove Point Homes Association
Board	Board of Directors
Bylaws	Bylaws of Cove Point Homes Association, dated February 2, 2021, as subsequently amended
CC&Rs	Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cove Point Homes Association, dated February 2, 2021, as subsequently amended
Governing Documents	The Declaration (CC&Rs), Bylaws, and Rules/Policies of the Association
Mr. Katz	Lewis Katz
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. Katz and the Association regarding the validity of the Association's annual budget. Mr. Katz contends that the Association failed to adopt the budget in accordance with Utah law and the Governing Documents. The Association disputes these contentions, asserting that the budget approval was lawful and in accordance with applicable law and the Governing Documents.[1] The material facts and timeline, as presented to the Office, are as follows:

- On December 1, 2025, the Board held a meeting at which the 2026 budget was reviewed. The Board noted a reallocation of excess 2025 operating fund income to the reserve fund with no corresponding increase in monthly fees. A discussion regarding electronic voting and administrative software was tabled.
- On January 11, 2026, the first notice of the annual owners meeting was sent electronically to owners. The notice included a link to an online ballot. Mr. Katz emailed the Board to object to the use of an electronic ballot.
- On January 12 and 13, 2026, Mr. Katz emailed the Association to object to the use of an electronic ballot.
- On January 20, 2026, a second meeting notice was deposited in owners' mailboxes, informing them that the online ballot had been amended to include an additional candidate. Mr. Katz sent a second email to the Board reiterating his objections.
- On January 24, 2026, at 10:00 AM, the deadline for owners to submit or change their electronic absentee ballots occurred.
- At 10:00 AM on January 24, 2026, the annual owners meeting was called to order, with attendance both in-person and virtually. At the beginning of the meeting, Mr. Katz verbally objected to the voting method. The Board accepted ballots submitted electronically prior to the meeting, as well as those submitted by members who attended in person after 10:00 AM. Nominations were taken from the floor. Katz submitted two physical votes: one representing his own vote and one representing a proxy-assigned vote. A voice vote was held on the 2026 budget, which passed. Following the meeting, Mr. Katz submitted a written record of his verbal objection for inclusion in the meeting minutes.
- On January 27, 2026, Mr. Katz submitted his request for an Advisory Opinion to the Office.

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

[1] Mr. Katz also alleges the Association violated Utah law with respect to the annual members meeting and the election of new Board members. However, the Association concedes that this process has issues and has acknowledged that new elections may be required. As such, the Office considers these issues moot and does not address them pursuant to Utah Code 13-79-104(7)(a)(iii). Additionally, while Mr. Katz contends that his preferred Board candidate was validly elected during the annual member meeting, that candidate has voluntarily resigned from the Board. Accordingly, this issue is also moot, and the Office does not address it under Utah Code 13-79-104(7)(a)(iii). Mr. Katz also argues that the Association violated the Governing Documents by placing excess 2025 funds into the reserve account. However, Utah law itself does not address the use of excess operating funds from a prior year, so the Office does not address this argument pursuant to Utah Code § 13-79-104(7)(a)(iii).

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Heber M. Wells Building • 160 East 300 South • SM Box 146701 Salt Lake City, UT, 84114-6701
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Analysis of Questions Presented & Governing Legal Principles

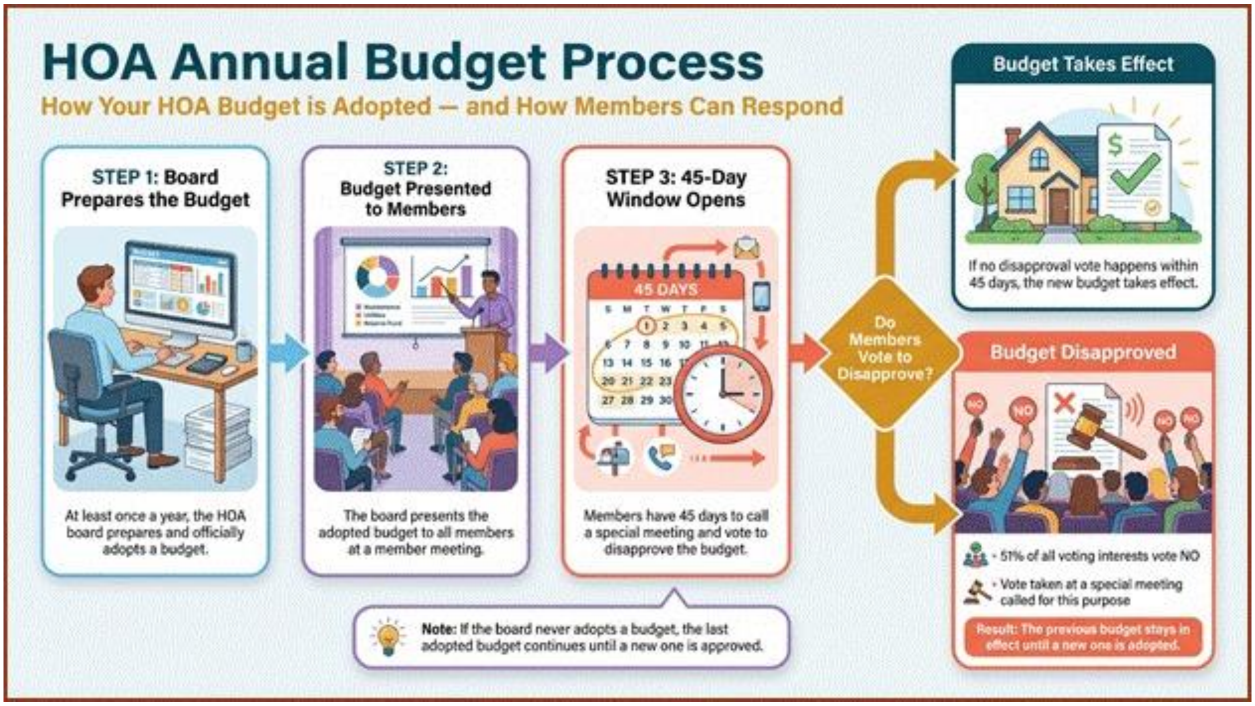
This dispute raises the following legal question for the Office: (1) What are the requirements for an association's budget?

1. What are the Requirements for an Association's Budget?

Summary: Under Utah Code § 57-8a-215, a homeowners' association's board has sole authority to prepare and adopt the annual budget. Homeowners have no right to approve a budget but do have a limited right to disapprove it within 45 days after it is presented. As such, the quorum thresholds that must be met to approve the budget are the thresholds that apply to a board vote under Utah Code § 16-6a-816(1), rather than the quorum thresholds applicable to a member vote as stated in Utah Code § 16-6a-714(1)(a). Mr. Katz argued that the Association violated the law because the 2026 budget was adopted at a member meeting at which homeowners voted online without a proper member quorum, whereas the Association argued that no homeowner quorum or approval was required for the budget to take effect. Because homeowners had no statutory right to approve or vote on the budget, the member quorum requirement did not apply, and since a majority of the board was present and voted to adopt the budget, the board satisfied its own quorum requirement, meaning the budget was validly adopted and presented in accordance with Utah law.

General Legal Principle: Under Utah Code § 57-8a-215, an association's board must prepare and adopt an annual budget. Importantly, the authority to approve and adopt the budget rests solely with the board. The statute does not give homeowners any right to approve a budget before it takes effect; a budget becomes effective upon the board's adoption. The only recourse homeowners have when they disagree with a budget is the disapproval process described below.

After the board adopts a budget, it must present it to the association's members at a members' meeting. Once the board presents the adopted budget, the members have 45 days from the date of that meeting to disapprove it. Under Utah Code § 57-8a-215(3), a budget is disapproved only if two conditions are both met within that 45-day window: (1) at least 51% of all allocated voting interests in the association vote to disapprove the budget; and (2) that vote takes place at a special meeting called for that purpose under the association's declaration, articles, or bylaws. Both conditions must be satisfied: a vote of less than 51% of all allocated voting interests, or a vote taken outside a properly called special meeting, is not sufficient to disapprove the budget. If a budget is disapproved or if the board fails to adopt a new budget, Utah Code § 57-8a-215(4) provides that the last budget the board adopted remains in effect until the board prepares and adopts a new one.



Notably, Utah Code § 57-8a-215 does not include language permitting an association's declaration to alter or override the budget process set forth in the statute. Because the statute contains no such authorization, the process it describes controls, and a declaration's provisions may not deviate from these requirements.

Application to Matter: In this matter, Mr. Katz argues that the Association violated Utah law by adopting the 2026 budget at a member meeting at which homeowners cast online votes rather than appearing in person. Because of this, Mr. Katz argues that no quorum existed and that the budget could not have been properly approved by homeowners. The Association argues that a member quorum was not necessary, and homeowner approval is not required for the 2026 budget to be adopted. As discussed in the general legal principle section above, Utah Code § 57-8a-215 does not grant homeowners approval rights over the Association's budget; rather, the Board has sole responsibility for preparing and adopting the annual budget.

Because homeowners do not have the right of approval under Utah Code 57-8a-215, the quorum requirements for homeowner votes do not apply to the Board's adoption of a budget. Specifically, Utah Code 16-6a-714(1)(a) states that for members to take action during a meeting, there must be a quorum of members. However, when members do not have a voting right and therefore are not taking action, the member quorum requirement does not apply. Rather, the quorum requirements contained in Utah Code 16-6a-816(1) are required for the Board to adopt the budget. There is no dispute that a majority of the Board was present at the meeting and that the Board voted to adopt the budget. Accordingly, the quorum requirements for adopting the budget were satisfied, and the budget was validly adopted by the Association.

Once the Board adopts the budget, it must be presented to homeowners during the annual meeting, but there is no requirement that homeowners vote to approve the budget prepared by the Board. Here, the Board prepared and adopted the 2026 budget, which was then presented to homeowners at the annual meeting. While Utah Code § 57-8a-215(3) provides homeowners with a 45-day disapproval right, it does not give them an affirmative approval right.[2] As discussed above, because the homeowners were not entitled to take action on the budget at the meeting, any question regarding the homeowners' quorum is irrelevant to the statutory requirements for the budget adoption and presentation process. Accordingly, the Association has not violated Utah law in adopting and presenting the 2026 budget.

[2] The Office also notes that, even if the CC&Rs contained a requirement that the 2026 budget be approved by homeowners or if the previous practice of the Association was to permit a member vote of approval on budgets, that requirement and practice would give way to the process of Utah Code § 57-8a-215, as there is no language within the statute, such as "unless otherwise stated in the declaration," allowing the CC&Rs to deviate from the statutory process and requirements.

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CONCLUSION

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

1. **Budgets:** Mr. Katz argued that the Association violated the law because the 2026 budget was adopted at a member meeting at which homeowners voted online without a proper member quorum, whereas the Association argued that no homeowner quorum or approval was required for the budget to take effect. Because homeowners had no statutory right to approve or vote on the budget, the member quorum requirement did not apply, and since a majority of the board was present and voted to adopt the budget, the board satisfied its own quorum requirement, meaning the budget was validly adopted and presented in accordance with Utah law.

Erin Rider (Jul 7, 2026 10:56:59 MDT)

Erin Rider
Director

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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/.

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