



UTAH

Governor
Spencer J. Cox

Lieutenant Governor
Deidre M. Henderson

Office of Homeowners'
Association Ombudsman

Director
Erin Rider

ADVISORY OPINION NO. 2026-31

<u>Applicant Name:</u>	John Tusting
<u>Association Name:</u>	Cottages Community Association
<u>Association Type:</u>	Community Association
<u>Governing Statutes:</u>	Utah Community Association Act Utah Revised Nonprofit Corporation Act
<u>Issue Date:</u>	08/28/2026

LEGEND OF DEFINED TERMS

2026 Policy	Construction Impact Assessment Policy adopted by the Board on May 19, 2026
Association	Cottages Community Association
Board	Board of Directors of the Association
Bylaws	Bylaws of The Cottages Community Association, Inc., dated December 28, 1998, as subsequently amended
CC&Rs	Amended and Restated Declaration of Covenants, Conditions, and Restrictions of The Cottages at Hobble Creek, dated May 6, 2024, as subsequently amended
Construction Charge	The one-time road-wear charge identified as \$2,500 in 2021 and \$3,500 under the 2026 Policy
Governing Documents	The Declaration (CC&Rs), Bylaws, and Rules/Policies of the Association
Mr. Tusting	John Tusting
Office	Office of the Homeowners' Association Ombudsman
Plan Fee	\$1,000 fee charged to review construction plans

PART I – OPINION BACKGROUND & BASIS

A. Dispute Background

In May 2021, the Board decided that a \$2,500 Construction Charge for road impacts was preferable to the refundable deposit it had been using for new construction in the community. Shortly afterward, the Board president asked the chair of the architectural committee to list the amount on approval forms as a donation rather than a mandatory fee. Several owners subsequently built through 2021 and 2022. Some of their approval forms describe the \$2,500 as a donation; one has that language struck through by hand, and others do not mention it at all. For about five years, no invoice, bill, or delinquency notice went to any owner, and homes continued to be approved without payment.

By late 2025, a group of owners had raised two complaints with the Board: (1) that the \$1,000 Plan Fee exceeded the actual cost of the review, and (2) that the Board had wrongly treated an excavation across the common area as previously approved. Mr. Tusting filed this request in February 2026, raising those concerns and a question about the recorded bylaws. After the initial complaints were submitted, the Construction Charge became a live dispute. In May 2026, the Board announced that it would collect the Construction Charge from the owners who had never paid, adopted the 2026 Policy that raised the charge to \$3,500, declared the Construction Charge applicable to construction beginning on or after May 22, 2021, and sent the affected owners letters offering three payment options with a thirty-day deadline. The owners objected in writing. The Board extended the deadline while it met with owners individually, and it has not withdrawn the demand.

2

B. Facts

The following is the timeline as known to the Office, drawn from the documents submitted by both parties. Where the parties' accounts conflict, the conflict is stated rather than resolved.

- May 12, 2021: Board meeting. The minutes state: "Regarding new home construction fees, it was decided that imposing a one-time, non-refundable impact fee is better than a fee and deposit refunded based on the level of damage to the roads." The minutes record no motion, no second, no vote, and no dollar amount.
 - *Conflict*. The Association states the \$2,500 amount was already in effect before this meeting and had been collected from a recent homebuilder. The requesting owners state that the amount first appears in the May 22, 2021, minutes. The May 12, 2021, minutes do not resolve the question, and the Association has not identified a document that does.
- May 22, 2021: Annual meeting of the owners. Under the heading "Architectural Services and Guidelines," the minutes list two items: "Increased Fees (\$500 preliminary + \$500 final)" and "New Impact fee (\$2,500)." The minutes record no motion or vote on either item. This is the date the Association identifies as the date the charge was adopted.
 - *Conflict*. The Association's edited timeline states that Bob Ferguson "was elected as a new board member" at this meeting and "later was appointed as Board President by the other board members." The minutes state that nominations were taken for president, that 23 votes were cast and counted, and that "Bob Ferguson received the most votes. He is the new HOA President." The minutes of the May 12, 2021, board meeting list Bob Ferguson among those attending ten days earlier.

- After May 22, 2021: Mr. Ferguson asked the chair of the Architectural Design Review Committee to list the \$2,500 charge as a donation rather than a mandatory fee. His signed statement of May 28, 2026, places the request immediately after the May 22, 2021, meeting; the Association's edited timeline lists the date as unknown and states that the request appears to have been made independently of the Board. No minutes record a board vote, discussion, or action on the point.
- September 2021 – August 2022: The Final Architectural and Design Submittal Approval forms in the record treat the charge inconsistently, as set out in the table following this timeline.
 - *Conflict.* The Association's edited timeline states the donation phrase "was removed from the approval forms for the next group of home builds in late 2021 and 2022." The forms in the record carry the phrase through April 29, 2022. No contemporaneous document identifies the phrase as an error. The characterization of the phrase as "a typo or scrivener's error" first appears in the Association counsel's opinion letter of May 18, 2026.
- May 7, 2024: Amended and restated CC&Rs recorded with the Utah County Recorder. Section 5.6 addresses Individual Assessments.
 - *Conflict.* The requesting owners state that the previously recorded declaration, under which all of the approvals above were issued and the construction performed, contained no individual assessment provision. The Association has not responded to this point and has not identified any governing document on record that was in force before May 7, 2024, and that authorized the charge.
- September 15 – 22, 2025: The Board discussed raising the Plan Fee. A former board member notified the Board in writing on September 21, 2025, that Utah Code § 57-8a-109 limits such fees to actual cost.
- September 29, 2025: The Board treated an excavation across the common area as previously approved and closed the matter. The minutes record no motion or vote on the point.
- October 2025 – February 2026: Owners raised the Plan Fee and the prior excavation at successive meetings. Counsel retained by a group of owners delivered a written opinion to the Board on November 12, 2025. The Board deferred substantive response pending advice of its own counsel.
- February 25, 2026: Mr. Tusting filed this request with the Office.
- May 11, 2026: Community board meeting, held by video conference and recorded. The Board president stated that "the Association will be levying and collecting the \$2,500 from those who did not pay the impact fee prior to building their home," and confirmed, in response to a direct question, that owners were "now retroactively being asked to pay this fee." He also stated that "all the new home builders design plans since 2021 have been approved without payment of this fee" and that most of the complainants "never paid this fee despite their construction being approved." Owners presented approval forms describing the charge as a donation. The minutes record that the Board "reaffirmed the 2021 Construction Impact Assessment of \$2,500 and discussed increasing it to \$3,500," and that the discussion "was paused." The minutes do not record the collection announcement.
- May 18, 2026: Association counsel issued an opinion concluding that the word "donation" on the approval forms "is either a typo or scrivener's error."
- May 19, 2026: Executive board meeting, three members present. The Board adopted the 2026 Policy by motion, reaffirming the charge and increasing it "from \$2,500 to \$3,500 effective immediately." At the same meeting, the Board approved a fee schedule prepared by counsel

and adopted a Dispute Resolution Policy. Section 7 of the 2026 Policy states that it “applies to all applicable construction projects beginning on or after” May 22, 2021. Section 8 states that failure to pay “may result in ... Denial of construction approval (to the extent permitted).”

- May 25, 2026: The 2026 Policy and the Dispute Resolution Policy were delivered to owners. This was the first delivery of either document.
- May 26, 2026: By motion, the Board resolved to refund the Plan Fee to owners who paid within the applicable six-year period, to “[a]pply the \$2,500 Construction Impact Fee consistently to all applicable construction projects undertaken while the policy has been in effect, including projects for which the fee was not previously collected,” and to make a payment plan available.
- May 27, 2026: Affected owners received individual notices offering three payment options for the \$2,500 Construction Charge with a 30-day election period, and stating that if payment or arrangement was not made, “the balance will be assessed to your account as a past-due charge.”
- June 20 & 22, 2026: An owner requested a copy of “The New Impact/Construction Impact Fee Rule instituted 5-22-21.” The Board responded: “There is not a separate standalone policy document from that date; the May 2021 minutes serve as the governing record for the impact fee adoption.”
- June 23 & 24, 2026: The affected owners delivered a written objection. The Board met individually with owners.
- June 24, 2026: The Board extended the payment deadline indefinitely pending completion of those meetings.

4

The approval forms. The Final Architectural and Design Submittal Approval forms in the record treat the charge as follows:

Date	Lot	Treatment on the approval form
September 9, 2021	Tusting	“\$2500 Construction Impact Donation. Instituted 5-22-21”
October 22, 2021	Berry	Same donation language
April 15, 2022	Edwards	Same donation language, struck through by hand
April 29, 2022	Henrie	Same donation language
July 8, 2022	Bowen	No reference to the charge
August 2022	Parker	No reference to the charge

The parties agree that six owners have not paid the \$2,500 Construction Charge. The Association’s edited timeline corrects an earlier figure of seven to six, and the Office adopts the corrected figure. Three assertions in the Association’s edited timeline are not adopted, because the record does not support them: that the \$2,500 charge was already in effect and had been collected from a recent homebuilder before May 12, 2021; that the donation language was removed from the forms in late 2021; and that the date of Mr. Ferguson’s instruction to the committee chair is unknown. Each is attributed above to the party advancing it.

C. Jurisdictional Findings

Chapter 8a governs the Association.

The Community Association Act now supplies an express applicability test: the chapter applies if the association's declaration states that it applies or, where the declaration does not state whether Chapter 8 or Chapter 8a applies, if the plats within the association are not designated as condominium plats.¹ The Cottages at Hobble Creek is a platted lot subdivision of detached single-family homes, and its plats are not condominium plats. That test is satisfied. Accordingly, the Community Association Act governs the Association.

The construction charge is properly before the Office.

The request as filed raises three concerns: the Plan Fee, selective enforcement focused on the prior common-area excavation, and the recording of the Bylaws. The Construction Charge became the live dispute after the request was filed, when the Association resolved to levy and collect it from owners who had not paid. The Association itself placed the charge before the Office, addressing it at length in its May 4, 2026, response and again in its edits to the Office's draft timeline. Both parties submitted timelines at the Office's request, and both have had a full opportunity to be heard on it. The charge is also inseparable from the first concern the request raises, because the Association has proposed offsetting the Plan Fee refunds against it. The Office addresses the Construction Charge on that basis.

The issues are ripe.

The Office must decline where the issues are not ripe for review.² On June 24, 2026, the Board extended the payment deadline indefinitely, and the question is whether that extension leaves the collection dispute unripe. It does not. The Association has adopted a policy declaring itself applicable to construction beginning on or after May 22, 2021, has resolved by motion to collect from owners who did not pay, and has served individual demands stating that unpaid balances will be assessed to owner accounts as past-due charges. What was extended is the deadline for electing among payment options, not the obligation. The owners are presently subject to a demand for payment, and therefore, the issues are ripe.

D. Scope of Review

The Association rests its authority for the construction charge on Section 5.6 of the CC&Rs recorded May 7, 2024. Its counsel identified the boundary in the Association's own response, noting that "the Ombudsman Office's jurisdiction is limited to analyzing state law and not the private contracts of the Association" before citing Section 5.6 "for reference." The requesting owners read the same provision differently, contending that it requires an individual assessment based on the cost of the work performed and that a flat, predictive charge cannot satisfy it. The Office does not decide what Section 5.6 authorizes and declines the question in Part III.A.

What the Office does decide is different in kind. Whether a rule was adopted by the procedure the statute prescribes, whether a charge satisfies the statutory definition of an assessment, whether a rule exceeds the limits the Act places on rulemaking, and when a filing period begins to run are questions about compliance with statutes that apply to every association regardless of what its documents say. Determining compliance with them is the function Chapter 79 assigns to this Office.

¹ Utah Code § 57-8a-103(2). The section applies regardless of when an association is created. Utah Code § 57-8a-103(3).

² Utah Code § 13-79-104(7)(a)(i).

Two consequences of that division should be stated plainly rather than left to inference. First, a holding that a charge was not imposed in the manner the statute requires is not a holding that the Governing Documents forbid the charge. The Association remains free to adopt a rule properly and to enforce it. Second, the Office reaches statutory reasonableness nowhere in this opinion. Section 57-8a-218(23) provides that “[a] rule shall be reasonable,” and the Office does not apply it. That standard is not reached rather than satisfied, and Part III.C explains why.

PART II – ISSUES DECIDED

Issue 1 – Whether the construction charge is an “impact fee” governed by the Impact Fees Act

A. Question

The requesting owners contend that the construction charge is an impact fee and that only a local government or a utility may impose one. Is the charge governed by the Impact Fees Act?

B. Short Answer

No. The Construction Charge is not an impact fee governed by the Impact Fees Act. The Association is neither a local political subdivision nor a “private entity” within the meaning of the chapter; an approval issued by its architectural committee is not a “development approval,” and the record does not establish that its roads are “public facilities.” Independently, the Construction Charge is directed at repairs and wear on existing facilities rather than at demand created by new development.

C. Why, in plain terms

“Impact fee” is not a general description of any charge tied to construction. It is a defined term, and its definition centers on public systems and the entities that provide them. A city, a county, a special district, or a water company that a builder has no practical alternative to using may charge a builder for the added strain that new houses place on public roads, sewers, water lines, and parks. The Cottages is none of those things. The roads and gates that the Construction Charge is meant to maintain belong to the Association and are maintained by the Association for the members who pay for them.

There is a second mismatch. An impact fee pays for the capacity that growth makes necessary. The Construction Charge is intended to repair and offset the wear caused by construction traffic to existing roads and gates. Those are different purposes, and the second is not what this statute regulates.

The owners’ reading is understandable because the Association’s own board president used the phrase “impact fee” to describe the charge. A label does not decide the question. The statutory definition does, and it does not reach this charge. This does not mean the charge is valid. It means the owners have aimed at the wrong statute. The Community Association Act determines this dispute, and those questions follow in this opinion.

D. Analysis

1. The chapter applies only to defined entities, defined approvals, and defined facilities.

The Impact Fees Act requires that “[a] local political subdivision or private entity shall ensure that any imposed impact fees comply with the requirements of this chapter,” and provides that “[a] local political subdivision and private entity may establish impact fees only for those public facilities defined in Section 11-36a-102.”³ An impact fee is “a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.”⁴ The term “does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.”⁵

The definition itself is written without naming the entity that imposes the payment. The entity limitation comes from the operative provision and from the definitions it incorporates. Section 11-36a-201

³ Utah Code § 11-36a-201(1), (2).

⁴ Utah Code § 11-36a-102(9)(a).

⁵ Utah Code § 11-36a-102(9)(b).

addresses itself to a “local political subdivision” and a “private entity,” and Section 11-36a-102 defines both of those terms, together with “development activity,” “development approval,” and “public facilities.”⁶ Read together, the chapter applies a charge only where a payment of money is imposed on new development activity as a condition of development approval to mitigate the impact of that development on public facilities, as the chapter defines them, and is imposed by an entity the chapter covers. The Construction Charge does not satisfy several of these requirements. Any one failure is sufficient to place the charge outside the chapter, and the Office addresses each because the request squarely presents the definitional question.

The definitions relied on here have been in force in substantially identical terms since before the Board’s May 2021 action and remained so when the Board adopted the 2026 Policy. Internal subsection numbering has changed over that period, and citations in this opinion are to the version in force when the 2026 Policy was adopted.⁷

2. The Association is neither a “local political subdivision” nor a “private entity” as the chapter uses those terms.

“Local political subdivision” means “a county, a municipality, a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or the Point of the Mountain State Land Authority.”⁸ The Association is none of these.

“Private entity” is a term of art, and it is considerably narrower than the ordinary meaning of those words. It means “an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity” either as a specific condition of development approval by a local political subdivision acting under a prior agreement with the entity, or as a functional condition of development approval because the entity “has no reasonably equivalent competition in the immediate market” and “is the only realistic source of water for the applicant’s development.”⁹ The category is a water supply category. An entity does not fall within it merely because it is privately organized, has many members, owns common areas, or approves construction plans. The record does not indicate that the Association supplies culinary or irrigation water to lot owners or to anyone building in the community, and no party contends that it does.

3. An approval issued by the Association’s architectural committee is not a “development approval.”

The chapter defines “development approval” as any written authorization from a local political subdivision that authorizes the commencement of development activity; development activity, for a public entity that may develop without such written authorization; a written authorization from a public water supplier or a private water company to reserve or provide a water right, system capacity, or a distribution facility, or to deliver culinary or irrigation water for a development activity; or a written authorization from a sanitary sewer authority to reserve or provide sewer collection or treatment capacity, or to provide sewer service for a development activity.¹⁰ Every category is tied either to a

⁶ Utah Code § 11-36a-102(4), (13), (14), (17); Utah Code § 11-36a-201.

⁷ Utah Code § 11-36a-102 (version effective November 6, 2025).

⁸ Utah Code § 11-36a-102(13)(a).

⁹ Utah Code § 11-36a-102(14).

¹⁰ Utah Code § 11-36a-102(4).

governmental authorization or to a water or sewer authorization. An approval that a community association issues under its own governing documents is not within any of them.

This is the most direct answer to the question presented. Even if the Association required payment of the Construction Charge before it would approve plans, the approval it withheld would not be a development approval within the meaning of the chapter, and, therefore, a payment conditioned on that approval could not be an impact fee. The Office reaches this conclusion without deciding whether payment was in fact a condition of approval.

4. *The record does not establish that the Association's roads are "public facilities."*

"Public facilities" means "only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity," followed by an enumerated list that includes "roadway facilities."¹¹ Two requirements, therefore, apply. The facility must be on the enumerated list and owned or operated by, or on behalf of, a covered entity.

The Office does not hold that a privately owned road can never be a roadway facility. "Roadway facilities" means "a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances."¹² A privately owned street shown on a recorded subdivision plat could fall within that category, and a holding resting on private ownership alone would be broader than the statute supports.

The ownership and operation requirement decides the question. On this record, the roads and gates that the Construction Charge is meant to maintain are owned and maintained by the Association. Nothing in the record indicates that they are owned or operated by or on behalf of a local political subdivision, or by or on behalf of a private water provider of the kind the chapter defines. Because that requirement is not satisfied, the Office need not determine whether the roads are designated on an officially adopted subdivision plat or roadway plan, and it does not do so.

5. *The Construction Charge is not directed at demand created by new development.*

"Development activity" means "any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities."¹³ Construction alone is not enough. The definition requires that the construction create additional demand for and need for facilities, as the chapter defines them.

The mitigation the chapter contemplates is directed at system improvements, which are existing or future public facilities "designed to provide services to service areas within the community at large," and it excludes project improvements, which serve the development that generates them.¹⁴ The definition of an impact fee likewise excludes "a fee for project improvements."¹⁵

The 2026 Policy describes a different object. It is a one-time road-wear charge. It defines commencement of construction to include mobilization of heavy equipment, site clearing, grubbing, and removal of vegetation; it directs collected funds to the Association's reserve fund for designated purposes; and it provides for an additional assessment where specific damage is identifiable. Those provisions allocate the cost of wear and tear and damage to existing facilities. They do not fund the

¹¹ Utah Code § 11-36a-102(17).

¹² Utah Code § 11-36a-102(19)(a).

¹³ Utah Code § 11-36a-102(3).

¹⁴ Utah Code § 11-36a-102(22)(a); Utah Code § 11-36a-102(15).

¹⁵ Utah Code § 11-36a-102(9)(b).

capacity that new development makes necessary. On this record, the development-activity and mitigation elements of the definition are not satisfied either.

6. The name the parties give the charge does not change the result.

The chapter contains an anti-evasion provision. “A fee that meets the definition of impact fee under Section 11-36a-102 is an impact fee subject to this chapter, regardless of what term the local political subdivision or private entity uses to refer to the fee,” and such an entity “may not avoid application of this chapter to a fee that meets the definition of an impact fee under Section 11-36a-102 by referring to the fee by another name.”¹⁶ That provision confirms two things. Labels do not control, and the chapter again speaks only to a local political subdivision and a private entity. The Association’s characterization of the charge as an individual assessment, therefore, neither brings the charge within the chapter nor removes it from the chapter, and the board president’s use of the phrase “impact fee” at the May 11, 2026, meeting does not bring it within the chapter either.

7. The Office does not rest this holding on the reason the Association gave.

The Association argued that the Construction Charge is not an impact fee because approval of construction is not conditioned on payment. The Office does not adopt that reasoning. Section 8 of the 2026 Policy provides that failure to pay “may result in ... Denial of construction approval (to the extent permitted),” and at the May 11, 2026, meeting, the Board president described a forthcoming committee checklist requiring that builders “have paid this impact fee” before plans are approved. The record is in conflict on the point. The conflict need not be resolved because an approval issued by the Association’s architectural committee is not a development approval under the chapter, whether or not payment was a condition of that approval. The Office makes no finding as to whether approval was so conditioned, and nothing in this issue should be read as such.

10

8. The limits of this holding.

Because the Impact Fees Act does not apply, the chapter neither authorizes nor prohibits the Construction Charge. A charge that falls outside the chapter is not validated by that fact, and the procedural protections the chapter imposes on covered entities are not available to the requesting owners here. Whether the Association may impose the Construction Charge, whether it did so by a validly adopted rule, whether it may apply the charge to homes approved before the 2026 Policy, and whether the claims were timely filed are separate questions governed by the Community Association Act and by Title 13, Chapter 79. They are addressed in Issues 3 through 6. Whether the amount is reasonable has not been reached, for the reasons stated in Part III.C.

One further question remains unaddressed. Whether conditioning approval of lot plans on payment of the Construction Charge causes the charge to function as part of a “plan fee” subject to the actual-cost limit in Section 57-8a-109(2) has not been briefed by any party.¹⁷ It is identified in Part III.D and is not decided here.

¹⁶ Utah Code § 11-36a-204(1), (2).

¹⁷ Utah Code § 57-8a-109(2).

Issue 2 – Whether the Association charged a plan fee exceeding the actual cost of review

A. Question

Did the Plan Fee the Association charged between 2021 and 2025 exceed the actual cost of reviewing and approving lot plans?

B. Short answer

Yes. The Association concedes that it did. Rather than treating the concession as closing the matter, the Office notes that the refund commitment is set at 6 years and that the refunds had not yet been completed when the record closed.

C. Why, in plain terms

Utah law allows an association to recover only the actual cost of a plan review. The Association has now agreed that its fee was set above its actual cost. The owners who raised this were right, and the Association has agreed to pay the money back to owners who paid within the last six years.

Rather than simply closing the matter, the Office clearly addresses this issue, in part because the refunds had not been completed when the record closed.

D. Analysis

1. The statutory limit and the concession.

A “plan fee” is “a fee that an association charges for review and approval of lot plans.”¹⁸ The Act provides: “An association may not charge a plan fee that exceeds the actual cost of reviewing and approving the lot plans.”¹⁹

The Association’s May 4, 2026, response states: “The Association acknowledges that Utah Code §57-8a-109 (including the historical code in force at all relevant times) limits architectural review fees to the ‘actual cost’ of review. Despite the \$1000 flat fee being established by rule in 2021 and later incorporated into the CC&Rs in 2024, the Association concedes that the fee does not reflect the actual cost of review.” On May 26, 2026, the Board resolved by motion to refund the Plan Fee to owners who paid within the applicable six-year period.

2. Why the Office states the holding rather than declining as resolved.

A conceded violation of a state statute is the clearest example of what falls inside the Office’s statutory duty to review, not outside it. The Office is directed to analyze a complaint and issue an advisory opinion for issues relating to a violation of a state statute,²⁰ and mootness is not the same thing as a matter being beyond that duty. Two features of the record confirm that the matter is not spent. The concession is bounded: the Association agrees to refund owners “who paid that fee within the last 6 years,” a limitation that leaves any earlier payment unaddressed. And performance was incomplete: as of the June 24, 2026 correspondence, the Board was still conducting individual meetings and had extended its own deadline without setting a new one. An opinion that declined to state the one violation both parties agree occurred would not read as neutral.

¹⁸ Utah Code § 57-8a-109(1)(c).

¹⁹ Utah Code § 57-8a-109(2).

²⁰ Utah Code § 13-79-103(4)(a).

3. *A discrepancy in the amount, noted and not resolved.*

The record contains four figures, and the Office does not reconcile them. The May 22, 2021, minutes record “Increased Fees (\$500 preliminary + \$500 final).” The Association’s May 4, 2026, response describes a “\$1000 flat fee.” The requesting owners quote the 2024 CC&Rs as providing for a \$500 preliminary review fee and a \$2,500 final design review and submittal fee. The September 22, 2025, minutes are quoted as reciting “\$500 preliminary review fee + \$2,500 final design review/impact fee.” These are descriptions of what the documents say, not findings about what any owner was charged with. The Office notes the discrepancy because the refund obligation the Association has accepted is measured by it, and the Association should identify the governing figure before completing the refunds.

4. *Going forward.*

The limit is both prospective and retrospective. An association that charges a plan fee must set it at the actual cost of reviewing and approving the lot plans and must be able to show the calculation that produces the figure. A flat fee is not unlawful because it is flat; it is unlawful if it exceeds actual cost, and the Association has conceded that this one did.

Issue 3 – Whether the claims concerning the Construction Charge are barred by the one-year filing requirement

A. Question

The Association describes the 2026 Policy as a reaffirmation and ratification of a policy adopted May 22, 2021, adding nothing of substance to it. If the two are functionally the same, is a request filed on February 25, 2026, too late to reach a charge that the Association says was adopted in 2021?

12

B. Short Answer

No. The alleged act at issue in this opinion is the Association’s 2026 decision to levy and collect the Construction Charge from owners who had not paid. That is the first act that imposed any obligation on those owners, and a filing period cannot expire before the act complained of occurs. The Association’s characterization of the 2026 Policy as adding nothing new does not delay the deadline. It determines which record the Association must defend.

C. Why, in plain terms

No one asked these owners to pay anything in 2021. Their approval forms described the amount as a donation or did not mention it at all; no invoice or delinquency notice was ever sent in five years, and the Board president confirmed on the record in 2026 that homes had been approved since 2021 without payment of the Construction Charge. What changed in 2026 is that the Association decided the money was owed, sent letters demanding it, and set a deadline. The one-year clock runs from the date of the act complained of. That act is the demand, not a line in five-year-old minutes.

D. Analysis

1. *The statutory trigger.*

A request must be filed “no later than one year after the day on which the person making the request knew or should have known about the alleged act that is the subject of the advisory opinion.”²¹ Two elements matter, and both attach to the same thing: there must be an alleged act, and the requester

²¹ Utah Code § 13-79-104(2)(a)(iii)(A).

must have known or been chargeable with knowledge of it. The period is measured from the act complained of, not from the earliest event in the history of a dispute.

2. The act that is the subject of this opinion.

As to the Construction Charge, the act is the Association's decision to levy and collect from owners who have not paid. That decision was announced by the Board president on May 11, 2026, taken by motion on May 26, 2026, and communicated to the affected owners individually on May 27, 2026, with three payment options and a thirty-day election period. It did not exist in 2021 and could not have been known then.

The Act confirms the point. An assessment levied against a lot "is a debt of the owner at the time the assessment is made."²² The Association's own May 27, 2026, letter treats the levy as something still to come: if payment or arrangement is not made, "the balance will be assessed to your account as a past-due charge." On the Association's own account, no assessment had been made against these lots before 2026. There was nothing to challenge, and nothing to be late about.

3. The dilemma in the Association's position.

The premise that the 2026 Policy and the 2021 action are functionally identical does not assist the Association, because both branches lead to the same place.

If the two are the same, the 2026 Policy created no new obligation, and the Association must rely entirely on what happened in 2021. What happened in 2021 is a decision recorded in board minutes without a motion, a vote, or an amount, followed by a one-line informational entry in the minutes of an owners' meeting. The Association confirmed in writing on June 22, 2026, that "[t]here is not a separate standalone policy document from that date." A respondent that invokes a prior act as the source of its present authority puts the sufficiency of that act in issue in the present dispute. That is the subject of Issue 4.

13

If instead the 2026 Policy is a new rule, the alleged act is its adoption on May 19, 2026, and no timeliness question arises at all.

The Association cannot occupy both positions. It may not treat the 2026 Policy as a mere restatement for limitations purposes while treating it as the operative instrument for collection purposes.

4. The 2026 Policy is not, in fact, identical.

The premise is also inaccurate on the documents. The 2026 Policy increases the amount "from \$2,500 to \$3,500 effective immediately;" defines commencement of construction to include "the mobilization of heavy equipment, site clearing, grubbing, and the removal of vegetation;" directs collected funds to the reserve fund for designated purposes; adds a provision for additional assessments where specific damage is identifiable; adds a non-compliance provision contemplating denial of construction approval; and adds a severability clause. The 2021 record contains none of this.

Most significantly, Section 7 of the 2026 Policy states that it "applies to all applicable construction projects beginning on or after" May 22, 2021. That retroactive applicability clause is the instrument by which the Association reaches construction completed in 2021 and 2022. Nothing in the 2021 record

²² Utah Code § 57-8a-201(3)(a).

purported to reach backward, because in 2021, there was nothing to reach backward to. A provision first written in 2026 cannot have been known to anyone in 2021.

5. What the owners knew, and when.

Even measured against the 2021 action, the trigger is knowledge of the alleged act, and what the Association's own documents communicated was equivocal. Of the seven approval forms in the record, four describe the amount as a "Donation;" one of those four is struck through by hand; two make no reference to it at all; and the seventh predates the charge. No invoice or delinquency notice was sent to any owner for more than five years. On May 11, 2026, the Board president stated that "all the new home builders design plans since 2021 have been approved without payment of this fee."

An owner is not chargeable with knowledge in 2021 of a mandatory assessment that the association was not billing or collecting and was describing on its own forms as a donation. The Association's constructive-notice argument rests on the same documents: what an owner taking title after 2021 would have found was a charge that the Association itself treated as voluntary.

6. A filing period cannot expire before the claim is ripe.

The Office must decline a request where "the issues are not ripe for review."²³ Had Mr. Tusting filed in 2021 or 2022 to challenge a charge that no one was collecting from him, that request would have been subject to a mandatory declination. A reading of the filing provision under which the one-year period runs out before the claim could have been brought at all is not a reading the statute supports.

7. Where the Association's argument has force.

14

If an owner sought a free-standing determination that the May 2021 action was procedurally defective, and nothing more, that claim would be time-barred. An action based on a failure to comply with the rulemaking procedure "shall be commenced no later than 18 months after the day on which the board took the challenged action under Subsection (2),"²⁴ which forecloses a court action on that ground as to 2021. Issue 4 is therefore not framed as a free-standing claim and does not stand alone. It is a determination about the sufficiency of the authority that the Association has asserted in 2026. The holdings in Issues 5 and 6 rest entirely on 2026 conduct and on a statutory limit that applies whenever a rule is applied to a completed design review, and they are unaffected by any view of the 2021 record.

The Office also notes what the Association actually argued. In its May 4, 2026, response, the Association asserts a threshold time bar but frames it as reaching a challenge "to the adoption of the fee structure itself." Its argument directed to the Construction Charge rests on notice, constructive notice, waiver, and estoppel rather than on the filing deadline. This opinion does not set aside the 2021 action, and no holding here depends on doing so.

Issue 4 – Whether the record establishes that the charge was adopted as a rule in 2021

A. Question

The Association's authority to collect the charge from owners who built between 2020 and 2022 is based on what its counsel calls "the Rules that were adopted on May 22, 2021." Does the record establish that a rule was adopted in compliance with the statutory procedure?

²³ Utah Code § 13-79-104(7)(a)(i).

²⁴ Utah Code § 57-8a-217(7).

B. Short Answer

No. The record contains no advance notice to lot owners, no open forum, no motion or vote, and no adopted rule document. The Association confirmed in writing on June 22, 2026, that no standalone rule document from that date exists. The Office determines that compliance is not shown. It does not declare the 2021 action void, which is a question for a court.

C. Why, in plain terms

The statute in force on May 22, 2021, required the Board, not the owners assembled at an annual meeting, to act. It also required notice, an opportunity for owners to speak before Board action, and later delivery of the approved change. The record shows neither the required procedure nor when and how the Board acted. The absence of a standalone policy, motion, or recorded vote is evidence, not a separate statutory element.

What exists is one sentence in board minutes preferring a non-refundable charge to a refundable deposit, with no amount attached, and one line in the minutes of the annual meeting reading “New Impact fee (\$2,500).” When an owner asked for the rule itself in June 2026, the Board answered that no such document exists and that the minutes are the record. The controlling point is that the Association’s records do not establish Board action and compliance with the required procedure.

D. Analysis

1. The version in force on May 22, 2021, controls.

The governing version of § 57-8a-217 was effective May 12, 2015. It provided: “[s]ubject to Subsection (1)(b), a board may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce the rules and design criteria of the association.” Chapter 8a did not then contain the statutory definition of “rule” added in 2023, so this opinion does not import that later definition into the 2021 event.²⁵

Before acting, the Board had to complete three steps: except for an imminent-risk exception not asserted here, the 2021 statute required the Board to (1) deliver notice at least 15 days before the meeting that a rule or design-criterion change was under consideration, (2) provide an open forum before Board action, and (3) deliver the approved change within 15 days after the Board meeting.²⁶

The requesting owners overstate the first step by claiming that the proposed text itself had to be sent 15 days in advance. The statute required advance notice that a change was under consideration and delivery of the approved text after Board action.

2. The law also required Board action.

Section 57-8a-226(1) provided that, except for action taken without a meeting under § 16-6a-813, a Board could act only at a Board meeting. Section 16-6a-813 required specified written director procedures. The May 22 record is labeled as an annual meeting of owners. It does not establish that the directors separately convened, had a quorum, acted as a Board, or used a lawful action-without-meeting procedure. A missing motion or vote is not itself a § 57-8a-217(2) element, but it matters to whether the Board acted at all.²⁷

²⁵ Utah Code § 57-8a-217(1)(a), version effective May 12, 2015.

²⁶ Utah Code § 57-8a-217(2), version effective May 12, 2015.

²⁷ Utah Code § 57-8a-226(1); Utah Code § 16-6a-813.

3. *The record does not establish the required procedure.*

The May 12 Board minutes state a preference for a nonrefundable charge but include no amount and omit the required notice, forum, or later delivery. The May 22 owners' meeting minutes list "New Impact fee (\$2,500)" as an informational item, but do not establish separate Board action or the statutory procedure. The former secretary recalls no adoption or distribution of written rules.

The Association's June 22, 2026, records response states that no standalone policy document exists and that the May 2021 minutes are "the governing record." That response establishes what the Association produced and relied on; it does not, by itself, prove that the minutes are the only record that ever existed.

4. *The conclusion and its limits.*

On this record, lawful Board action and compliance with the 2021 procedure are not shown. The Office does not decide whether the asserted charge was a "rule" under the then-applicable law, whether any defect makes it void or unenforceable, or what remedy a court could provide.

Current § 57-8a-217(7), including its 18-month limitation, was enacted effective May 3, 2023, and was not part of the 2021 adoption law. The enacting bill contains no express retroactivity clause. This opinion does not decide whether the later provision governs a judicial action concerning conduct in 2021.

The open-meeting savings clause in § 57-8a-226(6) does not change this conclusion. The Office is not invalidating Board action because of an open-meeting defect; it is determining that the present record does not establish the Board action and rulemaking procedure on which the Association relies.

16

Issue 5 – Whether the 2026 Policy was adopted in compliance with the rulemaking procedure

A. Question

The Board adopted the 2026 Policy by resolution on May 19, 2026, reaffirming the charge and increasing it to \$3,500. Was it adopted in compliance with § 57-8a-217(2)?

B. Short Answer

Not on this record. The Association has identified no notice to lot owners at least 15 days before the May 19, 2026, meeting stating that the Board would consider changing a rule. Delivery of the adopted policy on May 25, 2026, satisfied the post-adoption requirement. The defect is at the front end and is curable only by adopting the policy again with the notice the statute requires.

C. Why, in plain terms

The 2026 Policy was meant to fix the 2021 problem, and it fixes part of it. There is now a written policy, adopted by a recorded motion, and owners have received it. What is missing is the front end. Owners were not told 15 days in advance that the Board would take it up. The nearest thing was a description of a draft at a community meeting eight days before.

This is the easiest problem to fix in this case. Give the notice, hold the forum, take the vote, send the policy. Nothing prevents the Association from doing exactly that.

D. Analysis

1. *The advance notice requirement was not met.*

The Board considered and adopted the 2026 Policy at its executive meeting of May 19, 2026, at which three board members were present. The record contains no notice to lot owners, delivered by a method the Act permits,²⁸ stating in advance of that meeting that the Board was considering a change to a rule. The nearest event is the May 11, 2026, community meeting, at which the president described a draft policy. That is eight days, not fifteen. The requesting owners further state that the Dispute Resolution Policy adopted at the same meeting was not mentioned at all, and the Association has not contradicted them.

The Office notes that a description of a draft at a community meeting is not the notice prescribed by the statute, even if the interval is sufficient. Subsection (2)(a) requires delivery of notice to lot owners as provided in § 57-8a-214, which is a delivery requirement and not an announcement requirement.²⁹

2. *The post-adoption requirement was met.*

The Association delivered the 2026 Policy to owners by email on May 25, 2026, within 15 days after the May 19 meeting. That satisfies Subsection (2)(c).³⁰

3. *Two consequences follow.*

The 60-day window for the lot owners to disapprove the board's action by a vote of at least 51% of all allocated voting interests, taken at a special meeting called for that purpose, ran from May 19, 2026, and has closed.³¹ The Office notes for the owners that the board has no obligation to call such a meeting unless the owners submit a petition in the manner provided in the governing documents for a special meeting, and that, upon receipt of a petition, the effect of the board's action is stayed until the meeting is held.³² If the Association re-adopts the policy, a new 60-day window opens.

And because the defect is in the advance notice, it cannot be cured by anything the Board does after the fact. Re-adoption with 15 days' notice, an open forum, a vote at a board meeting, and delivery within 15 days afterward cures it prospectively. The same sequence should be followed for the Dispute Resolution Policy and the fee schedule, both of which were adopted at the same May 19 meeting.

4. *Reasonableness is not reached.*

The Office does not decide whether the \$3,500 amount is reasonable. Section 57-8a-218(23) provides that "[a] rule shall be reasonable,"³³ and that standard applies to the 2026 Policy. Applying it would require the Office to weigh the Association's cost allocation method against the record of road conditions and repair costs, on a rule the Office has just determined was not shown to be validly adopted. The standard is not reached, and the question is declined at Part III.E. Silence on the point should not be read as approval of the amount.

²⁸ Utah Code § 57-8a-214.

²⁹ Utah Code § 57-8a-217(2)(a).

³⁰ Utah Code § 57-8a-217(2)(c).

³¹ Utah Code § 57-8a-217(4)(a).

³² Utah Code § 57-8a-217(5).

³³ Utah Code § 57-8a-218(23).

Issue 6 – Whether the Construction Charge may be applied to homes built under design review applications completed before the policy was adopted

A. Question

May the Association collect the Construction Charge from the six owners who did not pay it, whose design review applications were submitted and approved, and whose homes were built between 2020 and 2022?

B. Short Answer

No, on two independent grounds. A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review under the governing documents in effect when the application was submitted, and the 2026 Policy does exactly that. Separately, the Association has identified no governing document in force before May 7, 2024, authorizing the charge; without one, the charge does not satisfy the statutory definition of an assessment for that period.

C. Why, in plain terms

Utah law contains a provision written for this situation. A rule cannot take away an owner's right to proceed under the terms that were in place when that owner submitted design plans for review. These owners submitted plans and received approvals in 2020, 2021, and 2022. A policy adopted in 2026 that declares itself applicable back to May 2021 cannot reach those approvals.

There is a second and more basic problem. For a charge to be an assessment under Utah law, it must be imposed by a governing document recorded with the county. The only document the Association has ever pointed to is Section 5.6 of the CC&Rs, and that declaration was recorded in May 2024, after all of this construction was approved and built. The Association has not identified an earlier recorded provision.

Neither ground says the Association may never charge for construction impacts. Both say it may not reach back to these particular approvals.

D. Analysis

1. The completed design review provision.

The Act provides:

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.³⁴

Each of the six owners submitted a design review application and received a Final Architectural and Design Submittal Approval. Section 7 of the 2026 Policy states that the policy “is an extension and reaffirmation of the Impact Assessment Policy originally adopted on May 22, 2021, and applies to all applicable construction projects beginning on or after that date.” Attaching a \$2,500 or \$3,500 obligation to a design review completed in 2021 or 2022 alters the terms under which those owners were entitled to proceed. Subsection (13) does not permit it.

³⁴ Utah Code § 57-8a-218(13).

The Association's answer is that the owners had notice of the charge. Notice is not the test; the subsection states that the test is what the governing documents provided when the completed application was submitted. And the notice the record shows is equivocal in any event, for the reasons given in Issue 3.

2. The recorded document requirement.

An "assessment" means a charge imposed or levied "(i) by the association; (ii) on or against a lot or a lot owner; and (iii) in accordance with a governing document recorded with the county recorder."³⁵ All three elements are required, and the third is conjunctive. Payment is due "in the amount and at the time determined by the board of directors in accordance with the terms of the ... declaration; or ... bylaws."³⁶

The only authority the Association has identified is Section 5.6 of the CC&Rs recorded May 7, 2024. The 2026 Policy states its authority in the same terms: "This Resolution is adopted pursuant to the Association's governing documents (2024 CC&R 5.6)." The requesting owners state that the previously recorded declaration contained no individual assessment provision. The Association has described the 2024 instrument as "revised," which concedes that an earlier declaration was recorded and in force, but it has not disputed the owners' statement, has not identified any earlier recorded provision, and has not addressed the timing. On this record, the third element of the definition is not satisfied for construction approved before May 7, 2024, and a charge that is not an assessment cannot be collected as one.

3. What is not affected.

Nothing in this issue prevents the Association from imposing a construction charge on construction approved after a compliant rule takes effect. The Association's underlying concern, that owners whose construction damages shared roads should bear part of that cost rather than the membership as a whole, is a legitimate one that Utah law accommodates. The defect is in the retroactive reach and in the absence of a recorded predicate, not in the concept.

If the Association believes a recorded governing document in force at the time of each approval authorized the charge, the way to establish it is to identify the document, the recording date, and the provision. A general assertion that authority existed will not suffice, because the statutory element is specific and the Office has already asked.

19

Issue 7 – Whether the trail claim falls within the one-year filing requirement

A. Question

The Association contends that the requester's claim concerning an excavation across the common area is time-barred because the excavation occurred in June 2020. Is the claim timely?

B. Short Answer

Yes. The alleged act the requester identifies is the Board's September 29, 2025, action treating the excavation as previously approved and closing the matter, which is within one year of the February 25,

³⁵ Utah Code § 57-8a-102(1)(a).

³⁶ Utah Code § 57-8a-201(2).

2026, filing. The merits are not reached, because deciding them would require interpreting the governing documents.

C. Why, in plain terms

The one-year clock runs from when the requester knew or should have known about the act he is complaining about. He is not complaining about the excavation itself, which happened years ago and which he does not dispute was visible. He is complaining about the Board's September 2025 decision to treat it as approved and close the matter. That decision is inside the year. Saying the claim is timely is not saying the Board was wrong. The Office does not reach that question at all.

D. Analysis

1. The period runs from the act the requester identifies.

A request must be filed "no later than one year after the day on which the person making the request knew or should have known about the alleged act that is the subject of the advisory opinion."³⁷ The alleged act is the one the requester identifies, not the earliest event a respondent can locate in the history of the dispute.

The request states: "On 09292025 the current HOA board improperly ruled that an illegal trail bulldozed through community property ... had been previously approved. No authorization or approval was ever given or recorded for this trail. Evidence presented to the Board proving this was ignored." The application lists September 21, 2025, as the date the events first took place. The requester restated the point in rebuttal: "The issue is not the physical creation of the feature years earlier, but the Board's September 29, 2025 decision to formally treat the excavation as approved and to close the matter."

20

2. The Association's answer addresses a different act.

The Association responds: "The trail was created in June 2020 and has been openly used since then. Given its visibility and the fact that some of the Tusting complainants owned property at the time, this is a classic situation where they knew or should have known of the condition well outside the one-year statutory window." That is an answer to a claim about the excavation. It is not an answer to a claim about the September 2025 board action, which occurred five months before filing. The claim is timely.

3. The merits are not reached.

Whether the excavation was authorized, and whether the Board's treatment of it was correct, cannot be determined without construing the declaration and the approval provisions of the governing documents. That is foreclosed.³⁸ This opinion should not be read as approving the September 2025 action; it decides only that a request filed in February 2026 was not too late to raise it.

4. A record-keeping observation.

The Office notes, because it recurs throughout this file, that a consequential board decision recorded in the minutes without a motion or vote is difficult to defend afterward. That pattern appears in the May 12, 2021, minutes, the May 22, 2021, minutes, the September 29, 2025, minutes, and the May 11, 2026, minutes, which do not record the president's on-the-record announcement of the collection at that meeting. The observation is not a holding.

³⁷ Utah Code § 13-79-104(2)(a)(iii)(A).

³⁸ Utah Code § 13-79-103(5).

PART III – MATTERS NOT REACHED

The Office issues a written statement declining to issue an advisory opinion where the issues raised are beyond the scope of the Office’s statutory duty to review.³⁹ The following matters are declined. Where an alternative basis exists, it is stated. Declining a question is not a view on its merits, and because these matters are not decided, no consequence under Part IV attaches to them.

A. Whether Section 5.6 of the CC&Rs authorizes the Construction Charge

Not reached. Deciding the question is not necessary to resolve the questions presented to the Office. While the parties read the provision differently: the Association reads it to permit a flat charge designated by the Board, and the requesting owners read it to require that an individual assessment be determined by the cost of the work performed, resolving the conflict is not required. The Office quotes no part of Section 5.6 in this opinion and rests no holding on it.

B. Whether the Association waived or modified the charge

Declined. Whether the Association’s treatment of the charge as a voluntary donation for a period of years waived or modified a provision of its governing documents is a question of general principles of equity and common law. The Act expressly reserves it: “This section does not govern whether the association’s action in enforcing a provision of the governing documents constitutes a waiver or modification of that provision.”⁴⁰

21

C. Whether the \$3,500 amount is reasonable

Not reached. Section 57-8a-218(23) provides that “[a] rule shall be reasonable,” and the standard applies to the 2026 Policy. The Office does not apply it for the reasons stated in Issue 5.D.4: measuring the amount would require weighing the Association’s cost allocation method against the record of road conditions and repair costs, on a rule the Office has determined was not validly adopted. The standard is not reached rather than satisfied.

D. The recorded bylaws

Declined. The Association states that it recorded the bylaws in February 2026, and the requester’s objection that they were unrecorded is addressed by that recording.

³⁹ Utah Code § 13-79-104(7)(a)(iii).

⁴⁰ Utah Code § 57-8a-213(4).

PART IV – EFFECT OF THIS OPINION AND DISCLAIMERS

This opinion is advisory. It is neither binding on any party to, nor admissible as evidence in, a dispute involving an association of lot owners or an association of unit owners, except as provided in § 13-79-104(10).⁴¹ Evidence of a review by the Office and the opinions, writings, findings, and determinations of the Office are not admissible as evidence in a judicial action or arbitration, except as provided in that subsection.⁴²

If the Office issues an advisory opinion, the same issue that is the subject of the opinion is subsequently litigated in court, and the court rules in favor of the same party as the advisory opinion in a final judgment, then the court may award the substantially prevailing party reasonable attorney fees and court costs relating to the development of the cause of action from the date the Office delivers the opinion to the date of the court's resolution, and, if the court finds that the opposing party knowingly and intentionally violated the law governing the cause of action, a civil penalty of up to \$5,000.⁴³

Neither the Office nor its attorneys may represent private parties, state agencies, local governments, or any other individual or entity in a legal action that arises from or relates to a matter addressed in Chapter 79.⁴⁴ No attorney of the Office may be compelled to testify in a civil action filed concerning the subject matter of any review or advisory opinion arranged through the Office.⁴⁵ An action that an attorney employed by the Office takes within the scope of the attorney's employment does not create an attorney-client relationship between the Office or its attorneys and any lot owner, unit owner, association of lot owners, or association of unit owners.⁴⁶ The Office does not represent either party and cannot give legal advice.

The Office makes each advisory opinion it issues public.⁴⁷ This opinion will be posted on the Office's website. Copies are delivered to the parties identified in the caption and to the necessary parties identified under § 13-79-104(5)(a). This opinion does not construe the CC&Rs, the Articles of Incorporation, or the Bylaws, except to the extent stated herein.

22

Condominium Associations must register with the Department of Commerce through the Office of the Homeowners' Association Ombudsman under § 57-8-13.1, and Community Associations must register under § 57-8a-105. Due to an updated registration system, any association that registered before September 2025 must complete a new registration, regardless of whether it has 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/renew-your-hoa-registration/>.



Erin Rider (Aug 28, 2026 13:46:45 MDT)

Erin Rider

Director



**Department of
Commerce**

Office of Homeowners'
Association Ombudsman

⁴¹ Utah Code § 13-79-104(9).

⁴² Utah Code § 13-79-103(3).

⁴³ Utah Code § 13-79-104(10).

⁴⁴ Utah Code § 13-79-103(2)(a).

⁴⁵ Utah Code § 13-79-103(2)(b).

⁴⁶ Utah Code § 13-79-103(6).

⁴⁷ Utah Code § 13-79-103(4)(b).