

Annotated Index to Advisory Opinions by the Utah Property Rights Ombudsman

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2. This database is a work in progress. We will be working to include additional information on all the lines, so every time you access this database, please download the most recent version
3. When you think you have found an opinion you wish to review, click on the opinion number in the second column. We have provided a direct link to the page on the ombudsman's website where the full opinion can be read.
4. We welcome your comments and suggestions - please contact us info@utahlanduse.org

IMPORTANT: THESE OPINIONS ARE NOT TO BE CONSIDERED LEGAL PRECEDENT. THEY PROVIDE A WEALTH OF INFORMATION ABOUT THE TOPICS THEY COVER AND INVALUABLE LINKS TO CASE LAW AND CURRENT LEGAL THOUGHT AT THE TIME THEY WERE PUBLISHED. But the statutes and case law may have changed since the opinion was published. You must seek the advice of competent legal counsel to determine that legality of any given situation and set of facts.

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ANNOTATED INDEX TO ADVISORY OPINIONS

TOPIC	AO NO.	PROP OWNER	GOVT ENTITY	THIRD PARTY	DATE	SUMMARY	PROPERTY TYPE
Access - legal access needed for lot split	47	Grotegut	Spanish Fork City	None	7/29/2008	Where PUD had two owners, entire project demand and benefit may be used to calculate proportionality of trail and storm water exactions, not just the part of the PUD owned by one owner. Parcel owner not entitled to lot split if applicable ordinances do not allow street access for second lot.	Subdivision

Access - proof of permanent access - lease of access may not be adequate - across state federal lands	70	Rasmussen	Carbon County	None	6/30/2009	County can require proof of permanent access to lot before allowing a building permit. County may consider 30 year lease of access rights to be inadequate. Difficulty in proving access rights across state and federal lands does not make county requirement illegal.	Single Family Lot
Access Easement - lack thereof may be grounds to deny building permit.	56	Dudley	Salem City	None	11/18/2008	If a property owner does not provide proof that a lot has a legal and permanent right of access to a public street, a building permit may be denied. This is so even though the city has expressed an interest in acquiring the property and to deny the permit reduces its appraised value	Single Family Lot
Access Easement - unused but conflicting with general plan - condition of approval to resolve this	28	North Salt Lake Heights LLC	North Salt Lake City	Lakeview Rock Products	1/23/2008	At the preliminary approval phase of development review the City should not deny the application because of the presence of an unused fifty foot wide access easement that conflicts with the proposed plan. Resolution of the easement issue could be made a condition for final approval. No compelling public interest is found since the issue does not require an amendment to the ordinances.	Subdivision
Access to Property - city can require access to public road but must balance with property rights.	77	Craig	Hyde Park City	None	11/9/2009	The requirement to purchase property and construct a road is an exaction. City failed to show proportionality. Property owner may only be required to build and dedicate road improvements justified by the impact of one home. Requirement of frontage on a public road is appropriate but must be balance with property rights. Requirement of 1000 feet of fully improved roadway is excessive.	Single Family Lot
Accessory Building - setbacks. shed attached to main structure is not accessory building.	84	Warner	Clearfield City	None	3/2/2010	A shed attached to the main building is not an accessory structure. It is an addition to a home and violated the setbacks when it was built. It may not now be rebuilt. A structure with electricity attached to a home needs a building permit.	Shed
Accessory Buildings - setbacks. Hay barn is an accessory structure.	38	Weidauer	Cedar Fort	Ault	4/16/2008	The ordinance imposes setback requirements on dwellings, buildings, and storage sheds. A hay barn/horse shed with one solid wall must meet setback requirements.	Storage Shed
Accessory Dwelling Units - duplex was legal even without building permit when built if zone allowed duplexes.	68	Davidson	Provo City	None	5/5/2009	A nonconforming duplex is legal with regard to the land use ordinance even if it does not comply with other codes. The City may not impose code requirements to define the nonconforming status at the time the use was established. A duplex was legal even if no building permit was produced by property owner.	Duplex

Accessory Dwelling Units - second kitchen prohibited. Limit of three unrelated occupants legal.	165	Frandsen	Provo City	None	12/30/2015	Rule prohibiting second kitchen is legal. State law allowing three unrelated persons in a home is also legal. Those legally occupying the home must simply use the same kitchen.	Single Family Home
Accessory Structure - code prohibited without a primary structure. Subdivision may be held up until resolved.	122	McKee	Logan City	None	4/11/2013	A small subdivision would isolate an accessory building on a separate lot. The code prohibits accessory buildings without a primary structure. The City may refuse to approve the subdivision until the accessory building is changed to qualify as a primary residence. The application for subdivision is not entitled to approval although it meets all the requirements for a subdivision.	Subdivision - Small
Accessory Uses - Auto repair. storage of vehicles is an accessory use to vehicle service.	142	Mason	Centerville City	None	7/16/2014	Although not specifically approved for the entire lot in site plan review, storage of vehicles and inventory is an accessory use to a commercial vehicle service facility. Any storage must comply with city ordinances. As an allowed accessory use, the existing use is not nonconforming.	Auto Service Facility
Actual Cost of Improvements - impact fees cannot recover market value of facilities only cost.	71	Florence	South Ogden City	None	6/30/2009	An impact fee may only recover the city's cost of facilities provided, not the current replacement cost. The city must consider the time/price differential inherent in fair considerations of amounts paid at different times.	Restaurant
Advisory Opinion - impact fees - AO reviews legal issues only not engineering or calculations.	155	None	Herriman City	None	4/14/2015	Herriman's impact fee for parks, trails and recreation meets requirements of Impact Fee Act. Investment per thousand can qualify as level of service. Specific list of improvements not required but as facilities are built with impact fee funds they must qualify under the Impact Fee Act and the criteria in the enactment documents.	City Government
Advisory Opinion - interpretation - may address interpretation of subdivision conditions after approval.	86	Peterson Development	West Jordan City	None	5/10/2010	An AO can be written to address an issue of interpretation of subdivision conditions after the subdivision is approved. A local government can select a connection point for public utilities so long as that selection is rationally based and reasonably acceptable. Local governments may use eminent domain for sewer systems.	Subdivision
Advisory Opinion - interpretation - may be written to address issue of interpretation of ordinance before application submitted.	87	Deepwater Distribution Co	Wasatch County	None	6/17/2010	An AO can be written to address an issue of interpretation of a land use ordinance before an application is submitted. The Division of Drinking Water may not impose fireflow requirements. The Fire Code imposes conditions on development, and therefore is subject to a takings claim. Fire suppression system is not an exaction because it does not involve a mandatory dedication. Not a Penn Central Taking either. Private benefits outweigh public benefits here.	Water System

Advisory Opinion - may only be prepared before an appeal authority issues a final decision on the issue	244	Adams	Woodland Hills City	Fuja	10/14/2021	Neighbor may challenge amendment to otherwise vested building permit. Project did not comply with ordinances and codes but could proceed under zoning estoppel. Amendment to permit is not protected by estoppel. Allowing continued construction is a land use decision subject to appeal and an advisory opinion.	Home under construction
Advisory Opinion - replacement of previous advisory opinion appropriate.	45	Gabel/Summit Hollow	Summit County	None	11/3/2008	Reconsideration and replacement of previous advisory opinion. Density of a project vests when a complete application is submitted. While development must comply with code requirements, mere statements of purpose cannot justify a reduction in density. OPRO may revise or replace an AO as part of the dispute resolution process.	Subdivision
Advisory Opinion - response - an AO will be issued even if the governmental entity refuses to participate.	160	Boyer Dixie LC	Washington City	None	7/10/2015	Charter schools are entitled to same treatment under the impact fee act as other public schools. Impact fee can only be charged if new system improvements are needed to serve the school. Impact fee must be charged when development occurs, and not at subdivision stage. The OPRO will issue an advisory opinion even if the governmental entity involved refuses to participate in the review.	Charter School
Advisory Opinion - scope - may be prepared even if no application is pending.	100	Macqueen	West Valley City	None	6/20/2011	A requirement for the dedication of land to the public is an exaction, not a simple regulation. Building orientation standards are legislative regulations subject to the reasonably debatable standard, not exactions. Ao may be prepared although no application for land use approval is pending.	Retail Store
Advisory Opinion - scope - may not be requested on issues which are beyond appeal.	95	SR Silver Lake LLC	Park City	Wilson	1/31/2011	An AO can only be requested on current issues within the time frame to appeal them. An AO cannot be requested on issues which, long ago, became beyond appeal. The development as approved meets the requirement of 60% open space.	Mixed Use Development
Advisory Opinions - deadline - AO not appropriate when deadline to appeal a decision has passed.	195	McCullough	South Jordan City	Grant	3/16/2018	An advisory opinion will not be available after the deadline passes to appeal a decision which would be the subject of the opinion. The City approval of the site plan was proper because the plan complies with the ordinances.	Assisted Living Facility
Advisory Opinions - finality - an AO will not be prepared when there is a dispute over whether a decision is final or not.	235	Flake	Provo City	Loftus	12/30/2020	Where there is a dispute over whether a matter is final or not, the OPRO will not prepare an advisory opinion. This AO prepared after a new land use decision was made. The setback provisions in the code for the underlying zone do not apply to individual units within a PUD approved within the zone, even though the units in the PUD were designated as "lots" and numbered sequentially.	PUD

Advisory Opinions - impact fee - OPRO will review draft impact fee documents before enactment but only for legality, not engineering or accounting.	163	None	Toquerville City	None	10/8/2015	Draft impact fee documents do not comply with Impact Fee Act; do not identify facilities; do not properly establish a level of service; do not include all essential information; do not rely on actual cost of facilities; propose use of impact fees to cure existing deficiencies; and are incomplete	City Government
Advisory Opinions - impact fee - OPRO will review draft impact fee documents before enactment but only for legality, not engineering or accounting.	168	None	Kearns Improvement District	None	6/30/2016	Kearns Improvement District impact fees substantially comply with the Impact Fee Act. Early review by the OPRO is appropriate but limited to legal issues.	Water District
Advisory Opinions - impact fee - reconsideration of this opinion in AO 138. Party challenging impact fee has burden to prove illegality. Even though govt entity did not respond, applicant did not meet this burden.	132	Miner	Lehi City	None	10/22/2013	This opinion reconsidered in AO 138. A party challenging an impact fee has the burden to prove that the impact fee fails to comply with the law. The applicant has not met this burden. AO issued even though City did not respond to requests for comments. City has the opportunity to adjust the fee but need not do so if the property owner has not proven that the fee must be adjusted.	Single Family Home
Advisory Opinions - impact fees - amended AO issued.	150	Davis	Tooele City	None	12/19/2014	Supplemented by Later AO 154. There is no impact which would justify an impact fee when an existing home is replaced with a new one. A requirement for the dedication of new water rights as a condition to allow rebuilding of a demolished home cures an existing deficiency which is prohibited by the Impact Fee Act. State guidelines are not sufficient proof of demand in an individualized determination of rough proportionality.	Single Family Home
Advisory Opinions - response - AO will be issued whether govt entity responds to the OPRO or not.	129	Miner	Timpanogos Special Service District	None	7/31/2013	Miner had burden to show the TSSD impact fees were not legal and did not meet that burden. TSSD did not respond to requests to comment but AO issued anyway.	Single Family Home
Advisory Opinions - standing - A neighbor can be a potentially aggrieved individual - if so, would have standing to request an AO	143	Woodside Development LLC	Park City	Meadows	8/14/2014	This AO deals with the same property as AO 88 and AO 131. Even though all information needed to finalize the application was not provided when it was filed, the City could review the application. An appeal to the Historic Preservation Commission is not a duplicative appeal.	Single Family Home

Advisory Opinions - standing - neighbor may request an AO.	88	Woodside Development LLC	Park City	Meadows	7/14/2010	As a potentially aggrieved person, a neighbor can request an AO. There is no vesting to an incomplete application. Significant errors in the application can render it incomplete and thus not vested. An appeal authority need not hear an appeal on an application that is withdrawn.	Home Remodel
Advisory Opinions - timely request	247	Spring Creek Cove Dev	Murray City	None	12/2/2021	Requirement that subdivider pipe canal is lawful, even though cost to do so is high, and is not an exaction which would require dedication or land or improvements to the public. Legislative regulation is valid in that it is reasonably debatable that it advances the public interest. Property owner asked for advisory opinion before appeal period ran out even though he did not appeal. Opinion would still be issued.	Subdivision - Canal
Advisory Opinions - water rights requirement is not an exaction and cannot be subject of an AO. Former opinion withdrawn.	156	J, LC	Alta Town	Salt Lake Board of Health	4/15/2015	Requirement that the applicant possesses water rights in order to qualify for building permit is not an exaction and cannot be the subject of an OPRO advisory opinion. Former opinion withdrawn.	Recreational Property
Advisory Opinions - when may request	257	Christensen, Steve	Washington County	None	6/14/2022	Where short term rentals were not specifically prohibited but multi family occupancies were clearly prohibited when nonconforming use was established, NCU continues for single family STR but never existed for multi family STR. Person may request Advisory Opinion before being denied an application for a land use.	Recreational Cabin
Advisory Opinions - will only consider the reasonableness of an impact fee in an as-applied challenge, not as part of a facial challenge to the fee if the fee otherwise complies with the Impact Fee Act.	242	Utah Valley Home Builders	Eagle Mountain City	None	7/30/2021	To challenge an impact fee which complies with the form required by statute, a person must demonstrate that the resulting fee is unreasonable on an as-applied basis. A person may not contest only the means used to arrive at fee calculations where the fee is facially valid in that it complies with the mandatory considerations imposed by the Impact Fee Act.	Impact Fee
Aesthetics - standing - public has no standing to challenge nonconforming sign.	214	Blue Rock Medical	Provo City	Evans	8/6/2019	Members of the public who pass by property with legal non-conforming illuminated sign do not have standing to challenge its approval.	Sign
Affordable Housing - exactions for - developer must be allowed to present evidence of impact and proportionality.	207	A&B Hotel Mgt	Grand County	None	1/9/2019	Utah law allows exactions to offset the demands imposed on the community by development employing low-income workers. The developer must be allowed to present evidence of whether a fee is proportionate and addresses the specific impact of a given development.	Hotel

Affordable Housing - exactions for - exaction must solve problem the development creates.	198	Spears	Wasatch County	None	7/5/2018	A requirement that new PUD contribute to affordable housing is an exaction. It is illegal if the County has not provided proof that the development creates the problem and that the solution is proportionate to the burden imposed by the development.	PUD
Affordable Housing Requirement - exaction - must be proportional.	96	Nilson	Morgan County	None	2/28/2011	Requirement to reserve property or pay money for affordable housing is an exaction. Without proof of proportionality, it is illegal. Incorporating the requirement as a mandatory provision in a development agreement does not change whether it is an exaction. It is, and subject to the same analysis. A taking claim may not need to be filed as a local land use appeal within the timeframe allowed for such appeals.	PUD
Agricultural land - subdivision - must conform to ordinance if intended to be buildable.	64	Day	Sanpete County	None	3/11/2009	Lots created by metes and bounds descriptions were not legally created under subdivision ordinance in place at the time they were created and must conform to the current ordinance. Agricultural lot splits do not result in buildable lots once the proposed use changes from agriculture to residential.	Subdivision
Agricultural Preservation Area - adjacent development - code prohibits feed lot near new homes but not new homes near an existing feedlot.	22	Unknown	West Point City	Diamond	10/8/2007	Annexation by City was proper despite presence of adjoining agricultural preservation area. Code restricts installing a new feedlot near homes not new homes near existing feedlot. Wetland issues are state issues and not subject to local control. Previous decisions by the City are strong evidence of how the City should act, but not controlling. Zoning estoppel does not apply.	Subdivision
Airport - private landing strip not nonconforming as never legal.	159	Wilkinson Construction Inc	Morgan County	Eggett	7/7/2015	Private landing strip was never legal and is therefore not a nonconforming use. The use is illegal.	Airport
Ambiguity - development agreement subject to code.	67	Ivory Development LLC	West Point City	None	5/4/2009	Where a development agreement allows units above 1300 total feet and the land use ordinance requires that 1200 feet be above grade, the ordinance governs even though the DA is less restrictive. The DA includes a provision that the development must follow local codes.	Subdivision
Amortization of Non conforming use - rental use	57	Perry	Ogden City	None	11/24/2008	A city may amortize nonconforming uses. Rental to more unrelated individuals in a single residence may be established as a nonconforming use and may be amortized over a reasonable period of time so the property owner can recover any investment in the use. If amortization is required, it must be made available to all affected property owners. That availability may not be arbitrarily cut off by the city by imposing a date after which the nonconformity is terminated without the opportunity to amortize.	Student Rental - Duplex

Annexation - near ag protection area -	22	Unknown	West Point City	Diamond	10/8/2007	Annexation by City was proper despite presence of adjoining agricultural preservation area. Code restricts installing a new feedlot near homes not new homes near existing feedlot. Wetland issues are state issues and not subject to local control. Previous decisions by the City are strong evidence of how the City should act, but not controlling. Zoning estoppel does not apply.	Subdivision
Annexation Agreements - binding on the parties - exactions.	134	Green	Layton City	None	11/15/2013	Obligation in previously negotiated annexation agreement is enforceable, even if now found to be disproportionate. Exaction of landscaping easement is illegal exaction if it does not solve a problem created by the development.	Subdivision
Appeals of Land Use Decisions - finality - if application denied and not appealed, no vested rights exist.	130	Creveling	Park City	None	9/27/2013	Vested rights arise only when a land use application conforms to local land use ordinances. If the application is denied and that denial is not appealed, no vested rights exist. Variances run with land and survive denial of application.	Single Family Home
Appeals of Land Use Decisions - based on facts and law - not emotions or sincerity of parties.	104	Love	Park City	None	7/27/2011	Decisions of an appeal authority must be based on the ordinance and objective facts. The motives and sincerity of the applicant are not relevant.	Permit to Move Building
Appeals of Land Use Decisions - deadline - constructive notice - 15 day deadline to appeal started when neighbor knew building permit had been issued.	97	Unknown	Weber County	Brown	3/14/2011	An appeal filed more than 15 days after constructive notice that a building permit had been issued is not timely. Time may not have run if appellant was notified by the county, in error, that permit had not been issued. Disputes regarding private easements and rights of way should be resolved between the private parties and do not involve local government.	Single Family Home
Appeals of Land Use Decisions - deadline - fifteen years of inactivity defeated right to appeal.	227	Green	Harrisville City	None	8/11/2020	Property Owner allowed approvals to lapse by 15 years of inactivity on approved project.	Commercial Development
Appeals of Land Use Decisions - deadline - may not bring appeal when time has passed.	128	Baguley	North Ogden City	Crippen	7/31/2013	After time period passes, an appeal may not be filed. The City may revoke a CUP for violations of its conditions.	Auto Service Facility
Appeals of Land Use Decisions - deadline - variances - previous decisions not binding on an appeal authority.	105	Mertens	Salt Lake City	None	8/23/2011	Appeals can not be brought after the deadline to appeal has passed. Letter from Community Development Dept. was not appealed and cannot be now. Property owners are entitled to full review of whether their use is nonconforming. Previous decisions by the Board of Adjustments on variance applications are not determinative of whether nonconforming status now exists.	Fourplex

Appeals of Land Use Decisions - deadlines - standards of review. - 4	Christensen	Sandy City	None	8/8/2006	The period to appeal administrative decisions related to height, density, and setbacks has passed so the decision is final. Other approval decisions may be appealed within the time allowed by ordinance or statute. Standards of review outlined in opinion. The decisions made appear to be supported by substantial evidence in the record. The decisions also appear to be consistent with the ordinances and within the discretion of the land use authority. All approvals given for the project are valid.	Mixed Use Development
Appeals of Land Use Decisions - deadlines - takings claim is not a land use decision subject to appeal deadline. - 96	Nilson	Morgan County	None	2/28/2011	Requirement to reserve property or pay money for affordable housing is an exaction. Without proof of proportionality, it is illegal. Incorporating the requirement as a mandatory provision in a development agreement does not change whether it is an exaction. It is, and subject to the same analysis. A taking claim may not need to be filed as a local land use appeal within the timeframe allowed for such appeals.	PUD
Appeals of Land Use Decisions - district court - some land use decisions not subject to local appeal such as constitutional claims. - 149	Jacobson	Herriman City	None	12/5/2014	Vested rights occur when an application complies with the requirements in the ordinance for a complete application. The ordinance must be read as a whole to determine compliance. Reference in the zoning ordinance to "intent and purpose" of general plan as the means to limit overall density is not illegal.	Subdivision
Appeals of Land Use Decisions - duplicative appeals - an appeal to the historic district commission not a duplicative appeal. - 143	Woodside Development LLC	Park City	Meadows	8/14/2014	This AO deals with the same property as AO 131 and AO 88. Even though all information needed to finalize the application was not provided when it was filed, the City could review the application. An appeal to the Historic Preservation Commission is not a duplicative appeal.	Single Family Home

Appeals of Land Use Decisions - failure to appeal renders decision final - cell tower.	74	KEG Company	Delta City	Western	9/6/2009	Since neighbor did not challenge a local decision approving a cell tower within the time allowed by ordinance, the approval stands whether it was correct or not. Footnote 4 - makes no difference if city personnel tells citizen nothing can be done.	Telecommunications Tower
Appeals of Land Use Decisions - failure to appeal renders decision final - gravel	46	Hirschi	Rockville Town	None	7/15/2008	A 1997 decision denying nonconforming use status stands as it was not appealed at the time. Town cannot now approve additional applications for gravel use now.	Gravel Pit
Appeals of Land Use Decisions - law - federal law preempts local - cell tower	125	Western	Delta City	None	5/31/2013	Federal law requires the city to approve changes to a wireless tower which fall within the federal definition of eligible changes. Other issues of nonconforming uses or appeals are moot and not considered	Telecommunications
Appeals of Land Use Decisions - multiple authorities - several appeal authorities may be appointed to hear different types of appeals.	131	505 Woodside Development LLC	Park City	Meadows	10/18/2013	This AO deals with same property as AO No. 88 and AO 143. More than one appeal authority may be designated to hear different types of appeals, even in all the appeals relate to a single project.	Single Family Home
Appeals of Land Use Decisions - pending ordinances	17	Uinta Academy LC	Cache County	None	6/28/2007	With regard to vested rights, if a compelling public interest is served by a denial or if the application does not conform to the existing ordinances there does not need to be a pending or temporary regulation under consideration to justify denial. A pending ordinance may be in effect whether the proposed ordinance is a temporary ordinance or not. A temporary ordinance may prohibit group homes if it does not unduly discriminate. In this case, the 71 day time taken to consider the application was not unreasonable. A letter from the zoning administrator may be appealed as it is a land use decision.	Group Home
Appeals of Land Use Decisions - procedural defects must be shown to have resulted in error.	222	White	Tooele County	None	4/30/2020	During process of review of County ordinance for deficiencies the County must still apply current ordinance to current applications. Appellant must show how failure to follow procedure resulted in error in final decision	Subdivision
Appeals of Land Use Decisions - remand - new record may be created on remand - part of required exhaustion.	62	Alliance Youth Services	Pleasant Grove City	None	2/11/2009	An appeal authority may remand a matter back to the land use authority. A new record can be created on remand. A person has not exhausted their administrative remedies until the appeal process is completed. Purchase of property is not sufficient reliance to establish estoppel. The city has no duty to disclose and explain all its land use regulations.	Residential Treatment Facility

Appeals of Land Use Decisions - remand - new record may be created on remand - part of required exhaustion.	62	Alliance Youth Services	Pleasant Grove City	None	2/11/2009	An appeal authority may remand a matter back to the land use authority. A new record can be created on remand. A person has not exhausted their administrative remedies until the appeal process is completed. Purchase of property is not sufficient reliance to establish estoppel. The city has no duty to disclose and explain all its land use regulations.	Residential Treatment Facility
Appeals of Land Use Decisions - scope - may alter decision appealed to render it legal - parking	80	Buttars	Harrisville City	None	12/9/2009	City appeal authority may alter the decision which is the subject of the appeal. The planning commission must require pavement of parking if the ordinance requires it. A court order requiring the rezoning of property does not mean the city cannot require a site plan. Current parking ordinance may be imposed.	Parking
Appeals of Land Use Decisions - standing - neighboring property owner	81	Bear River Valley Co-op	Corrine City	Neighborhood Non-profit Housing Corp	1/14/2010	Owner of neighboring subdivision has standing to appeal CUP approval. Application must meet requirements of ordinance. If neighbor identifies with substantial evidence the detrimental effects of proposed CUP they must be addressed. Public must have opportunity to respond to submittals.	Fertilizer Storage
Appeals of Land Use Decisions - standing - neighboring property owner	88	Woodside Development LLC	Park City	Meadows	7/14/2010	As a potentially aggrieved person, a neighbor can request an AO. There is no vesting to an incomplete application. Significant errors in the application can render it incomplete and thus not vested. An appeal authority need not hear an appeal on an application that is withdrawn.	Home Remodel
Appeals of Land Use Decisions - time to appeal	4	Christensen	Sandy City	None	8/8/2006	The period to appeal administrative decisions related to height, density, and setbacks has passed so the decision is final. Other approval decisions may be appealed within the time allowed by ordinance or statute. Standards of review outlined in opinion. The decisions made appear to be supported by substantial evidence in the record. The decisions also appear to be consistent with the ordinances and within the discretion of the land use authority. All approvals given for the project are valid.	Mixed Use Development
Appeals of Land Use Decisions - time to appeal	46	Hirschi	Rockville Town	None	7/15/2008	A 1997 decision denying nonconforming use status stands as it was not appealed at the time. Town cannot now approve additional applications for gravel use now.	Gravel Pit
Appeals of Land Use Decisions - time to appeal	74	KEG Company	Delta City	Western	9/6/2009	Since neighbor did not challenge a local decision approving a cell tower within the time allowed by ordinance, the approval stands whether it was correct or not. Footnote 4 - makes no difference if city personnel tells citizen nothing can be done.	Telecommunications Tower

Appeals of Land Use Decisions - tolling - duty to complete required condition should be tolled during appeal.	107	United Park City Mines	Park City	None	10/27/2011	The duty to complete a required condition should be tolled during an appeal period unless it is simply an excuse for inactivity by a developer	Subdivision
Application - development plans	133	Canyons School District	Cottonwood Heights City	Kartchner	10/22/2013	School district must submit development plans to City and did so, although belatedly. The City need not apply a parking requirement for each ancillary use if the overall main use parking requirements are met.	School
Application - Review before all information provided	143	Woodside Development LLC	Park City	Meadows	8/14/2014	This AO deals with the same property as AO 131 and AO _____. Even though all information needed to finalize the application was not provided when it was filed, the City could review the application. An appeal to the Historic Preservation Commission is not a duplicative appeal.	Single Family Home
Application for Development - complete - although all information not present, city could proceed to review without challenge by neighbor third party.	143	Woodside Development LLC	Park City	Meadows	8/14/2014	This AO deals with the same property as AO 131 and AO 88. Even though all information needed to finalize the application was not provided when it was filed, the City could review the application. An appeal to the Historic Preservation Commission is not a duplicative appeal.	Single Family Home
Application of Ordinance - accessory structure with no primary structure	122	McKee	Logan City	None	4/11/2013	A small subdivision would isolate an accessory building on a separate lot. The code prohibits accessory buildings without a primary structure. The City may refuse to approve the subdivision until the accessory building is changed to qualify as a primary residence. The application for subdivision is not entitled to approval although it meets all the requirements for a subdivision.	Subdivision - Small
Application Review Fees - complete application - basis for fees	103	Brown	Wasatch County	None	7/6/2011	An application is not complete until all fees are paid, even if the fee is challenged, and all information required is submitted. Fees must be based on cost to process, not on percentage of cost. Requirements for a complete application must be based on specific, objective, ordinance-based criteria.	Water System

Application Review Fees - school - fees which can be charged on new school	12	Jordan School District	West Jordan City	None	3/1/2007	The City can only require a school to connect to its sewer utility if the site is within 300 feet of an existing sewer line. Water connection charges must be reasonable. Street improvements requirements for school must be the minimum required for public safety, proportionate, and reasonably related to school safety. A school can be required to pay building inspection fees and reasonable impact fees but not other land use fees	School
Assisted Living Center - conditional use permit - legality of specific conditions.	192	Cedar Hills Farm Land LLC	Cedar Hills City	None	12/28/2017	Conditions imposed on a CUP must be related to and substantially mitigate the anticipated negative aspects of a development. Standards in ordinance for CUP review may be general and may be approved by resolution rather than by ordinance if the standards are referred to in the ordinance. Condition to limit density of project is illegal. Condition imposing specific services for residents is illegal. Parking condition is legal. Overnight parking prohibition is probably legal. Landscaping and open area condition illegal. Project phasing condition illegal. Conditions to limit impact on public safety illegal because prohibition of density not shown to be necessary to mitigate impact of use. Condition prohibiting young adults and requiring senior residents illegal not legal as not supported by evidence. Low level lighting condition is legal. Condition related to processing of development application is unnecessary and redundant.	Commercial Development
Assisted Living Center - resident owner requirement	60	Taylor	Lindon City	None	1/20/2009	City prohibits senior living arrangements unless one resident is an owner of the property. This is legal and consistent with state law. A corporate owner is not a resident.	Senior Residential Facility
Auto Mechanic Home Occupation - nonconforming use	162	Baguley	North Ogden City	None	8/25/2015	City acted within discretion to amend ordinance. Public clamor does not invalidate a legislative act. Amortization of nonconforming uses is allowed by statute but may require the payment of just compensation.	City Government
Barn - setback requirements	38	Weidauer	Cedar Fort	Ault	4/16/2008	The ordinance imposes setback requirements on dwellings, buildings, and storage sheds. A hay barn/horse shed with one solid wall must meet setback requirements.	Storage Shed
Billboard - bus bench is a billboard	99	Porter	Clearfield	None	3/29/2011	A nonconforming bus bench is the same as a billboard under state law and entitled to all the protections afforded to billboards in state law.	Bus Benches
Boundary Adjustment - subject to local procedures (state law later amended)	26	Eickbush	Utah County	Tanner	11/29/2007	The county may require a boundary line adjustment to be reviewed by the county under its subdivision ordinances. NOTE - state statutes have been amended since this opinion was published.	Single Family Lot

Building Code - nonconforming use - building code not retroactively applied to define use as nonconforming when it was allowed by the land use ordinance.	68	Davidson	Provo City	None	5/5/2009	A nonconforming duplex is legal with regard to the land use ordinance even if it does not comply with other codes. The City may not impose code requirements to define the nonconforming status at the time the use was established. A duplex was legal even if no building permit was produced by property owner.	Duplex
Building Pad - vested rights	78	Martino	Salt Lake County	None	11/24/2009	A lot owner has a vested right to building within the building pad area designated on an approved subdivision plat. The county's legitimate interest in protecting hillsides and ridgelines can only restrict such building with the showing of a compelling public interest beyond protecting hillsides and ridgelines. The justification must be a threat to public health and safety.	Single Family Lot
Building Permits - access - town may hold up building permit until access is proven.	205	McCabe	Paradise City	None	12/12/2018	Town may withhold building permit until road to property is built. Homeowner is "developer" if building a house. Exaction of road appears proportionate.	Single Family Home
Building Permits - electrical work requires a permit.	84	Warner	Clearfield City	None	3/2/2010	A shed attached to the main building is not an accessory structure. It is an addition to a home and violated the setbacks when it was built. It may not now be rebuilt. A structure with electricity attached to a home needs a building permit.	Shed
Building Permits - notice to neighbors and time to challenge.	97	Unknown	Weber County	Brown	3/14/2011	An appeal filed more than 15 days after constructive notice that a building permit had been issued is not timely. Time may not have run if appellant was notified by the county, in error, that permit had not been issued. Disputes regarding private easements and rights of way should be resolved between the private parties and do not involve local government.	Single Family Home
Burden to Challenge - impact fees - burden of proof on person challenging the fee.	72	Florence	Central Weber Sewer Improvement District	None	6/30/2009	The person challenging an impact fee has the burden to demonstrate that it is illegal. This developer has not met that burden.	Restaurant
Burden to Challenge - impact fees - burden of proof on person challenging the fee. Includes studies and analysis.	73	Waxie Enterprises	Salt Lake City	None	8/31/2009	Person appealing impact fees must present reasoned studies and analysis showing actual impact of development and what fees should be.	Warehouse/Office

Bureau of Reclamation - canal easement - city may hold up review of subdivision - compelling public interest.	36	Loafer Rim Properties LC	Salem City	None	4/8/2008	Where the BOR claims a 200 foot wide easement along a canal that claim may be excessive and require just compensation but the city has a compelling public interest in not approving a proposed subdivision until the nature of the easement is resolved.	Subdivision
Bus Benches - billboard - a bus bench is a billboard.	99	Porter	Clearfield	None	3/29/2011	A nonconforming bus bench is the same as a billboard under state law and entitled to all the protections afforded to billboards in state law.	Bus Benches
Business Licenses - not land use decisions - not basis for claiming that an illegal use is nonconforming nor does a business license create zoning estoppel.	98	Checketts	Providence City		3/28/2011	A nonconforming use must have been established legally. The city does not waive the ability to enforce its ordinances if it does not do so in other cases. Combining two lots, even in an usual manner, can meet the requirement that a home occupation be on the same lot. Not a taking if economic use remains. NOTE: See Providence City v. Checketts, Utah Court of Appeals.	Countertop Manufacturing
Business Licenses - triplex must conform to rule of maximum number of residents.	224	Ruth S Eyre Trust	Logan City	None	6/10/2020	Official recognition of nonconforming triplex under city ordinance did not include vesting of number of residents allowed on the premises - city rules confirming use must be complied with	Triplex
Canal Piping - land use regulation requiring is valid	247	Spring Creek Cove Dev	Murray City	None	12/2/2021	Requirement that subdivider pipe canal is lawful, even though cost to do so is high, and is not an exaction which would require dedication or land or improvements to the public. Legislative regulation is valid in that it is reasonably debatable that it advances the public interest. Property owner asked for advisory opinion before appeal period ran out even though he did not appeal. Opinion would still be issued.	Subdivision - Canal
Canals - exactions - must be proportionate and reasonable.	91	Schemehl	North Ogden City	Weber-Box Elder Conservancy District	10/6/2010	Both the city and the water district are responsible for an exaction if both make connection mandatory for approval of land use application and thus must prove proportionality. The burdens on each govt entity may vary. Choice of route for water line must be reasonable.	Subdivision
Canals - subdivision - vested rights - city may defer consideration of vested application due to federal canal issues - compelling public interest.	36	Loafer Rim Properties LC	Salem City	None	4/8/2008	Where the BOR claims a 200 foot wide easement along a canal that claim may be excessive and require just compensation but the city has a compelling public interest in not approving a proposed subdivision until the nature of the easement is resolved.	Subdivision
Capital Facilities - impact fees - level of service - parks	59	Utah Valley Home Builders	Lehi City	None	1/13/2009	City could not include in its level of service proposed park facilities that it neither owns nor has improved. Police calls as measure of level of service is allowed. Other issues also discussed	Single Family Home

Capital Facilities - impact fees - level of service - parks trails recreation.	155	None	Herriman City	None	4/14/2015	Herrimans impact fee for parks, trails and recreation meets requirements of Impact Fee Act. Investment per thousand can qualify as level of service. Specific list of improvements not required but as facilities are built with impact fee funds they must qualify under the Impact Fee Act and the criteria in the enactment documents.	City Government
Caps on Available Uses - conditional use permits - city may not refuse CUP because of an overall cap on short term rentals.	92	Davis	Cottonwood Heights City	None	11/1/2010	If a conditional use is allowed in a zone it is determined that the use is a desirable use. The City must grant the use unless it establishes that detrimental effects cannot be mitigated. City's determination that too many STR's exist may constitute a detrimental effect but it must process the CUP applications and make individual determinations that detrimental effects cannot be mitigated.	Condo
CC&Rs - binding - CC&Rs not binding on city zoning regulations.	109	Mount	Summit Co	None	12/6/2011	See also AO 126. A declaration of covenants is a private contract and does not control local zoning regulation. Mere ownership is not sufficient expense to constitute zoning estoppel.	Single Family Home
CC&Rs - effect on city codes	254	None	Ivins City	None	4/13/2022	Absent a development agreement providing otherwise, a subdivision application does not vest future building permit applications in the regulations in place when the subdivision application was filed. Building permit applications vest only when the permit applications are filed. CC&Rs are not normally taken into account in approving a land use application. State Statute vesting subdivisions approved for ten years in then-current land use regulations applies narrowly to subdivisions approved during a specific one year period.	Subdivision
Cell Tower - challenge - deadline passed so appeal void.	74	KEG Company	Delta City	Western	9/6/2009	Since neighbor did not challenge a local decision approving a cell tower within the time allowed by ordinance, the approval stands whether it was correct or not. Footnote 4 - makes no difference if city personnel tells citizen nothing can be done.	Telecommunications Tower
Change in Project - exactions - development agreement - city could enlarge project developer committed to contribute to.	41	Ukena, Stanger, Clark	South Weber City	None	5/13/2008	Developers may be required to contribute to detention basin needed to offset burdens created by their development. Where developers had previously agreed to their share of cost of detention basin, the city could still change the project and enlarge the basin. There was no duty to lower the contribution of the developers to the project which they had voluntarily agreed to as proportionate to the impact of their development.	Detention Basin

Circumstantial Evidence of prior regulation - nonconforming use - those challenging a NCU must prove with a copy of the ordinance that it was never legal.	140	Central Bank	Saratoga Springs City		5/20/2014	Reconsideration of AO 123. Circumstantial evidence of what a land use ordinance provided for at some point in history is not sufficient to defeat a nonconforming use. If the use was illegal under the ordinance, a copy of the ordinance must be produced.	Barn
Common Space - definition of - city's designation upheld - detention pond.	216	Ovation Homes	Kaysville City	Halls	10/11/2019	City's determination that detention pond area qualifies as open space upheld. General purpose language is not enforceable as code requirements.	Open Space
Compelling A137Public Interest - initiative - while Utah Supreme Court has held that citizen referenda are CCPs, initiatives to change ordinances do not affect previously filed applications under Utah Vesting Laws.	65	Sevier Power Company LLC	Sevier County	None	3/26/2009	Although citizens initiative which was approved requires public vote for a power plant conditional use permit, the application was received prior to the initiation of the initiative and vested under the former ordinances. An initiative is not a pending ordinance for purposes of defeating vested rights for an application filed before the initiative process began. Authored by independent counsel, not the OPRO.	Power Plant
Compelling Public Interest - expert opinion - geological issues in subdivision - A CCPI can only be found where there is specific proof.	37	Mansell	Santa Clara City	None	4/8/2008	Where the applicant provides an expert report that the proposed development is safe, the City must approve the application unless there is proof the development is unsafe in another expert opinion. A general compelling public interest does not become a compelling interest in a specific application without specific proof.	Subdivision
Compelling Public Interest - hillside - ridgeline - county can only enforce unwritten rule when CCPI is a threat to public health and safety	78	Martino	Salt Lake County	None	11/24/2009	A lot owner has a vested right to building within the building pad area designated on an approved subdivision plat. The county's legitimate interest in protecting hillsides and ridgelines can only restrict such building with the showing of a compelling public interest beyond protecting hillsides and ridgelines. The justification must be a threat to public health and safety.	Single Family Lot
Compelling Public Interest - historic structure - CCPI must be found on the record by the land use authority, not argued by third party challengers	181	Kershaw	Park City	None	3/7/2017	Application for Determination of Significant Historic Building did not expire prior to its consideration. Pending ordinance rule does not apply after the ordinance is adopted.	Historic Building

Compelling Public Interest - private easements across development property	239	Crowther	Big Water Town	Harbut/Sawyer	5/5/2021	Ordinance says subdivided lots cannot be consolidated. Old federal lots were not considered to be subdivided. Private easement rights should normally not be resolved in land use application processes but could constitute compelling public interest and thus affect approval of application. In this case there is no taking of easement rights held by neighbors in approving development	Antiquated Lots
Compelling Public Interest - solar panels - not found	238	Davis	Ephraim City	None	4/16/2021	City denied application for solar panels during moratorium/temporary regulation period. There was no compelling public interest justifying a temporary regulation	Solar Panels
Compelling Public Interest - Temporary Ordinance - not a CCPI to substitute preference of current city council to a previous one.	14	Moyal, MBI	Ogden City	None	4/16/2007	The preference for one zoning district over another by a subsequent city council does not constitute a compelling public interest sufficient to support a temporary zoning ordinance. An application for a restaurant is vested and must be considered under the existing ordinances.	Restaurant
Compelling Public Interest - unused access easement - no CCPI found where not amendment to ordinance required.	28	North Salt Lake Heights LLC	North Salt Lake City	Lakeview Rock Products	1/23/2008	At the preliminary approval phase of development review the City should not deny the application because of the presence of an unused fifty foot wide access easement that conflicts with the proposed plan. Resolution of the easement issue could be made a condition for final approval. No compelling public interest is found since the issue does not require an amendment to the ordinances.	Subdivision
Compelling Public Interest - views and access - not a CCPI to prohibit development on both sides of street to protect views and access.	33	Danville Land Investments LLC	Draper City	None	3/12/2008	After project applications vested, City could not change requirements to prohibit development on both sides of a street to protect views and public access. These are not compelling public interests. 30 day period to deem an application incomplete passed - application is therefore deemed complete.	Subdivision
Compliance with Ordinances - boundary line adjustment	26	Eickbush	Utah County	Tanner	11/29/2007	The county may require a boundary line adjustment to be reviewed by the county under its subdivision ordinances. NOTE - state statutes have been amended since this opinion was published.	Single Family Lot
Complete Land Use A201Application - without required preapplication conference	240	White	Tooele County	None	6/10/2021	Failure to conduct a required preapplication conference does not waive vested right to approval of application if it complies with the ordinances. These third party appeals do not establish required adverse effects or error. An application, if complete, vests whether or not it is reviewed for completeness. Nothing in the record indicates a formal consideration of a pending ordinance. Relates to AO 222 also requested by White.	PUD

Complete Land Use Application - changes to application - vesting occurs when application Changed to comply with ordinances.	40	Paramount Development Inc	Providence City	Not Named	4/29/2008	Vested rights occur when the application conforms to the ordinances, even if that occurs after the application is filed. A subsequent change in the ordinances would not apply to the application.	Subdivision
Complete Land Use Application - complying - accessory building - where plat would isolate an accessory building on a separate lot in violation of ordinances plat is not entitled to approval.	122	McKee	Logan City	None	4/11/2013	A small subdivision would isolate an accessory building on a separate lot. The code prohibits accessory buildings without a primary structure. The City may refuse to approve the subdivision until the accessory building is changed to qualify as a primary residence. The application for subdivision is not entitled to approval although it meets all the requirements for a subdivision.	Subdivision - Small
Complete Land Use Application - criteria - must be specific, objective and included in ordinance.	103	Brown	Wasatch County	None	7/6/2011	An application is not complete until all fees are paid, even if the fee is challenged, and all information required is submitted. Fees must be based on cost to process, not on percentage of cost. Requirements for a complete application must be based on specific, objective, ordinance-based criteria.	Water System
Complete Land Use Application - deadline - thirty day period to deem and application incomplete passed so it is deemed complete	33	Danville Land Investments LLC	Draper City	None	3/12/2008	After project applications vested, City could not change requirements to prohibit development on both sides of a street to protect views and public access. These are not compelling public interests. 30 day period to deem an application incomplete passed - application is therefore deemed complete.	Subdivision
Complete Land Use Application - entitled to approval even though land use regulations changed after application filed.	43	Johnson/D&D Concrete/Nilson Homes	Morgan County	None	7/12/2008	Zone change after an application was submitted does not apply to that application. County action denying application was arbitrary and capricious. While plan proposed was different than previously proposed it still met the requirements of the ordinance and was entitled to approval absent evidence to the contrary,	Subdivision
Complete Land Use Application - fees - application only complete when fees are paid even if fees are challenged.	103	Brown	Wasatch County	None	7/6/2011	An application is not complete until all fees are paid, even if the fee is challenged, and all information required is submitted. Fees must be based on cost to process, not on percentage of cost. Requirements for a complete application must be based on specific, objective, ordinance-based criteria.	Water System
Complete Land Use Application - incomplete application results in no vesting.	88	Woodside Development LLC	Park City	Meadows	7/14/2010	As a potentially aggrieved person, a neighbor can request an AO. There is no vesting to an incomplete application. Significant errors in the application can render it incomplete and thus not vested. An appeal authority need not hear an appeal on an application that is withdrawn.	Home Remodel

Complete Land Use Application - pending ordinance - ordinance was not pending until it was placed in planning commission agenda.	210	Nilson Homes	Plain City	None	6/18/2019	An ordinance is not "pending" until it initiates procedures to enact it. Date the ordinance was placed on proposed Planning Commission agenda is date it became "pending".	PUD
Completion Bonds - amount - limited to reasonable costs of improvements and administration of completion.	152	Clifford - Snow Hound LLC	Moab City	None	1/7/2015	Completion bond amount must be limited to a reasonable costs of improvements and administration of completion. City provision requiring completion of improvements within six months is void as it conflicts with state law.	Subdivision
Completion Bonds - new standards - bond only insures completion of improvements based on original approval, not new standards adopted later.	137	Bybee, Cadence Homes	American Fork City	None	1/31/2014	Design and construction standards must be in place before a development application is submitted. New standards may not be imposed on existing applications or previously issued permits.	Subdivision
Completion Bonds - private park - city may not use completion bond for private park not included in setting amount of bond.	29	Woodside Homes	Kaysville City	None	2/4/2008	Although it was proper for the city to require completion bond under the ordinances, it may only be used to fund public improvements, not a park which was included in the development but not considered when setting the amount of the bond. City may only enforce requirements found in its ordinances.	Subdivision
Compliance with Land Use Ordinances - approval of city - if ordinance requires approval of city that must be obtained even if land is annexed.	23	Ames	West Jordan City	None	10/23/2007	Although a subdivision plat was approved by Taylorsville City during the time period when the property involved was deannexed from Taylorsville and annexed into West Jordan, the plat is invalid because it did not include approval by the water authority as required by the West Jordan ordinances. The plat approval included an express condition that West Jordan approve the plat prior to recordation, which it had not done.	Subdivision
Compliance with Land Use Ordinances - calculations - average setback could be calculated in several ways and still be appropriate. Deference to city.	27	Barber	Salt Lake City	Low	12/7/2007	Calculation of the required setback for a replacement home, based on average setbacks in the area, was logical and consistent with the ordinances even though it did not take into account the setback of the home being replaced. The staff could either consider that setback or not. Either option for calculation would be appropriate. The opinion deferred to the staff's expertise.	Single Family Home

Compliance with Land Use Ordinances - deference - development agreement - city interpretation entitled to deference (Note - later case law moderates this conclusion)	112	Haertel	Saratoga Springs City	Krejci	3/29/2012	A development agreement is valid even if City cannot find original agreement. Such an agreement, the PUD approval, and the zoning ordinance should be read as a whole to guide development. Policy and purpose statements provide general guidance but are not substantive parts of ordinance. The city's interpretation of its ordinance is entitled to deference and should stand. (Note - Later case law moderates this conclusion).	Subdivision
Compliance with Land Use Ordinances - disclosure - city has no affirmative duty to disclose and explain ordinances	62	Alliance Youth Services	Pleasant Grove City	None	2/11/2009	An appeal authority may remand a matter back to the land use authority. A new record can be created on remand. A person has not exhausted their administrative remedies until the appeal process is completed. Purchase of property is not sufficient reliance to establish estoppel. The city has no duty to disclose and explain all its land use regulations.	Residential Treatment Facility
Compliance with Land Use Ordinances - federal law - cell phone - federal law preempts local.	125	Western	Delta City	None	5/31/2013	Federal law requires the city to approve changes to a wireless tower which fall within the federal definition of eligible changes. Other issues of nonconforming uses or appeals are moot and not considered	Telecommunications
Compliance with Land Use Ordinances - meat packing - ancillary use - county decision that meat packing was not an ancillary use to hunting was upheld.	108	Jones, Rulon	Weber County	Barry	11/8/2011	A meat packing and packaging operation incidental to a larger hunting operation is not simply an ancillary use to an agricultural use. County prohibitions are valid. Designation of a land use authority in this case was valid.	Meat Packing
Compliance with Land Use Ordinances - pending ordinance - application does not comply with ordinances if a new ordinance was published on agenda before application was filed.	19	Webber, Hayes	Washington Terrace	None	8/9/2007	An ordinance may be applied against a new application if it is published on the agenda of a public meeting before the application is filed. Zoning estoppel may not be based on a city's failure to notify developers of possible changes to the ordinance.	Multifamily
Compliance with Land Use Ordinances - precedent - previous decisions of city are strong evidence of how the city should act, but not controlling.	22	Unknown	West Point City	Diamond	10/8/2007	Annexation by City was proper despite presence of adjoining agricultural preservation area. Code restricts installing a new feedlot near homes not new homes near existing feedlot. Wetland issues are state issues and not subject to local control. Previous decisions by the City are strong evidence of how the City should act, but not controlling. Zoning estoppel does not apply.	Subdivision

Compliance with Land Use Ordinances - private streets - city cannot require streets to be public where ordinance require them to be private.	1	Ivory Development	Taylorville City	None	7/5/2006	Where the ordinance states that the streets within a PUD are to be private the City cannot require them to be public. In calculating density the area of the streets is therefore included in the total area of the development.	PUD
Compliance with Land Use Ordinances - RV - local ordinance could not be interpreted to prohibit RV's.	76	Johnson	Levan Town	None	11/27/2009	Where local ordinance allows connection of RV to electrical service for up to three months and allows RV use outside of authorized parks for up to three months, property owner could not be denied temporary use of RV on vacant lot.	RV
Compliance with Land Use Ordinances - setback - nonconforming use - new conditional use may be denied if building does not comply with setback requirements.	16	Bunnell	Salt Lake City	Cromer	6/22/2007	Nonconforming lot is not eligible for new conditional use because, as per ordinance, the structure on the lot does not comply with setback requirements. Staff interpretation of the ordinance was incorrect.	Multifamily
Compliance with Land Use Ordinances - substantial evidence - natural waterways - if city interpretation is supported by substantial evidence and conforms to plain language of ordinance it will be upheld.	85	Shrontz	Alta Town	None	3/10/2010	Designation of natural waterways by Town was not arbitrary and capricious as it was supported by substantial evidence in the record. It is not illegal as it conforms to plain language of ordinance.	Subdivision
Compliance with Land Use Ordinances - vesting - restaurant - application must be considered under ordinance in place - not a compelling, countervailing public interest to substitute preference of current city council to a previous one.	14	Moyal, MBI	Ogden City	None	4/16/2007	The preference for one zoning district over another by a subsequent city council does not constitute a compelling public interest sufficient to support a temporary zoning ordinance. An application for a restaurant is vested and must be considered under the existing ordinances.	Restaurant
Compliance with Land Use Ordinances - vesting - subdivision - city could not change requirements after compliant application vested.	33	Danville Land Investments LLC	Draper City	None	3/12/2008	After project applications vested, City could not change requirements to prohibit development on both sides of a street to protect views and public access. These are not compelling public interests. 30 day period to deem an application incomplete passed - application is therefore deemed complete.	Subdivision

Compliance with Land Use Ordinances - water authority - if ordinance requires approval by water authority, then that must be obtained.	23	Ames	West Jordan City	None	10/23/2007	Although a subdivision plat was approved by Taylorsville City during the time period when the property involved was deannexed from Taylorsville and annexed into West Jordan, the plat is invalid because it did not include approval by the water authority as required by the West Jordan ordinances. The plat approval included an express condition that West Jordan approve the plat prior to recordation, which it had not done.	Subdivision
Compliance with Land Use Ordinances - wetlands - city may impose regulations on watershed but may not protect wetland habitat.	120	Ciel Investment Co	Salt Lake City, Salt Lake County	None	2/15/2013	Salt Lake City has jurisdiction over the watershed areas that provide culinary water and may impose regulations and conditions on building and uses. This authority does not extend to protect wetland habitat.	Residential Lot
Concept Plan - vesting - later ordinances do not apply. Entitled to approval if meets the current ordinance.	43	Johnson/D&D Concrete/Nilson Homes	Morgan County	None	7/12/2008	Zone change after an application was submitted does not apply to that application. County action denying application was arbitrary and capricious. While plan proposed was different than previously proposed it still met the requirements of the ordinance and was entitled to approval absent evidence to the contrary,	Subdivision
Concept Plan - vesting - procedural errors - burden on appellant to prove errors	222	White	Tooele County	None	4/30/2020	During process of review of County ordinance for deficiencies the County must still apply current ordinance to current applications. Appellant must show how failure to follow procedure resulted in error in final decision	Subdivision
Conditional Use - ADU - denial was not supported by substantial evidence.	220	Madsen, Young	Lehi City	None	3/31/2020	Decision to deny conditional use was not supported by substantial evidence in the record and thus illegal.	ADU
Conditional Use - Amendments	252	Burdick Materials	Uintah County	Haslem, Kim	3/29/2022	Neighbor complained of violation of existing CUP. Planning Commission amended permit rather than revoke it. Decision was valid as it was supported by substantial evidence in the record.	Cement Plant
Conditional Use - auto service - revocation - city may revoke CUP for violations of its conditions.	128	Baguley	North Ogden City	Crippen	7/31/2013	After time period passes, an appeal may not be filed. The City may revoke a CUP for violations of its conditions.	Auto Service Facility
Conditional Use - cell tower - deadline - citizen must timely file an appeal.	74	KEG Company	Delta City	Western	9/6/2009	Since neighbor did not challenge a local decision approving a cell tower within the time allowed by ordinance, the approval stands whether it was correct or not. Footnote 4 - makes no difference if city personnel tells citizen nothing can be done.	Telecommunications Tower

Conditional Use - Cement Plant	252	Burdick Materials	Uintah County	Haslem, Kim		Neighbor complained of violation of existing CUP. Planning Commission amended permit rather than revoke it. Decision was valid as it was supported by substantial evidence in the record.	Cement Plant
					3/29/2022		
Conditional Use - commercial - conditions must be related to and substantially mitigate detrimental effects. Standards may be general. Each condition must be supported by evidence and otherwise legal.	192	Cedar Hills Farm Land LLC	Cedar Hills City	None	12/28/2017	Conditions imposed on a CUP must be related to and substantially mitigate the anticipated negative aspects of a development. Standards in ordinance for CUP review may be general and may be approved by resolution rather than by ordinance if the standards are referred to in the ordinance. Condition to limit density of project is illegal. Condition imposing specific services for residents is illegal. Parking condition is legal. Overnight parking prohibition is probably legal. Landscaping and open area condition illegal. Project phasing condition illegal. Conditions to limit impact on public safety illegal because prohibition of density not shown to be necessary to mitigate impact of use. Condition prohibiting young adults and requiring senior residents illegal not legal as not supported by evidence. Low level lighting condition is legal. Condition related to processing of development application is unnecessary and redundant.	Commercial Development
Conditional Use - commercial - public clamor may not be considered	117	Cottonwood Partners	Cottonwood Heights City		10/15/2012	Decision to approve a conditional use permit was valid despite public clamor from neighbors.	Commercial Development
Conditional Use - commercial - substantial evidence - where approval was supported by substantial evidence it was valid.	34	Walker	Cottonwood Heights City	Brown	3/25/2008	Approval of CUP opposed by neighbors was valid and supported by substantial evidence in the record.	Commercial Development
Conditional Use - day care - ADU - denial must be based on evidence and standards.	196	Frandsen	Provo City	None	5/25/2018	City illegally denied Conditional Use Permit because it had no evidence that the reasonably anticipated detrimental effects could not be substantially mitigated.	Day Care Center - ADU
Conditional Use - dog kennel - standards - generalized standards are sufficient - identify and address detrimental effects - entitled to approval if effects can be reasonably mitigated	146	Bowman	Weber County	Butterfield	10/31/2014	Generalized standards are sufficient to guide review of CUP application. The detrimental impacts must be identified and conditions imposed to address them. If reasonable conditions address the impact the CUP should be approved. It is not necessary that all impacts be mitigated.	Dog Kennel

Conditional Use - due process - neighbor has standing to appeal. If sufficiently identifies detrimental effects of CUP they must be dealt with.	81	Bear River Valley Co-op	Corrine City	Neighborhood Non-profit Housing Corp	1/14/2010	Owner of neighboring subdivision has standing to appeal CUP approval. Application must meet requirements of ordinance. If neighbor identifies with substantial evidence the detrimental effects of proposed CUP they must be addressed. Public must have opportunity to respond to submittals.	Fertilizer Storage
Conditional Use - due process for neighbors - no need for hearing	246	Geist	Summit Co	Neighbors	11/16/2021	Conditional Use Permit for horse boarding facility was legal even though the building is much larger than nearby homes because allowed by code and anticipated detrimental effects could be mitigated. Due process rights of neighbors not violated.	Horse Boarding
Conditional Use - Enforcement	252	Burdick Materials	Uintah County	Haslem, Kim	3/29/2022	Neighbor complained of violation of existing CUP. Planning Commission amended permit rather than revoke it. Decision was valid as it was supported by substantial evidence in the record.	Cement Plant
Conditional Use - fertilizer storage - detrimental effects - if neighbor identifies detrimental effects they must be addressed and public has right to respond.	81	Bear River Valley Co-op	Corrine City	Neighborhood Non-profit Housing Corp	1/14/2010	Owner of neighboring subdivision has standing to appeal CUP approval. Application must meet requirements of ordinance. If neighbor identifies with substantial evidence the detrimental effects of proposed CUP they must be addressed. Public must have opportunity to respond to submittals.	Fertilizer Storage
Conditional Use - gated access - threshold requirements may be imposed before a CUP would be considered.	116	Red Hawk Wildlife Preserve Fdtn	Summit Co	None	9/20/2012	A County may impose threshold requirements related to a conditional use which must be met before a conditional use would be considered.	Gated Access
Conditional Use - gravel - conditions in staff report not binding as not specifically adopted by land use authority. CUP continues as nonconforming use.	176	South Rim LC	Tooele County	Hunter	11/29/2016	Conditional use permit issued 20 years earlier still valid but change of zone made use nonconforming. Condition listed in staff report does not govern use because it was not specifically adopted by the land use authority when the permit was issued. When rezoned to prohibit gravel operation the CUP became illegal but the pit continues as a nonconforming use unless and until it is abandoned.	Gravel Pit
Conditional Use - gun range - valid as supported by substantial evidence	124	The Gun Vault	South Jordan City	Hughes	4/30/2013	Conditional use permit was properly issued and supported by substantial evidence in the record.	Gun Range
Conditional Use - home - appeals may be heard by different authorities	131	505 Woodside Development LLC	Park City	Meadows	10/18/2013	This AO deals with same property as AO No. 88 and AO 143. More than one appeal authority may be designated to hear different types of appeals, even in all the appeals relate to a single project.	Single Family Home

Conditional Use - mixed use - all approvals are valid as supported by substantial evidence. Deadline for other appeals has passed.	4	Christensen	Sandy City	None	8/8/2006	The period to appeal administrative decisions related to height, density, and setbacks has passed so the decision is final. Other approval decisions may be appealed within the time allowed by ordinance or statute. Standards of review outlined in opinion. The decisions made appear to be supported by substantial evidence in the record. The decisions also appear to be consistent with the ordinances and within the discretion of the land use authority. All approvals given for the project are valid.	Mixed Use Development
Conditional Use - mixed use - open space requirement met.	95	SR Silver Lake LLC	Park City	Wilson	1/31/2011	An AO can only be requested on current issues within the time frame to appeal them. An AO cannot be requested on issues which, long ago, became beyond appeal. The development as approved meets the requirement of 60% open space.	Mixed Use Development
Conditional Use - multifamily - condition requiring non residential uses illegal - CUP must be approved as it is permitted in zone.	164	Horizon Development & Management LLC	Pleasant View City		10/26/2015	While purpose language promotes mixed use development, multifamily uses are permitted in the zone and must be approved, even though this project utilizes the last parcel available in the zone and there is no mixed use on other parcels. A condition attached to the conditional use permit requiring non residential uses would be illegal. City may amend its ordinances but has not done so.	Multifamily
Conditional Use - multifamily - structure on lot did not comply with setbacks. Denial of CUP upheld.	16	Bunnell	Salt Lake City	Cromer	6/22/2007	Nonconforming lot is not eligible for new conditional use because, as per ordinance, the structure on the lot does not comply with setback requirements. Staff interpretation of the ordinance was incorrect.	Multifamily
Conditional Use - Pet crematorium - change in regulations does not change the map. CUP should be allowed.	172	Cottonwood Commercial Properties LLC	Morgan County	Kelley	8/30/2016	Change to name of zone or regulations within zone does not change zoning map which requires a separate approval. If the zoning district shown on the map does not exist in the ordinances the intent of the legislative body must be determined. In this case the zoning designation which allows the pet crematorium is to be applied to the property.	Pet Crematorium
Conditional Use - PUD - option to apply - where ordinance allows overlay zone or CUP, applicant may apply for either.	208	Kelly Hughes Const. LLC	West Point City	None	2/22/2019	Where city ordinances provide for a PUD overlay zone but also lists PUD as a conditional use in a given zone, the property owner has no duty to get an overlay but may rely on the conditional use process for PUD approval. Calculation of density per acre includes area designated as open space unless ordinance clearly provides otherwise	PUD
Conditional Use - PUD - private streets	1	Ivory Development	Taylorsville City	None	7/5/2006	Where the ordinance states that the streets within a PUD are to be private the City cannot require them to be public. In calculating density the area of the streets is therefore included in the total area of the development.	PUD

Conditional Use - recreational property - general standards are sufficient to review a CUP application - each condition must be supported by evidence in record - conditions duplicating ordinance are unnecessary.	191	Reeves' Riverton Ranch LLC	Riverton City	None	9/19/2017	If the City has only general standards in the ordinance to base a review of a CUP upon, those standards are sufficient for review, but it can only impose conditions which deal with health, safety and welfare. Parking condition unsupported by evidence and thus illegal. Prohibition on gates is unsupported and illegal. Permanent restroom facilities requirement inappropriate. Irrigated landscaping requirement unsupported and illegal. Eight foot tall fence requirement unsupported and illegal. No evidence supporting requirement to enclosed trash containers so illegal. Condition designating access point to project is supported and legal. Other conditions which replicate city codes and other laws are unnecessary.	Recreational Property
Conditional Use - residential treatment facility - applicant is presumed to understand the local ordinances	62	Alliance Youth Services	Pleasant Grove City	None	2/11/2009	An appeal authority may remand a matter back to the land use authority. A new record can be created on remand. A person has not exhausted their administrative remedies until the appeal process is completed. Purchase of property is not sufficient reliance to establish estoppel. The applicant bears the duty to become aware of and understand the local ordinances.	Residential Treatment Facility
Conditional Use - RV Park - challenge - CUP approved under illegal ordinance may be challenged.	213	Zion Sunset Resort LLC	Virgin Town	Timmerman	7/30/2019	Approval of CUP under illegal ordinance could be challenged in court. Town must follow own ordinances. Voters as legislative body also must follow relevant ordinances. Ordinance may be challenged as part of a challenge to a land use decision applying the ordinance.	RV Park
Conditional Use - short term rental - Individual analysis of each application required.	92	Davis	Cottonwood Heights City	None	11/1/2010	If a conditional use is allowed in a zone it is determined that the use is a desirable use. The City must grant the use unless it establishes that detrimental effects cannot be mitigated. City's determination that too many STR's exist may constitute a detrimental effect but it must process the CUP applications and make individual determinations that detrimental effects cannot be mitigated.	Condo
Conditional Use - short term rental - presumption of desirability - must be approved unless detrimental effects cannot be mitigated.	92	Davis	Cottonwood Heights City	None	11/1/2010	If a conditional use is allowed in a zone it is determined that the use is a desirable use. The City must grant the use unless it establishes that detrimental effects cannot be mitigated. City's determination that too many STR's exist may constitute a detrimental effect but it must process the CUP applications and make individual determinations that detrimental effects cannot be mitigated.	Condo

Conditional Use - short term rental - standards - denial based on standards not in ordinance was illegal.	25	Stapel	Cottonwood Heights City	None	11/29/2007	The city improperly denied a conditional use based on standards not found in the ordinances. Where reasonable conditions may be imposed to mitigate negative impacts of the use, the conditional use must be approved. Standards must be found in the ordinances and not created at the time an application is reviewed.	Short Term Rental
Conditional Use - Single family lot - conditions can be heavy but still valid.	145	Sauer	Morgan County		10/1/2014	Failure to enforce ordinance in the past does not affect duty to enforce it now. Conditions imposed here seem reasonable. Geological hazard ordinance applies. Regulation requirements may be heavy but that does not make them invalid.	Single Family Home
Conditional Use - single family lot - denial only justified if detrimental effects cannot be mitigated. Record must identify effects and conditions considered. Godd extended discussion.	139	Jorgensen	Park City	None	3/28/2014	Denial of a conditional use permit is only justified if the detrimental impacts of the use cannot be substantially mitigated. City must identify the detrimental impacts and which conditions were considered to mitigate them. Planning Commission may not revisit previous approvals and adopt definitions counter to previous city definition of terms. Steep slope ordinance cannot be applied to structures not on a steep slope even if lot includes a steep slope. /city	Single Family Lot
Conditional Use - storage units enforcement - city cannot enforce conditions not in the approval. Can enforce separate ordinance on CUPs and all properties.	209	Premier Storage	Francis City	Housel	2/18/2019	City cannot enforce conditions not articulated in CUP approval. City can and should enforce its dark sky ordinance.	Storage Units
Conditional Use - subdivision - review under current ordinance. Applicant must show error.	222	White	Tooele County	None	4/30/2020	During process of review of County ordinance for deficiencies the County must still apply current ordinance to current applications. Appellant must show how failure to follow procedure resulted in error in final decision	Subdivision
Conditional Use - subdivision - standards - city may only enforce requirements found in its ordinances.	29	Woodside Homes	Kaysville City	None	2/4/2008	Although it was proper for the city to require completion bond under the ordinances, it may only be used to fund public improvements, not a park which was included in the development but not considered when setting the amount of the bond. City may only enforce requirements found in its ordinances.	Subdivision
Conditional Use - truck stop - interpretation - ordinance allowing automotive service could not allow truck stop.	115	Greenville Corner LLC	Wellsville City	Perrett	8/28/2012	An ordinance allowingsome automotive service uses cannot be interpreted to allow a truck stop, where that use is markedly different than other automotive services.	Truck Stop

Conditional Use - water tank - staff review - staff could not refuse to consider application.	5	Deepwater Distribution Co	Wasatch County	None	8/14/2006	Countys refusal to consider conditional use application was illegal. Staff could not simply refuse to allow the planning commission to hear it.	Water Tank
Conditional Use Permit - horse boarding - building size and design - mitigation	246	Geist	Summit Co	Neighbors	11/16/2021	Conditional Use Permit for horse boarding facility was legal even though the building is much larger than nearby homes because allowed by code and anticipated detrimental effects could be mitigated. Due process rights of neighbors not violated.	Horse Boarding
Conditions of Approval - subdivision - plat restrictions not part of approval are not permanent restrictions.	153	Coyote Development LLC	Heber City	None	2/24/2015	Designating a parcel on a plat as "open space" does not restrict future development of the parcel where the restriction was not a condition of approval. No prescriptive easements for public or private use could have been created because the necessary time has not run.	Subdivision
Condominium - hotel/condo - if use changes to condos relevant regulations must be followed.	178	Lodge at Stillwater HOA	Wasatch County	Kosakowski	12/16/2016	When management of approved hotel changed use to condominium, it was obligated to comply with land use regulations associated with condominiums.	Hotel/Condo
Conflict between standards and code - specific code requirements prevail over general standards.	218	Tippetts	Millcreek City	None	3/3/2020	General design standard language does not trump specific minimum lot widths in code	Subdivision
Conformity to General Plan - details - proposed development plan must include sufficient details to determine if it complies with general plan if the code requires conformity.	89	Park City Ranches LLC	Summit Co	Old Ranch Road Neighborhood Group	8/17/2010	Where the county requires conformance to the General Plan, a proposal for development must be sufficiently detailed to determine if it complies. A rezone application in this case must comply with the General Plan. As a legislative decision, the determination that it does or does not will be given deference.	Subdivision
Conformity with ordinances enacted after application - subdivision - vested rights - later changes to ordinances inapplicable to vested application.	40	Paramount Development Inc	Providence City	Not Named	4/29/2008	Vested rights occur when the application conforms to the ordinances, even if that occurs after the application is filed. A subsequent change in the ordinances would not apply to the application.	Subdivision

Connectivity - exactions - subject to proportionality requirements.	49	Kent	Grand County	None	8/20/2008	Road improvements and bond requirements are exactions subject to proportionality analysis. Where the County did not complete analysis, the exactions are not valid until this is done. Conditions not included in the motion to approve a subdivision, but frequently and patently included in the record of the approval, are valid.	Subdivision
Consistency - ADU - remedies for violation may be mitigated by past non-enforcement.	93	Fuller	Springville	None	11/15/2010	An ordinance may be changed while it is being challenged in court. A settlement agreement did not change land use regulations. Previous failure to enforce and ordinance does not waive future enforcement. Remedies for violation may be mitigated by past non-enforcement.	Accessory Apartment
Consistency - home occupation - regulations may be imposed even if not imposed on others.	98	Checketts	Providence City		3/28/2011	A nonconforming use must have been established legally. The city does not waive the ability to enforce its ordinances if it does not do so in other cases. Combining two lots, even in an usual manner, can meet the requirement that a home occupation be on the same lot. Not a taking if economic use remains. NOTE: See Providence City v. Checketts, Utah Court of Appeals.	Countertop Manufacturing
Consistency - parking - past lack of enforcement does not prohibit current enforcement.	52	Dunkley	Logan City	None	9/25/2008	The city may enforce an ordinance prohibiting parking on the parking strip area between the curb and the sidewalk that it has not enforced consistently in the past. A nonconforming use must have once been legal.	Parking
Consistency - past inconsistent actions by county are not controlling if current action complies with ordinance.	10	Warnke	Grand County	None	2/7/2007	Requirement to improve existing roads abutting subdivision lots is proportionate and legal. Past inconsistent actions by the county are not controlling if the current actions are consistent with the ordinances. Estoppel and equal protection arguments do not apply	Subdivision
Consistency - previous decisions are strong evidence of how the City should act, but not controlling.	22	Unknown	West Point City	Diamond	10/8/2007	Annexation by City was proper despite presence of adjoining agricultural preservation area. Code restricts installing a new feedlot near homes not new homes near existing feedlot. Wetland issues are state issues and not subject to local control. Previous decisions by the City are strong evidence of how the City should act, but not controlling. Zoning estoppel does not apply.	Subdivision
Consistency - subdivision - past decisions allowing metes and bounds subdivision do not eliminate need to follow subdivision ordinance now.	193	Abbott	Sevier County	None	1/25/2018	Even though past division of property owners land was allowed by metes and bounds descriptions she must now follow subdivision ordinance to further subdivide property.	Subdivision

Consistency - subdivision - regulations may be imposed even if not imposed on others.	102	Brown	Wasatch County	None	7/9/2011	Even though not imposed on others, county can impose regulations in the ordinance. Regulations here do not constitute a taking even though harsh because the benefit the property owner much more than the public	Subdivision
Consistency - waterways - past decisions do not control whether current decision is legal.	85	Shrontz	Alta Town	None	3/10/2010	Designation of natural waterways by Town was not arbitrary and capricious as it was supported by substantial evidence in the record. It is not illegal as it conforms to plain language of ordinance.	Subdivision
Consistency with General Plan - PUD - legislative deference applies	3	Gardner Cottonwood Creek LLC	Morgan County	Richards	7/10/2006	Approval of PUD cluster development would be held by a court as consistent with the general plan based on deference to local decisions. Legislative judgment would be upheld.	PUD
Constructive Notice of Law - roads - street requirements were in effect when lot owner purchased lot. City may enforce proportionate exactions.	190	Jackson	i90ooo8	None	9/8/2017	It is a valid role for the City to require access to a public street for a new home. It is not a taking to deny use of lot for a home because the city did not deprive the owner of anything he had when he purchased the lot. Any requirements for utilities and improvements must be proportionate. To extend a 50 foot wide public street with full improvements may be disproportionate.	Roads
Conversion to Condo - change in ownership is not a change in use. Apartment and condos are same use.	39	Carlson	Salt Lake City	Greater Avenues Community Council	4/28/2008	A change in ownership is not a change in use. To convert rental property to condo does not change the use as multifamily. Language in Impact Fee Ordinance is not a land use regulation.	Multifamily
Conversion to Condo - condominium - new condo use of former hotel must comply with condo ordinances.	178	Lodge at Stillwater HOA	Wasatch County	Kosakowski	12/16/2016	When management of approved hotel changed use to condominium, it was obligated to comply with land use regulations associated with condominiums.	Hotel/Condo
Corner Lot - road improvements - owner may be required to complete road improvements on both sides of lot.	226	Reddish	Hurricane City	None	7/31/2020	Development may be required to provide street improvements for both streets on a corner parcel.	Subdivision - Small
Cul de sac - road improvements - city may require second access - must be proportionate.	51	Glines	Washington City, St. George City	None	9/25/2008	A city may require a second access to a proposed subdivision even if that access if from another city. Such a requirement must be proportionate and the public benefits conferred by the road should be part of the calculation.	Subdivision
Dark Sky ordinances - storage units - can be enforced.	209	Premier Storage	Francis City	Housel	2/18/2019	City cannot enforce conditions not articulated in CUP approval. City can and should enforce its dark sky ordinance.	Storage Units

Deannexation of Subdivision - must meet requirements of new city ordinances where that is a condition of approval by former county.	23	Ames	West Jordan City	None	10/23/2007	Although a subdivision plat was approved by Taylorsville City during the time period when the property involved was deannexed from Taylorsville and annexed into West Jordan, the plat is invalid because it did not include approval by the water authority as required by the West Jordan ordinances. The plat approval included an express condition that West Jordan approve the plat prior to recordation, which it had not done.	Subdivision
Decision, Land Use - moving forward to conduct inspections on challenged amended building permit is a land use decision subject to appeal.	244	Adams	Woodland Hills City	Fuja	10/14/2021	Neighbor may challenge amendment to otherwise vested building permit. Project did not comply with ordinances and codes but could proceed under zoning estoppel. Amendment to permit is not protected by estoppel. Allowing continued construction is a land use decision subject to appeal and an advisory opinion.	Home under construction
Decision, Land Use - moving forward to conduct inspections on challenged amended building permit is a land use decision subject to appeal.	244	Adams	Woodland Hills City	Fuja	10/14/2021	Neighbor may challenge amendment to otherwise vested building permit. Project did not comply with ordinances and codes but could proceed under zoning estoppel. Amendment to permit is not protected by estoppel. Allowing continued construction is a land use decision subject to appeal and an advisory opinion.	Home under construction
Decision, Land Use - moving forward to conduct inspections on challenged amended building permit is a land use decision subject to appeal.	244	Adams	Woodland Hills City	Fuja	10/14/2021	Neighbor may challenge amendment to otherwise vested building permit. Project did not comply with ordinances and codes but could proceed under zoning estoppel. Amendment to permit is not protected by estoppel. Allowing continued construction is a land use decision subject to appeal and an advisory opinion.	Home under construction
Deck - PUD - setback rules of underlying zone do not apply to units approved in a PUD.	235	Flake	Provo City	Loftus	12/30/2020	Where there is a dispute over whether a matter is final or not, the OPRO will not prepare an advisory opinion. This AO prepared after a new land use decision was made. The setback provisions in the code for the underlying zone do not apply to individual units within a PUD approved within the zone, even though the units in the PUD were designated as "lots" and numbered sequentially.	PUD
Dedication of Property - water system requirements do not require dedication and are not takings or exactions.	87	Deepwater Distribution Co	Wasatch County	None	6/17/2010	An AO can be written to address an issue of interpretation of a land use ordinance before an application is submitted. The Division of Drinking Water may not impose fireflow requirements. The Fire Code imposes conditions on development, and therefore is subject to a takings claim. Fire suppression system is not an exaction because it does not involve a mandatory dedication. Not a Penn Central Taking either. Private benefits outweigh public benefits here.	Water System

Deference - Staff Decision - choice between valid options for calculation may be made by staff - deference to locals would apply.	27	Barber	Salt Lake City	Lowe	12/7/2007	Calculation of the required setback for a replacement home, based on average setbacks in the area, was logical and consistent with the ordinances even though it did not take into account the setback of the home being replaced. The staff could either consider that setback or not. Either option for calculation would be appropriate. The opinion deferred to the staff's expertise.	Single Family Home
Deference - local - denial of lot split supported due to deference to local decision makers.	13	Wixom	West Haven	None	3/15/2007	Ordinance prohibits the creation of new lots by division of existing lots in subdivision. Statement that original intent of plat approval was to limit division of lots is sufficient evidence to support city's decisoin to deny lot split where local decisions are to be given deference	Single Family Lot
Definition in Ordinance	255	Belnap, Troy	Cedar Hills City	None	5/11/2022	Property Owners sought permit to build fence and retaining wall in utility easement. Ordinance requires easement agreement to build a dwelling, main building, or permanent accessory building in an easement. The definition does not include a fence or retaining wall so ppo may proceed without an easement agreement.	Fence Permit
Density - interpretation of ordinance to allow density.	112	Haertel	Saratoga Springs City	Krejci	3/29/2012	A development agreement is valid even if City cannot find original agreement. Such an agreement, the PUD approval, and the zoning ordinance should be read as a whole to guide development. Policy and purpose statements provide general guidance but are not substantive parts of ordinance. The city's interpretation of its ordinance is entitled to deference and should stand. (Note - Later case law moderates this conclusion).	Subdivision
Density - PUD - calculation of density allowed may include area of private streets where ordinance prohibits public streets.	1	Ivory Development	Taylorsville City	None	7/5/2006	Where the ordinance states that the streets within a PUD are to be private the City cannot require them to be public. In calculating density the area of the streets is therefore included in the total area of the development.	PUD
Density - Subdivision - vests with complete application -	45	Gabel/Summit Hollow	Summit County	None	11/3/2008	Reconsideration and replacement of previous advisory opinion. Density of a project vests when a complete application is submitted. While development must comply with code requirements, mere statements of purpose cannot justify a reduction in density. OPRO may revise or replace an AO as part of the dispute resolution process.	Subdivision
Density Calculation - includes area designated as open space absent provision in ordinance.	208	Kelly Hughes Const. LLC	West Point City	None	2/22/2019	Where city ordinances provide for a PUD overlay zone but also lists PUD as a conditional use in a given zone, the property owner has no duty to get an overlay but may rely on the conditional use process for PUD approval. Calculation of density per acre includes area designated as open space unless ordinance clearly provides otherwise	PUD

Design Criteria - flat roofs - did not prohibit approval of permit	175	Church of Jesus Christ of Latter-day Saints	Lehi City	Conley	11/17/2016	City approval of office building and church building was supported by substantial evidence and within discretion. Design criteria of avoiding flat roofs did not prohibit approval.	Church
Design Ordinance - conditional use permit for horse boarding facility - building design and size	246	Geist	Summit Co	Neighbors	11/16/2021	Conditional Use Permit for horse boarding facility was legal even though the building is much larger than nearby homes because allowed by code and anticipated detrimental effects could be mitigated. Due process rights of neighbors not violated.	Horse Boarding
Design Standards - general standards to not trump specific provisions of code	218	Tippetts	Millcreek City	None	3/3/2020	General design standard language does not trump specific minimum lot widths in code	Subdivision
Detention Basin - shared costs for -	41	Ukena, Stanger, Clark	South Weber City	None	5/13/2008	Developers may be required to contribute to detention basin needed to offset burdens created by their development. Where developers had previously agreed to their share of cost of detention basin, the city could still change the project and enlarge the basin. There was no duty to lower the contribution of the developers to the project which they had voluntarily agreed to as proportionate to the impact of their development.	Detention Basin
Detrimental Effects - in conditional use review - CUP must be approved if they can be mitigated.	92	Davis	Cottonwood Heights City	None	11/1/2010	If a conditional use is allowed in a zone it is determined that the use is a desirable use. The City must grant the use unless it establishes that detrimental effects cannot be mitigated. City's determination that too many Short Term Rentals exist may constitute a detrimental effect but it must process the CUP applications and make individual determinations that detrimental effects cannot be mitigated.	Condo
Development Agreements - all provisions to be read to harmonize them.	212	Village Dev. Group/Silver Creek Village	Summit Co	None	6/21/2019	All relevant provisions of an agreement are to be read to harmonize them.	Reception Center

Development Agreements - binding on successors	63	Spencer/Fieldstone Homes	Tooele City	None	3/10/2009	Developers predecessor in interest entered into a development agreement and agreed to excess costs. Current developer is bound by that agreement even if burden is disproportionate.	Subdivision
Development Agreements - city cannot bargain away its regulatory power over city streets.	184	Concord Holdings LC	Saratoga Springs City	None	4/28/2017	Agreement allowing 6 units per acre supercedes discretion of city to allow 8 units with density bonus. While City may allow more units, it has no duty to do so under the agreement. City met its obligation in the agreement to dead end a road but could not bargain away the police power when it signed the agreement limiting it's ability to manage the use of the public road in the future.	Subdivision
Development Agreements - details of development may be adjusted through the development process.	44	Pool and Smith/R&D Property Holding LLC	Draper City	None	6/26/2008	Exactions for street improvements must be proportional even though developer signed a reimbursement agreement. Duties of developer could be adjusted through the approval process since they did not impose new requirements but only cost allocations. Improvements to Carlquist Drive are illegal exactions as they are disproportionate.	Subdivision
Development Agreements - do not make an illegal exaction legal.	96	Nilson	Morgan County	None	2/28/2011	Requirement to reserve property or pay money for affordable housing is an exaction. Without proof of proportionality, it is illegal. Incorporating the requirement as a mandatory provision in a development agreement does not change whether it is an exaction. It is, and subject to the same analysis. A taking claim may not need to be filed as a local land use appeal within the timeframe allowed for such appeals.	PUD
Development Agreements - do not make an illegal exaction legal.	119	Taylor	Saratoga Springs City	None	12/21/2012	A developer cannot be required to dedicate or construct more than its share of improvements notwithstanding a prior development agreement. Reevaluation of obligations is necessary if ownership circumstances change. But the city may withhold building permits until the improvements are completed, as provided in the agreement.	Subdivision
Development Agreements - ordinance governs if DA less restrictive than code	67	Ivory Development LLC	West Point City	None	5/4/2009	Where a development agreement allows units above 1300 total feet and the land use ordinance requires that 1200 feet be above grade, the ordinance governs even though the DA is less restrictive. The DA includes a provision that the development must follow local codes.	Subdivision
Development Agreements - requirements of warranty and bonds may be modified by agreement.	31	Ivory Development LLC	Draper City	None	2/28/2008	Warranty and bonds can be legal exactions if proportionate. Warranty repairs may be exacted if damage caused by development or design or construction flaw but not normal wear and tear. Requirements may be modified by agreement.	Subdivision

Development Agreements - valid even if original agreement not available.	112	Haertel	Saratoga Springs City	Krejci	3/29/2012	A development agreement is valid even if City cannot find original agreement. Such an agreement, the PUD approval, and the zoning ordinance should be read as a whole to guide development. Policy and purpose statements provide general guidance but are not substantive parts of ordinance. The city's interpretation of its ordinance is entitled to deference and should stand. (Note - Later case law moderates this conclusion).	Subdivision
Discretion - deference to local decisions	4	Christensen	Sandy City	None	8/8/2006	The period to appeal administrative decisions related to height, density, and setbacks has passed so the decision is final. Other approval decisions may be appealed within the time allowed by ordinance or statute. Standards of review outlined in opinion. The decisions made appear to be supported by substantial evidence in the record. The decisions also appear to be consistent with the ordinances and within the discretion of the land use authority. All approvals given for the project are valid.	Mixed Use Development
Discretion - deference to locals on issue of consistency with general plan	3	Gardner Cottonwood Creek LLC	Morgan County	Richards	7/10/2006	Approval of PUD cluster development would be held by a court as consistent with the general plan based on deference to local decisions. Legislative judgment would be upheld.	PUD
Disposal of Property - when originally dedicated to the city by private party.	136	None	Highland City	None	12/26/2013	Voluntary dedications for development concessions or other incentives are not exactions. The property may be sold or disposed of in the same manner as other city property.	Open Space
Division of Drinking Water - may not impose fire flow requirements.	87	Deepwater Distribution Co	Wasatch County	None	6/17/2010	An AO can be written to address an issue of interpretation of a land use ordinance before an application is submitted. The Division of Drinking Water may not impose fireflow requirements. The Fire Code imposes conditions on development, and therefore is subject to a takings claim. Fire suppression system is not an exaction because it does not involve a mandatory dedication. Not a Penn Central Taking either. Private benefits outweigh public benefits here.	Water System
Due Process - neighbor has standing to appeal. If sufficiently identifies detrimental effects they must be dealt with.	81	Bear River Valley Co-op	Corrine City	Neighborhood Non-profit Housing Corp	1/14/2010	Owner of neighboring subdivision has standing to appeal CUP approval. Application must meet requirements of ordinance. If neighbor identifies with substantial evidence the detrimental effects of proposed CUP they must be addressed. Public must have opportunity to respond to submittals.	Fertilizer Storage

Duplex - nonconforming	68	Davidson	Provo City	None	5/5/2009	A nonconforming duplex is legal with regard to the land use ordinance even if it does not comply with other codes. The City may not impose code requirements to define the nonconforming status at the time the use was established. A duplex was legal even if no building permit was produced by property owner.	Duplex
Duty to Disclose Pending Ordinance - failure to disclose does not create zoning estoppel	19	Webber, Hayes	Washington Terrace	None	8/9/2007	An ordinance may be applied against a new application if it is published on the agenda of a public meeting before the application is filed. Zoning estoppel may not be based on a city's failure to notify developers of possible changes to the ordinance.	Multifamily
Easement - Public Utility	255	Belnap, Troy	Cedar Hills City	None	5/11/2022	Property Owners sought permit to build fence and retaining wall in utility easement. Ordinance requires easement agreement to build a dwelling, main building, or permanent accessory building in an easement. The definition does not include a fence or retaining wall so ppo may proceed without an easement agreement.	Fence Permit
Easement - Third Party	256	Symphony Homes	Centerville City	Parker, Spencer	5/11/2022	Claim by neighbor of conflicting easement is not a basis for denial of subdivision application. Ordinance require the plat to show the disputed easement but must approve subdivision if it complies with ordinances. Private disputes need not be settled in reviewing land use application.	Subdivision
Electrical Use - temporary connection to RV	76	Johnson	Levan Town	None	11/27/2009	Where local ordinance allows connection of RV to electrical service for up to three months and allows RV use outside of authorized parks for up to three months, property owner could not be denied temporary use of RV on vacant lot.	RV
Electrical Utility - not subject to impact fees act	157	SUHBA	None	Dixie Power	4/30/2015	Private utility companies are not subject to the impact fees act (as of the date of this opinion) but are governed by the Utah Public Service Commission. Their fees and rules must be just and reasonable. NOTE: Statute has been modified since this opinion. Private utilities are now subject to the Act.	Power Company
Emergency Access - appropriately required. Used for utilities.	82	Lee	Springdale Town	Unknown	1/19/2010	Designation of a private lane for emergency access and maintenance of public utilities in the lane is appropriate. Others may access public utilities in the private lane.	Private Road
Eminent Domain - may be used for sewer systems.	86	Peterson Development	West Jordan City	None	5/10/2010	An AO can be written to address an issue of interpretation of subdivision conditions after the subdivision is approved. A local government can select a connection point for public utilities so long as that selection is rationally based and reasonably acceptable. Local governments may use eminent domain for sewer systems.	Subdivision

Enforcement of Ordinances - appropriate only for provisions articulated in the ordinances.	209	Premier Storage	Francis City	Housel	2/18/2019	City cannot enforce conditions not articulated in CUP approval. City can and should enforce its dark sky ordinance.	Storage Units
Engineering - Costs of Exaction must be reimbursed	229	Hess, Mussentuchit Holdings LLC	Lehi City	None	9/1/2020	City must pay for engineering and design costs of exaction, not just land and improvements	Subdivision
Environmental Review - required by ordinance.	106	Draper Holdings LC	Draper City	Citizens for Responsible Govt	9/21/2011	City reasonably concluded that master plan would not be required. Allowing a road to be built within a buffer zone was not a reasonable interpretation of the ordinance. A Natural Resources Inventory must be completed	Subdivision
Estoppel - cannot be based on failure to notify property owner of proposed changes to ordinance.	19	Webber, Hayes	Washington Terrace	None	8/9/2007	An ordinance may be applied against a new application if it is published on the agenda of a public meeting before the application is filed. Zoning estoppel may not be based on a city's failure to notify developers of possible changes to the ordinance.	Multifamily
Estoppel - innocent mistake - approved by building inspector	9	Bean	Salt Lake City		12/16/2006	Error in foundation placement of inches was innocent mistake. Building inspector confirmed placement and city is estopped from requiring new home to be moved or altered. Six inch overhang may be denied by city or approved if such a decision is consistent with previous interpretations of the ordinance.	Single Family Home
Estoppel - new setback requirements after prior approval of subdivision	54	McDougal	Eagle Mountain City	None	11/5/2008	The setback rules in place when a subdivision was approved apply to construction within the subdivision if the developer relied on those setbacks in designing the lots. Later increases in setback distances would not apply. New setback requirements that render bulding on an approved lot impossible or impractical are invalid.	Subdivision
Estoppel - nonconforming flag lot	69	Cox	Willard City	None	5/18/2009	Existing flag lot may be nonconforming but is legal and may be the subject of a variance.	Single Family Lot

Estoppel - previous decisions by city council do not create estoppel.	22	Unknown	West Point City	Diamond	10/8/2007	Annexation by City was proper despite presence of adjoining agricultural preservation area. Code restricts installing a new feedlot near homes not new homes near existing feedlot. Wetland issues are state issues and not subject to local control. Previous decisions by the City are strong evidence of how the City should act, but not controlling. Zoning estoppel does not apply.	Subdivision
Estoppel - public road access may be required for building permit.	190	Jackson	i90ooo8	None	9/8/2017	It is a valid role for the City to require access to a public street for a new home. It is not a taking to deny use of lot for a home because the city did not deprive the owner of anything he had when he purchased the lot. Any requirements for utilities and improvements must be proportionate. To extend a 50 foot wide public street with full improvements may be disproportionate.	Roads
Estoppel - purchase of property and improvements suffice reliance for estoppel.	114	HJ Silver Creek LP	Summit Co	None	4/30/2012	The designation of uses on a subdivision plat does not supersede the uses allowed under the zoning ordinance. Expenditure of funds to purchase and improve property meets the standard for zoning estoppel.	Subdivision
Estoppel - purchase of property not sufficient reliance to establish estoppel.	109	Mount	Summit Co	None	12/6/2011	See also AO 126. A declaration of covenants is a private contract and does not control local zoning regulation. Mere ownership is not sufficient expense to constitute zoning estoppel.	Single Family Home
Estoppel - vested rights	118	Taylor	North Logan City	None	10/31/2012	Development rights vested when concept plan approved. Subsequent applications must be approved if they comply with ordinances	Residential Townhome Development
Estoppel - vested rights - some physical construction required.	126	Mount	Summit Co	None	7/22/2013	See also AO 109. Owner may claim vested rights based on zoning estoppel. Some physical construction on the property is required, but other costs may justify an estoppel.	Commercial Development
Estoppel+A606 - City was estopped from enforcing setback requirement where permit had already been issued.	244	Adams	Woodland Hills City	Fuja	10/14/2021	Neighbor may challenge amendment to otherwise vested building permit. Project did not comply with ordinances and codes but could proceed under zoning estoppel. Amendment to permit is not protected by estoppel. Allowing continued construction is a land use decision subject to appeal and an advisory opinion.	Home under construction
Exactions - affordable housing - must show proportionality - development agreement does not waive exactions claim.	96	Nilson	Morgan County	None	2/28/2011	Requirement to reserve property or pay money for affordable housing is an exaction. Without proof of proportionality, it is illegal. Incorporating the requirement as a mandatory provision in a development agreement does not change whether it is an exaction. It is, and subject to the same analysis. A taking claim may not need to be filed as a local land use appeal within the timeframe allowed for such appeals.	PUD

Exactions - affordable housing - must show proportionality and proof the requirement addresses a problem the development creates	198	Spears	Wasatch County	None	7/5/2018	A requirement that new PUD contribute to affordable housing is an exaction. It is illegal if the County has not provided proof that the development creates the problem and that the solution is proportionate to the burden imposed by the development.	PUD
Exactions - alucation of proportionality - burden on city - factors to consider	32	Danville Land Investments LLC	Draper City	None	3/12/2008	City bears burden that requirement for 100% of street improvements is proportionate to burden created by development. Opinion discusses factors which could be considered in determining proportionality. If the city fails to meet this burden the result would be a taking.	Subdivision
Exactions - annexation agreement - previously negotiated - landscaping easement - must solve problem created by development	134	Green	Layton City	None	11/15/2013	Obligation in previously negotiated annexation agreement is enforceable, even if now found to be disproportionate. Exaction of landscaping easement is illegal exaction if it does not solve a problem created by the development.	Subdivision
Exactions - building orientation standard not an exaction - requirement to dedicate land is an exaction.	100	Macqueen	West Valley City	None	6/20/2011	A requirement for the dedication of land to the public is an exaction, not a simple regulation. Building orientation standards are legislative regulations subject to the reasonably debatable standard, not exactions. Ao may be prepared although no application for land use approval is pending.	Retail Store
Exactions - burden on the challenger to establish illegal.	72	Florence	Central Weber Sewer Improvement District	None	6/30/2009	The person challenging an impact fee has the burden to demonstrate that it is illegal. This developer has not met that burden.	Restaurant
Exactions - bury power lines - must be proportionate	237	South Valley Large Animal Clinic	Saratoga Springs City	None	3/9/2021	City required commercial development to bury power lines. Lines served larger area and work extended beyond owners lot. Cost appears excessive and not proportionate to burden imposed by development of a veterinary clinic.	Veterinary Clinic
Exactions - calculation - based on city's cost, not current replacement cost.	71	Florence	South Ogden City	None	6/30/2009	An impact fee may only recover the city's cost of facilities provided, not the current replacement cost. The city must consider the time/price differential inherent in fair considerations of amounts paid at different times.	Restaurant
Exactions - calculation of individual benefit	47	Grotegut	Spanish Fork City	None	7/29/2008	Where PUD had two owners, entire project demand and benefit may be used to calculate proportionality of trail and storm water exactions, not just the part of the PUD owned by one owner. Parcel owner not entitled to lot split if applicable ordinances do not allow street access for second lot.	Subdivision

Exactions - Canal piping requirement is exaction	170	Destination Homes	Kaysville City	Kays Creek Irrigation Company	7/19/2016	Where a ditch will convey no water and is dry, to require that it be piped is an illegal exaction. The development is not creating any problem that piping the ditch will resolve. City ordinance also requires dry ditches to be abandoned. (see also AO 247 which determined that piping requirement not an exaction)	Subdivision
Exactions - canal piping requirement is not exaction	247	Spring Creek Cove Dev	Murray City	None	12/2/2021	Requirement that subdivider pipe canal is lawful, even though cost to do so is high, and is not an exaction which would require dedication or land or improvements to the public. Legislative regulation is valid in that it is reasonably debatable that it advances the public interest. Property owner asked for advisory opinion before appeal period ran out even though he did not appeal. Opinion would still be issued.	Subdivision - Canal
Exactions - cannot require more access or parks than ordinance requires.	8	Neighborhood Nonprofit Housing Corporation	Smithfield City	None	9/7/2006	Exactions must be based on requirements in the ordinance. Where proposed subdivision access complies with ordinances, an additional access cannot be required. Where ordinances do not require park areas, either public or private parks may not be required as conditions of approval.	Subdivision
Exactions - City Duty for Individualized Determination	249	Auburn Hills LLC	Hyrum City	None	12/11/2021	In imposing an exaction, government entity must first make some sort of individualized determination of nexus and proportionality. Exaction must be proportionate to current phase of development, not past or future phases.	Subdivision
Exactions - completion bonds	58	Belvedere	Payson City	None	12/8/2008	A city may require completion bonds including for private improvements if provided for in ordinance. A bond is a valid condition for development. Warranty bond amount must be roughly equal to cost of impact by development.	Senior Housing Development
Exactions - costs - city must pay for engineering and design costs of exaction, not just land and improvements	229	Hess, Mussentuchit Holdings LLC	Lehi City	None	9/1/2020	City must pay for engineering and design costs of exaction, not just land and improvements	Subdivision
Exactions - curb and gutter	53	Kriser	Mapleton City	None	10/22/2008	A provision that an approved plat expires if not recorded is valid. To require curb gutter and sidewalk across the frontage of a 2.3 acre lot where there is none existing in the area is an excessive exaction and does not solve a problem created by the construction of a single family home.	Single Family Home

Exactions - dedication for public access is exaction - a setback is not a public easement.	148	Peterson	Hooper City	None	11/21/2014	While setback requirements can be valid to promote public welfare if reasonable a requirement to dedicate land within the setback for public open space or trails is an exaction that must meet requirements for an exaction.	Subdivision
Exactions - detention basin - developer bound by prior agreement	41	Ukena, Stanger, Clark	South Weber City	None	5/13/2008	Developers may be required to contribute to detention basin needed to offset burdens created by their development. Where developers had previously agreed to their share of cost of detention basin, the city could still change the project and enlarge the basin. There was no duty to lower the contribution of the developers to the project which they had voluntarily agreed to as proportionate to the impact of their development.	Detention Basin
Exactions - detention basis for public street not proportionate.	94	Seiter	Lehi City	None	12/23/2010	Exactions of street improvements can be made for development but must be proportionate. Requirement to provide storm water retention basin for public street is not proportionate and therefore illegal unless the govt entity pays compensation.	Office Building
Exactions - development agreement does not waive exactions claim	119	Taylor	Saratoga Springs City	None	12/21/2012	A developer cannot be required to dedicate or construct more than its share of improvements notwithstanding a prior development agreement. Reevaluation of obligations is necessary if ownership circumstances change. But the city may withhold building permits until the improvements are completed, as provided in the agreement.	Subdivision
Exactions - development agreement waived proportionality challenge	63	Spencer/Fieldstone Homes	Tooele City	None	3/10/2009	Developers predecessor in interest entered into a development agreement and agreed to excess costs. Current developer is bound by that agreement even if burden is disproportionate.	Subdivision
Exactions - Easement	255	Belnap, Troy	Cedar Hills City	None	5/11/2022	Property Owners sought permit to build fence and retaining wall in utility easement. Ordinance requires easement agreement to build a dwelling, main building, or permanent accessory building in an easement. The definition does not include a fence or retaining wall so ppo may proceed without an easement agreement.	Fence Permit
Exactions - Extent Test	245	DR Horton	Saratoga Springs City	None	11/16/2021	Exaction for 100% of signalization cost is excessive and illegal even though development triggers the need for signal. "but for" the development, the signal would not be needed. Developer should pay 40% of the cost.	Subdivision

Exactions - fire suppression system - proportionality	55	Shea	Wasatch County	None	11/12/2008	The County may require a fire suppression system in order to issue a building permit. This is an exaction and the burden imposed must be proportionate. If the cost is not proportionate, the county or other property owners must bear some of the cost.	Recreational Lot
Exactions - flood control improvements.	48	Ensign Development	Tooele City, Tooele County	None	7/29/2008	Flood control improvements required by City are exactions and must be proportional.	Subdivision
Exactions - Future Development	253	Maddox, Steve and Travis	Highland City	None	4/6/2022	Property Owner owns larger parcel but only wishes to create one additional lot in instant application, leaving 5.81 acres for future development. PPO not obligated to provide for road or related improvements which are not needed until balance of property is developed.	Subdivision
Exactions - hotel - exactions to meet the demands of workforce housing created by hotel project.	207	A&B Hotel Mgt	Grand County	None	1/9/2019	Utah law allows exactions to offset the demands imposed on the community by development employing low-income workers. The developer must be allowed to present evidence of whether a fee is proportionate and addresses the specific impact of a given development.	Hotel
Exactions - impact fees - challenger must present studies and analysis	73	Waxie Enterprises	Salt Lake City	None	8/31/2009	Person appealing impact fees must present reasoned studies and analysis showing actual impact of development and what fees should be.	Warehouse/Office
Exactions - improvement of roads abutting subdivision	10	Warnke	Grand County	None	2/7/2007	Requirement to improve existing roads abutting subdivision lots is proportionate and legal. Past inconsistent actions by the county are not controlling if the current actions are consistent with the ordinances. Estoppel and equal protection arguments do not apply	Subdivision
Exactions - individualized analysis required	30	Greek Orthodox Church of Greater Salt Lake	Holladay City	None	2/13/2008	Since the City did not provide an individualized analysis of proportionality, a street exaction imposed on a permit for the church's construction of an outdoor pavilion is illegal.	Outdoor Pavilion
Exactions - individualized analysis required	32	Danville Land Investments LLC	Draper City	None	3/12/2008	City bears burden to demonstrate that requirement for 100% of street improvements is proportionate to burden created by development. Opinion discusses factors which could be considered in determining proportionality. If the city fails to meet this burden the result would be a taking.	Subdivision

Exactions - individualized analysis required - even if reimbursement agreement.	44	Pool and Smith/R&D Property Holding LLC	Draper City	None	6/26/2008	Exactions for street improvements must be proportional even though developer signed a reimbursement agreement. Duties of developer could be adjusted through the approval process since they did not impose new requirements but only cost allocations. Improvements to Carlquist Drive are illegal exactions as they are disproportionate.	Subdivision
Exactions - individualized analysis required - preservation of right to challenge by payment under protest.	42	Equidigm Holding LLC	North Ogden City	None	5/29/2008	City may not require that developer purchase right of way from city, complete street improvements, and then dedicate ROW back to city without demonstrating proportionality. Preservation of right to challenge exaction by payment under protest may be permissible although it is by no means clear.	Subdivision
Exactions - individualized analysis required. Roads.	77	Craig	Hyde Park City	None	11/9/2009	The requirement to purchase property and construct a road is an exaction. City failed to show proportionality. Property owner may only be required to build and dedicate road improvements justified by the impact of one home. Requirement of frontage on a public road is appropriate but must be balance with property rights. Requirement of 1000 feet of fully improved roadway is excessive.	Single Family Lot
Exactions - individualized determination required - road improvements and bonds are exactions	49	Kent	Grand County	None	8/20/2008	Road improvements and bond requirements are exactions subject to proportionality analysis. Where the County did not analysis, the exactions are not valid until this is done. Conditions not included in the motion to approve a subdivision, but frequently and patently included in the record of the approval, are valid.	Subdivision
Exactions - landscape requirements	111	Paras Investments	West Valley City	None	2/16/2012	Landscaping requirements are exactions. Exactions must be based on new development, not existing development. A cosmetic revision of a sign does not constitute an alteration. Content-based sign regulation is subject to compelling public interest analysis.	Retail Store
Exactions - Landscaping - not legal if does not solve problem created by development	134	Green	Layton City	None	11/15/2013	Obligation in previously negotiated annexation agreement is enforceable, even if now found to be disproportionate. Exaction of landscaping easement is illegal exaction if it does not solve a problem created by the development.	Subdivision
Exactions - Legislative - exaction rules apply to legislative acts - street improvements	180	Beehive Storage LLC	Tooele City	None	2/14/2017	Requirement that a storage unit development bear the cost of full width improvements to both sides of a 66 foot wide street appears not to be proportionate. Even legislative actions must be proportionate if they constitute exactions.	Storage Units
Exactions - Legislative - exaction rules apply to legislative acts - utility lines.	144	Fieldstone Homes	American Fork	None	9/8/2014	The rules requiring rough proportionality apply to both administrative and legislative exactions. The extension of utility lines where the applicant will have no need of them do not address burdens created by the development and are therefore illegal.	Subdivision

Exactions - legislative - roads for future development	241	Green	Weber County	None	7/16/2021	County required dedication of 33 foot strip of land as condition of approval for merger of two parcels. There is no change in land use and no increased density so exaction is disproportionate. The requirement is allowed by the relevant ordinance but still illegal as applied.	Lot Merger
Exactions - legislative - roads for storage units	180	Beehive Storage LLC	Tooele City	None	2/14/2017	Requirement that a storage unit development bear the cost of full width improvements to both sides of a 66 foot wide street appears not to be proportionate. Even legislative actions must be proportionate if they constitute exactions.	Storage Units
Exactions - legislative or administrative both require proportionality - extension of utility lines	144	Fieldstone Homes	American Fork	None	9/8/2014	The rules requiring rough proportionality apply to both administrative and legislative exactions. The extension of utility lines where the applicant will have no need of them do not address burdens created by the development and are therefore illegal.	Subdivision
Exactions - Legislatively imposed - still must be roughly proportionate.	243	ARB Investment	West Jordan City	None	9/2/2021	Rezoning exaction to dedicate off-site portion of applicant's property for future roadway unrelated to current impact of proposed project and thus illegal because it is not related in nature to that impact. Exactions must be roughly proportional whether legislative or administratively imposed.	Subdivision
Exactions - more than one agency imposed - each must show individualized determination. Water line routing.	91	Schemehl	North Ogden City	Weber-Box Elder Conservancy District	10/6/2010	Both the city and the water district are responsibly for an exaction if both make connection mandatory for approval of land use application and thus must prove proportionality. The burdens on each govt entity may vary. Choice of route for water line must be reasonable.	Subdivision
Exactions - must be proportionate even though "but for" the development a signal would not be needed.	245	DR Horton	Saratoga Springs City	None	11/16/2021	Exaction for 100% of signalization cost is excessive and illegal even though development triggers the need for signal. "but for" the development, the signal would not be needed. Developer should pay 40% of the cost.	Subdivision
Exactions - Nature of exaction must relate to the immediate impact of development	243	ARB Investment	West Jordan City	None	9/2/2021	Rezoning exaction to dedicate off-site portion of applicant's property for future roadway unrelated to current impact of proposed project and thus illegal because it is not related in nature to that impact. Exactions must be roughly proportional whether legislative or administratively imposed.	Subdivision
Exactions - not voluntary - credit for work by previous owner in calculation of proportionality	121	Stewart	Provo City	None	3/15/2013	An exaction is a requirement imposed by the City, not a voluntary act. Exactions are illegal if disproportionate. Property owner may or may not be able to claim credit for work done by previous owner as offset to impact fees and exactions. Statutes cannot limit a constitutional takings claim, regardless of how fully the statute honors the contours of the claim.	Subdivision

Exactions - private utilities not subject to impact fee act - fees must be just and reasonable. NOTE: Law changed - now subject to Act	157	SUHBA	None	Dixie Power	4/30/2015	Private utility companies are not subject to the impact fees act (as of the date of this opinion) but are governed by the Utah Public Service Commission. Their fees and rules must be just and reasonable.	Power Company
Exactions - Private Water Company	251	Bluth, Oscar	Swiss Alpine Water Company	None	1/20/2022	A private water company can be subject to the County Land Use, Development and Management Act if it is the only realistic source of water to a lot. It must thus respect due process, timely review of applications, and reasonable diligence in review. If the water company is also an HOA, CLUDMA usually would not apply - such as to fees for roads in this instance. The roads fee is not an impact fee.	Building Lot
Exactions - proportionality - burden to demonstrate rests on the government -	32	Danville Land Investments LLC	Draper City	None	3/12/2008	City bears burden that requirement for 100% of street improvements is proportionate to burden created by development. Opinion discusses factors which could be considered in determining proportionality. If the city fails to meet this burden the result would be a taking.	Subdivision
Exactions - public streets where private are allowed.	1	Ivory Development	Taylorville City	None	7/5/2006	Where the ordinance states that the streets within a PUD are to be private the City cannot require them to be public. In calculating density the area of the streets is therefore included in the total area of the development.	PUD
Exactions - Replacement Structure	150	Davis	Tooele City	None	12/19/2014	Supplemented by Later AO 154. There is no impact which would justify an impact fee when an existing home is replaced with a new one. A requirement for the dedication of new water rights as a condition to allow rebuilding of a demolished home cures an existing deficiency which is prohibited by the Impact Fee Act. State guidelines are not sufficient proof of demand in an individualized determination of rough proportionality.	Single Family Home
Exactions - replacement structure	154	Davis	Tooele City	None	3/2/2015	Addendum to AO 150. There is no impact which would justify an impact fee when an existing home is replaced with a new one. A requirement for the dedication of new water rights as a condition to allow rebuilding of a demolished home cures an existing deficiency which is prohibited by the Impact Fee Act.	Single Family Home
Exactions - Replacement Structure	154	Davis	Tooele City	None	3/2/2015	Addendum to AO 150. There is no impact which would justify an impact fee when an existing home is replaced with a new one. A requirement for the dedication of new water rights as a condition to allow rebuilding of a demolished home cures an existing deficiency which is prohibited by the Impact Fee Act.	Single Family Home

Exactions - replacement structure - curing deficiencies	150	Davis	Tooele City	None	12/19/2014	Supplemented by Later AO 154. There is no impact which would justify an impact fee when an existing home is replaced with a new one. A requirement for the dedication of new water rights as a condition to allow rebuilding of a demolished home cures an existing deficiency which is prohibited by the Impact Fee Act. State guidelines are not sufficient proof of demand in an individualized determination of rough proportionality.	Single Family Home
Exactions - requirement to accept additional land.	18	Galway Group LLC	Uintah County	Unknown	8/2/2007	County may amend a subdivision plat even if all lot owners do not agree. The County may not force a property owner to accept additional land as a result of an amendment.	Subdivision
Exactions - Requirement to dedicate 33 ft future right of way is illegal burden on consolidation of two lots	241	Green	Weber County	None	7/16/2021	County required dedication of 33 foot strip of land as condition of approval for merger of two parcels. There is no change in land use and no increased density so exaction is disproportionate. The requirement is allowed by the relevant ordinance but still illegal as applied.	Lot Merger
Exactions - road - city may require access from public street for new home - 50 foot wide public street with full improvements may be excessive	190	Jackson	1900008	None	9/8/2017	It is a valid role for the City to require access to a public street for a new home. It is not a taking to deny use of lot for a home because the city did not deprive the owner of anything he had when he purchased the lot. Any requirements for utilities and improvements must be proportionate. To extend a 50 foot wide public street with full improvements may be disproportionate.	Roads
Exactions - road - overlay fee is subject to exactions analysis.	200	Mitchell Development Inc	Provo City	None	8/27/2018	An asphalt overlay fee is not an impact fee and not subject to the impact fee act. An overlay fee is an exaction and must be roughly proportionate under Dolan. Companion opinion on same issues AO 201	Subdivision
Exactions - road - overlay fee is subject to exactions analysis.	201	Ivory Development	Provo City	None	8/27/2018	An asphalt overlay fee is not an impact fee and not subject to the impact fee act. An overlay fee is an exaction and must be roughly proportionate under Dolan. An inspection fee cannot exceed the reasonable estimated cost of the inspections. Companion opinion on same issues AO 200	Subdivision
Exactions - Roads	249	Auburn Hills LLC	Hyrum City	None	12/11/2021	In imposing an exaction, government entity must first make some sort of individualized determination of nexus and proportionality. Exaction must be proportionate to current phase of development, not past or future phases.	Subdivision
Exactions - roads - corner lot - development may be required to improve both abutting streets	226	Reddish	Hurricane City	None	7/31/2020	Development may be required to provide street improvements for both streets on a corner parcel.	Subdivision - Small

Exactions - roads - half street width not excessive if subdivision abuts but does not access the street	199	Cronquist	Nibley City	None	7/17/2018	Half with street deemed roughly proportionate and therefore legal exaction although proposed subdivision abuts street but has no access to it. Trail dedication also a legal exaction because new residents of the subdivision will use the trail and other recreational facilities of the city.	Subdivision
Exactions - roads - maximum cul-de-sac length regulation not an exaction.	221	Bybee, Lindon OW LLC	Lindon City	None	4/21/2020	Stub road may be required where necessary for development and to comply with maximum cul-de-sac length regulations.	Subdivision - Industrial
Exactions - roads - must address burden created by development	173	Salter	Morgan County	None	9/30/2016	Road improvements required for road a three lot subdivision abuts but does not access were excessive and illegal in this instance. Exaction does not address any burden created by the development.	Small Subdivision
Exactions - roads - permit may be withheld until road is built.	205	McCabe	Paradise City	None	12/12/2018	Town may withhold building permit until road to property is built. Homeowner is "developer" if building a house. Exaction of road appears proportionate.	Single Family Home
Exactions - roads - second access	51	Glines	Washington City, St. George City	None	9/25/2008	A city may require a second access to a proposed subdivision even if that access is from another city. Such a requirement must be proportionate and the public benefits conferred by the road should be part of the calculation.	Subdivision
Exactions - roads - storage unit - to improve sides of road appears excessive.	180	Beehive Storage LLC	Tooele City	None	2/14/2017	Requirement that a storage unit development bear the cost of full width improvements to both sides of a 66 foot wide street appears not to be proportionate. Even legislative actions must be proportionate if they constitute exactions.	Storage Units
Exactions - roads - to require 80 foot wide arterial that subdivision does not access is excessive and illegal	188	Hirschi	Nibley City	None	7/13/2017	Requirement to complete full improvement of 80 foot wide arterial road that the subdivision does not access is excessive and illegal.	Roads
Exactions - roads - to require improvements to both sides of road appears disproportionate.	187	Ironwood Development Group LC	Smithfield City	None	6/15/2017	Requirement to complete full improvements on both sides of abutting street appears to be disproportionate and thus illegal	Roads
Exactions - roadway - after statute of limitations has run.	35	Greek Orthodox Church of Greater Salt Lake	Holladay City	None	3/31/2008	Where the City required dedication of roadway as a condition of approval but did not enforce the dedication a seven year statute of limitation applies. The city may claim the roadway by adverse possession however. The land has also been used as a public thoroughfare for more than ten years so it has been dedicated to public use. The property owner retains fee title to a worthless strip of land.	Road Right of Way

Exactions - Separate Phase of Multi Phase Project	249	Auburn Hills LLC	Hyrum City	None	12/11/2021	In imposing an exaction, government entity must first make some sort of individualized determination of nexus and proportionality. Exaction must be proportionate to current phase of development, not past or future phases.	Subdivision
Exactions - setbacks - not a taking if some viable use remains - public trail in setback is separate burden and exaction from setback itself.	182	None	Ivins City	None	3/29/2017	Multiple setback requirements do not constitute a taking of private property without just compensation if they do not eliminate all economically viable use of any part of the private property involved. A duty to provide a public trail in the setback is an exaction which must be justified as roughly proportionate to some burden created by the development. If not proportionate, it would require the payment of just compensation.	Commercial Development
Exactions - sewer connection beyond 300 feet from existing sewer - water connection charges - street improvements for school.	12	Jordan School District	West Jordan City	None	3/1/2007	The City can only require a school to connect to its sewer utility if the site is within 300 feet of an existing sewer line. Water connection charges must be reasonable. Street improvements requirements for school must be the minimum required for public safety, proportionate, and reasonably related to school safety. A school can be required to pay building inspection fees and reasonable impact fees but not other land use fees	School
Exactions - sewer connection beyond 300 feet from existing sewer.	7	Zollinger	Nibley City	None	9/6/2006	Where there is no city sewer within 300 feet of a home the city may not require connection to the sewer nor ban a septic tank.	Single Family Home
Exactions - sewer lines - stub lines to lots	21	Pitts/Bowler Development LC	Tooele County	None	9/7/2007	Requirement to stub sewer lines is an exaction. Where there is now not any public sewer, it is a reasonable condition to require stubs for future sewer connections at the foundation of a new home if the cost is reasonable but not to require sewer laterals extending into the street and sewer mains for future use.	Subdivision
Exactions - sidewalk and road improvements for school	110	Promontory School of Expeditionary Learning	Perry City	None	2/16/2012	An exaction for school sidewalk and road improvements is allowed if the road is contiguous to school property and reasonably necessary for the safety of children as it is in this case	Charter School
Exactions - small subdivision - individualized determination - speculative data not allowed in calculation.	66	Harper	South Jordan City	None	4/7/2009	Street improvements may be required for a two lot subdivision but must be proportionate. The calculation of individualized impact may use generalized studies of impacts and costs but must be based on reliable information and not speculative data or non-economic factors personal to the property owner.	Two Lot Subdivision

Exactions - state guidelines are not sufficient proof of demand for calculation of proportionality	150	Davis	Tooele City	None	12/19/2014	Supplemented by Later AO 154. There is no impact which would justify an impact fee when an existing home is replaced with a new one. A requirement for the dedication of new water rights as a condition to allow rebuilding of a demolished home cures an existing deficiency which is prohibited by the Impact Fee Act. State guidelines are not sufficient proof of demand in an individualized determination of rough proportionality.	Single Family Home
Exactions - storm water - development retaining all storm water need not pay storm water impact fees.	204	Walz	American Fork	None	12/12/2018	Storm water impact fees may not be charged against a development that retains all its storm waters. Plan review fees prohibited for residential development may be charged for commercial projects	Commercial Development
Exactions - street extension, street widths. Ownership of unowed gap in legal descriptions.	11	Pierce, Utah Valley Real Estate LLC	Pleasant Grove City	None	3/1/2007	Requirement to extend street through small subdivision appears not to be proportionate. Requirement for 33 foot half street must be supported by individualized analysis or proportionality. City may require resolution of ownership of unowned gap between legal descriptions shown on county records before allowing final plat approval.	Subdivision - Small
Exactions - Streets and Roads - corner lot - owner may be required to complete road improvements on both sides of lot.	226	Reddish	Hurricane City	None	7/31/2020	Development may be required to provide street improvements for both streets on a corner parcel.	Subdivision - Small
Exactions - subdivision does not create burden for fire suppression - only development would.	79	Buj	Iron County	None	11/30/2009	A fire suppression condition is an exaction. The act of subdividing property does not create a burden on the county to be offset by this exaction, but only by development of property.	Subdivision
Exactions - Traffic signal	245	DR Horton	Saratoga Springs City	None	11/16/2021	Exaction for 100% of signalization cost is excessive and illegal even though development triggers the need for signal. "but for" the development, the signal would not be needed. Developer should pay 40% of the cost.	Subdivision
Exactions - trail exaction legal because new residents of subdivision will use other public facilities	199	Cronquist	Nibley City	None	7/17/2018	Half with street deemed roughly proportionate and therefore legal exaction although proposed subdivision abuts street but has no access to it. Trail dedication also a legal exaction because new residents of the subdivision will use the trail and other recreational facilities of the city.	Subdivision

Exactions - trails - public trail in setback is an exaction subject to takings analysis	182	None	Ivins City	None	3/29/2017	Multiple setback requirements do not constitute a taking of private property without just compensation if they do not eliminate all economically viable use of any part of the private property involved. A duty to provide a public trail in the setback is an exaction which must be justified as roughly proportionate to some burden created by the development. If not proportionate, it would require the payment of just compensation.	Commercial Development
Exactions - Utilities	144	Fieldstone Homes	American Fork	None	9/8/2014	The rules requiring rough proportionality apply to both administrative and legislative exactions. The extension of utility lines where the applicant will have no need of them do not address burdens created by the development and are therefore illegal.	Subdivision
Exactions - voluntary dedications are not exactions	136	None	Highland City	None	12/26/2013	Voluntary dedications for development concessions or other incentives are not exactions. The property may be sold or disposed of in the same manner as other city property.	Open Space
Exactions - warranty and bonding	31	Ivory Development LLC	Draper City	None	2/28/2008	Warranty and bonds can be legal exactions if proportionate. Warranty repairs may be exacted if damage caused by development or design or construction flaw but not normal wear and tear. Requirements may be modified by agreement.	Subdivision
Exactions - water line sizing excessive	24	Ukena	South Weber City	None	11/1/2007	Exaction to increase size of water line running through property from six inches to eight inches diameter was illegal as not proportionate to the impact of a three lot subdivision.	Subdivision - Small
Exactions - water rights requirement can be an exaction	154	Davis	Tooele City	None	3/2/2015	Addendum to AO 150. There is no impact which would justify an impact fee when an existing home is replaced with a new one. A requirement for the dedication of new water rights as a condition to allow rebuilding of a demolished home cures an existing deficiency which is prohibited by the Impact Fee Act.	Single Family Home
Exactions - Water rights requirement not an exaction.	156	J, LC	Alta Town	Salt Lake Board of Health	4/15/2015	Requirement that the applicant possesses water rights in order to qualify for building permit is not an exaction and cannot be the subject of an OPRO advisory opinion. Former opinion withdrawn.	Recreational Property
Exactions - water rights. Based on proposed use, not past use.	15	Hofheins	Wasatch County	None	4/27/2007	Requirement that water rights be conveyed by developer is an exaction, which must be supported by proof of proportionality. Demand by the new use is the issue, not previous use of property for irrigated crops.	Subdivision - Small

Exactions - water supply fee is an exaction if a condition to obtain permit	147	Arrington	Mantua Town	None	10/31/2014	Water Supply Fee is an impact fee if it is imposed as a condition of obtaining land use permit. It must comply with impact fee act. Even if not an impact fee, it is an exaction and must comply with conditions for an exaction.	Subdivision - Small
Excavation - geological issues	145	Sauer	Morgan County		10/1/2014	Failure to enforce ordinance in the past does not affect duty to enforce it now. Conditions imposed here seem reasonable. Geological hazard ordinance applies. Regulation requirements may be heavy but that does not make them invalid.	Single Family Home
Exhaustion - takings claim may not be subject to local land use appeal deadline	96	Nilson	Morgan County	None	2/28/2011	Requirement to reserve property or pay money for affordable housing is an exaction. Without proof of proportionality, it is illegal. Incorporating the requirement as a mandatory provision in a development agreement does not change whether it is an exaction. It is, and subject to the same analysis. A taking claim may not need to be filed as a local land use appeal within the timeframe allowed for such appeals.	PUD
Expert Reports - geological issues - disagreeing with report not sufficient to deny it as evidence.	83	Nilssen	Draper City	None	2/1/2010	Potential geologic hazards justify additional burdens imposed on land use applicants. A geologic hazard evaluation is required by the ordinance. Once submitted, that evaluation meets the requirements of the ordinance unless there is a factual basis to reject it. Simply disagreeing with the report is not sufficient evidence to deny the permit.	Single Family Lot
Expert Reports - geological issues - application entitled to approval if there is expert report saying ground is safe for development and no competing evidence.	2	Parks	Riverdale City	None	7/11/2006	An application for hillside development is entitled to approval, despite misgivings by staff and neighbors, if the only substantial evidence related to geologic issues is by applicant's expert which deems the proposed subdivision safe. If there is a compelling public interest which is relied upon for a denial it must be identified with substantial evidence to support the denial. The city must either provide expert evidence contrary to that provided by the applicant or provide a means to resolve the compelling public interest.	PUD
Expert Reports - geological issues - application entitled to approval if there is expert report saying ground is safe for development and no competing evidence.	37	Mansell	Santa Clara City	None	4/8/2008	Where the applicant provides an expert report that the proposed development is safe, the City must approve the application unless there is proof the development is unsafe in another expert opinion. A general compelling public interest does not become a compelling interest in a specific application without specific proof.	Subdivision

Expert Reports - geological issues - unreasonable to require applicant to pay for three geological reports.	75	Widener	Morgan County	None	9/30/2009	Requiring applicant to provide geotechnical report is reasonable. Requiring three reports is not. Report may be rejected based on fact based, objective reasons. Applicant should be given the chance to respond to issues raised in its reports. Process of review must be within a reasonable time frame but in this case 10 months is reasonable.	Single Family Home
Expiration of Plat - ordinance valid that provides for expiration	53	Kriser	Mapleton City	None	10/22/2008	A provision that an approved plat expires if not recorded is valid. To require curb gutter and sidewalk across the frontage of a 2.3 acre lot where there is none existing in the area is an excessive exaction and does not solve a problem created by the construction of a single family home.	Single Family Home
Expired Conditions - seven year statute of limitations applies.	35	Greek Orthodox Church of Greater Salt Lake	Holladay City	None	3/31/2008	Where the City required dedication of roadway as a condition of approval but did not enforce the dedication a seven year statute of limitation applies. The city may claim the roadway by adverse possession however. The land has also been used as a public thoroughfare for more than ten years so it has been dedicated to public use. The property owner retains fee title to a worthless strip of land.	Road Right of Way
Extraterritorial impact fees - sewer connection where impact fees not paid	177	Wasatch School District	Heber City	None	11/30/2016	Where city requires connection to sewer, and even though school was beyond city limits, City could not refuse to connect sewer until impact fees were paid.	School
Extraterritorial Jurisdiction - watershed areas - wetlands	120	Ciel Investment Co	Salt Lake City, Salt Lake County	None	2/15/2013	Salt Lake City has jurisdiction over the watershed areas that provide culinary water and may impose regulations and conditions on building and uses. This authority does not extend to protect wetland habitat.	Residential Lot
Family-type arrangement - senior living - legal to require one resident of senior living to be an owner.	60	Taylor	Lindon City	None	1/20/2009	City prohibits senior living arrangements unless one resident is an owner of the property. This is legal and consistent with state law. A corporate owner is not a resident.	Senior Residential Facility
Federal Code - wireless tower	125	Western	Delta City	None	5/31/2013	Federal law requires the city to approve changes to a wireless tower which fall within the federal definition of eligible changes. Other issues of nonconforming uses or appeals are moot and not considered	Telecommunications

Federal Property - canal easement - subdivision approval withheld	36	Loafer Rim Properties LC	Salem City	None	4/8/2008	Where the BOR claims a 200 foot wide easement along a canal that claim may be excessive and require just compensation but the city has a compelling public interest in not approving a proposed subdivision until the nature of the easement is resolved.	Subdivision
Feed Lots - development near	22	Unknown	West Point City	Diamond	10/8/2007	Annexation by City was proper despite presence of adjoining agricultural preservation area. Code restricts installing a new feedlot near homes not new homes near existing feedlot. Wetland issues are state issues and not subject to local control. Previous decisions by the City are strong evidence of how the City should act, but not controlling. Zoning estoppel does not apply.	Subdivision
Fees - asphalt overlay fee - not an impact fee - can be an exaction and must be proportional	200	Mitchell Development Inc	Provo City	None	8/27/2018	An asphalt overlay fee is not an impact fee and not subject to the impact fee act. An overlay fee is an exaction and must be roughly proportionate under Dolan. Companion opinion on same issues AO 201	Subdivision
Fees - asphalt overlay fee - not an impact fee - can be an exaction and must be proportional	201	Ivory Development	Provo City	None	8/27/2018	An asphalt overlay fee is not an impact fee and not subject to the impact fee act. An overlay fee is an exaction and must be roughly proportionate under Dolan. An inspection fee cannot exceed the reasonable estimated cost of the inspections. Companion opinion on same issues AO 200	Subdivision
Fees - reasonable - geotechnical reports	75	Widener	Morgan County	None	9/30/2009	Requiring applicant to provide geotechnical report is reasonable. Requiring three reports is not. Report may be rejected based on fact based, objective reasons. Applicant should be given the chance to respond to issues raised in its reports. Process of review must be within a reasonable time frame but in this case 10 months is reasonable.	Single Family Home
Fees - reasonable - related to cost of providing service or benefits	101	Blackham	Garden City	None	7/6/2011	A monthly stand by fee may be charged to properties which have not yet been connected to a water system. Fees must be fair and reasonably related to the cost of providing the service or benefits.	Water System
Fees - stand by - for yet to be connected properties	101	Blackham	Garden City	None	7/6/2011	A monthly stand by fee may be charged to properties which have not yet been connected to a water system. Fees must be fair and reasonably related to the cost of providing the service or benefits.	Water System
Fertilizer Plant - neighbors - standing of neighbors to challenge - conditional use approval	81	Bear River Valley Co-op	Corrine City	Neighborhood Non-profit Housing Corp	1/14/2010	Owner of neighboring subdivision has standing to appeal CUP approval. Application must meet requirements of ordinance. If neighbor identifies with substantial evidence the detrimental effects of proposed CUP they must be addressed. Public must have opportunity to respond to submittals.	Fertilizer Storage

Fire Code - City Enforcement	248	Union Block LLC	Brigham City	None		City could require fire sprinkler system on ground level of building before occupancy of renovated second floor as a residence even though a certificate of occupancy had been granted to the owner for the ground level.	Mixed Use Bldg
					12/27/2021		
Fire Code - fire sprinklers	189	None	Elk Ridge City	UHBA	7/27/2017	State Fire Code prohibits a local ordinance requiring fire sprinklers in all new buildings.	Fireplaces
Fire Code - takings claim - exactions	87	Deepwater Distribution Co	Wasatch County	None	6/17/2010	An AO can be written to address an issue of interpretation of a land use ordinance before an application is submitted. The Division of Drinking Water may not impose fireflow requirements. The Fire Code imposes conditions on development, and therefore is subject to a takings claim. Fire suppression system is not an exaction because it does not involve a mandatory dedication. Not a Penn Central Taking either. Private benefits outweigh public benefits here.	Water System
Fire Code - water supply required	231	Peterson House LLC	Morgan Co	None	10/30/2020	Even though building permit issued, cannot occupy home without adequate supply of water for fire suppression.	Single Family Home
Fire Flow - requirement - exactions	55	Shea	Wasatch County	None	11/12/2008	The County may require a fire suppression system in order to issue a building permit. This is an exaction and the burden imposed must be proportionate. If the cost is not proportionate, the county or other property owners must bear some of the cost.	Recreational Lot
Fire Sprinklers - State Fire Code	189	None	Elk Ridge City	UHBA	7/27/2017	State Fire Code prohibits a local ordinance requiring fire sprinklers in all new buildings.	Fireplaces
Fire Suppression - exaction - may not be required at subdivision but only at development.	79	Buj	Iron County	None	11/30/2009	A fire suppression condition is an exaction. The act of subdividing property does not create a burden on the county to be offset by this exaction, but only by development of property.	Subdivision
Fire Suppression - not an exaction - Division of Drinking Water	87	Deepwater Distribution Co	Wasatch County	None	6/17/2010	An AO can be written to address an issue of interpretation of a land use ordinance before an application is submitted. The Division of Drinking Water may not impose fireflow requirements. The Fire Code imposes conditions on development, and therefore is subject to a takings claim. Fire suppression system is not an exaction because it does not involve a mandatory dedication. Not a Penn Central Taking either. Private benefits outweigh public benefits here.	Water System

Fire Suppression - system may be required - exaction and must be proportionate.	55	Shea	Wasatch County	None	11/12/2008	The County may require a fire suppression system in order to issue a building permit. This is an exaction and the burden imposed must be proportionate. If the cost is not proportionate, the county or other property owners must bear some of the cost.	Recreational Lot
Fireflow Requirements - not a taking	102	Brown	Wasatch County	None	7/9/2011	Even though not imposed on others, county can impose regulations in the ordinance. Regulations here do not constitute a taking even though harsh because the benefit the property owner much more than the public	Subdivision
Flag Lot - nonconforming	69	Cox	Willard City	None	5/18/2009	Existing flag lot may be nonconforming but is legal and may be the subject of a variance.	Single Family Lot
Flood Control - exactions	48	Ensign Development	Tooele City, Tooele County	None	7/29/2008	Flood oontrol improvements required by City are exactions and must be proportional.	Subdivision
Follow ordinances - Rv Park	213	Zion Sunset Resort LLC	Virgin Town	Timmerman	7/30/2019	Approval of CUP under illegal ordinance could be challenged in court. Town must follow own ordinances. Voters as legislative body also must follow relevant ordinances. Ordinance may be challenged as part of a challenge to a land use decision applying the ordinance.	RV Park
Forced acceptance of land - owner may not refuse additional land.	18	Galway Group LLC	Uintah County	Unknown	8/2/2007	County may amend a subdivision plat even if all lot owners do not agree. The County may not force a property owner to accept additional land as a result of an amendment.	Subdivision
Forced demolition - noncomplying structure. May rebuild.	113	Sandoval	West Valley City	None	3/29/2012	Where a noncomplying structure was removed by action of the highway authority, the property owner may rebuild the sttructure if the rebuilding is pursued with reasonable diligence. City bears burden to show abandonment.	Sign

Form of regulation - resolution or ordinance - standards may be general	192	Cedar Hills Farm Land LLC	Cedar Hills City	None	12/28/2017	Conditions imposed on a CUP must be related to and substantially mitigate the anticipated negative aspects of a development. Standards in ordinance for CUP review may be general and may be approved by resolution rather than by ordinance if the standards are referred to in the ordinance. Condition to limit density of project is illegal. Condition imposing specific services for residents is illegal. Parking condition is legal. Overnight parking prohibition is probably legal. Landscaping and open area condition illegal. Project phasing condition illegal. Conditions to limit impact on public safety illegal because prohibition of density not shown to be necessary to mitigate impact of use. Condition prohibiting young adults and requiring senior residents illegal not legal as not supported by evidence. Low level lighting condition is legal. Condition related to processing of development application is unnecessary and redundant.	Commercial Development
Gap in legal descriptions - final plat approval may be withheld	11	Pierce, Utah Valley Real Estate LLC	Pleasant Grove City	None	3/1/2007	Requirement to extend street through small subdivision appears not to be proportionate. Requirement for 33 foot half street must be supported by individualized analysis or proportionality. City may require resolution of ownership of unowned gap between legal descriptions shown on county records before allowing final plat approval.	Subdivision - Small
General Plan - intent language	149	Jacobson	Herriman City	None	12/5/2014	Vested rights occur when an application complies with the requirements in the ordinance for a complete application. The ordinance must be read as a whole to determine compliance. Reference in the zoning ordinance to "intent and purpose" of general plan as the means to limit overall density is not illegal.	Subdivision

General Plan - rezone must comply in Summit County - sufficient information to determine compliance	89	Park City Ranches LLC	Summit Co	Old Ranch Road Neighborhood Group	8/17/2010	Where the county requires conformance to the General Plan, a proposal for development must be sufficiently detailed to determine if it complies. A rezone application in this case must comply with the General Plan. As a legislative decision, the determination that it does or does not will be given deference.	Subdivision
Geologic Hazards - additional burdens on applicant - disagreeing with report without factual basis does not justify denial of development.	83	Nilssen	Draper City	None	2/1/2010	Potential geologic hazards justify additional burdens imposed on land use applicants. A geologic hazard evaluation is required by the ordinance. Once submitted, that evaluation meets the requirements of the ordinance unless there is a factual basis to reject it. Simply disagreeing with the report is not sufficient evidence to deny the permit.	Single Family Lot
Geologic Hazards - denial of development illegal if not supported by expert evidence supporting denial	2	Parks	Riverdale City	None	7/11/2006	An application for hillside development is entitled to approval, despite misgivings by staff and neighbors, if the only substantial evidence related to geologic issues is by applicant's expert which deems the proposed subdivision safe. If there is a compelling public interest which is relied upon for a denial it must be identified with substantial evidence to support the denial. The city must either provide expert evidence contrary to that provided by the applicant or provide a means to resolve the compelling public interest.	PUD
Geologic Hazards - denial of development illegal if not supported by expert evidence supporting denial	20	Hamlet Homes	Draper City	None	8/9/2007	Continued denial of subdivision is not justified by any evidence before the City Council.	Subdivision
Geologic Hazards - denial of development illegal if not supported by expert evidence supporting denial	37	Mansell	Santa Clara City	None	4/8/2008	Where the applicant provides an expert report that the proposed development is safe, the City must approve the application unless there is proof the development is unsafe in another expert opinion. A general compelling public interest does not become a compelling interest in a specific application without specific proof.	Subdivision
Geologic Hazards - regulations heavy but not invalid	145	Sauer	Morgan County		10/1/2014	Failure to enforce ordinance in the past does not affect duty to enforce it now. Conditions imposed here seem reasonable. Geological hazard ordinance applies. Regulation requirements may be heavy but that does not make them invalid.	Single Family Home

Geologic Hazards - requiring three reports is not reasonable - rejection of report.	75	Widener	Morgan County	None	9/30/2009	Requiring applicant to provide geotechnical report is reasonable. Requiring three reports is not. Report may be rejected based on fact based, objective reasons. Applicant should be given the chance to respond to issues raised in its reports. Process of review must be within a reasonable time frame but in this case 10 months is reasonable.	Single Family Home
Grading - regulations heavy but not invalid	145	Sauer	Morgan County		10/1/2014	Failure to enforce ordinance in the past does not affect duty to enforce it now. Conditions imposed here seem reasonable. Geological hazard ordinance applies. Regulation requirements may be heavy but that does not make them invalid.	Single Family Home
Gravel Pits - conditional use still valid - abandonment	176	South Rim LC	Tooele County	Hunter	11/29/2016	Conditional use permit issued 20 years earlier still valid but change of zone made use nonconforming. Condition listed in staff report does not govern use because it was not specifically adopted by the land use authority when the permit was issued. When rezoned to prohibit gravel operation the CUP became illegal but the pit continues as a nonconforming use unless and until it is abandoned.	Gravel Pit
Gravel Pits - nonconforming use - critical infrastructure statute	217	Kilgore Companies	Stockton Town	None	2/24/2020	Mining use was not nonconforming and may be prohibited. Owner did not meet burden of evidence to establish NCU. Critical Infrastructure statute not applicable if never legal.	Mining
Gravel Pits - nonconforming use - expansion - abandonment	186	Harwood	Tooele County	Hunter	5/24/2017	A nonconforming gravel pit may expand its operations beyond the boundaries in place when the use became non-conforming, but not beyond the boundaries of the parcel or parcels where the use existed when it became nonconforming. Abandonment of a NCU is by physical non-use, not by intention.	Gravel Pit
Gravel Pits - nonconforming use - previous unappealed denial stands.	46	Hirschi	Rockville Town	None	7/15/2008	A 1997 decision denying nonconforming use status stands as it was not appealed at the time. Town cannot now approve additional applications for gravel use now.	Gravel Pit
Gun Shooting Range - conditional use permit valid	124	The Gun Vault	South Jordan City	Hughes	4/30/2013	Conditional use permit was properly issued and supported by substantial evidence in the record.	Gun Range
Harm - Standing	214	Blue Rock Medical	Provo City	Evans	8/6/2019	Members of the public who pass by property with legal non-conforming illuminated sign do not have standing to challenge its approval.	Sign

Hillsides - applicability of ordinance to grandfathered lots	236	Potter	Leeds Town	None	2/11/2021	Town statute provides hillside restrictions do not apply to subdivisions before 1999. Property owner claimed approved lot split subdivision but no record of approval was found in Town minutes. Town had sufficient evidence in the record to conclude there was no subdivision approval and could therefore apply hillside ordinance to property.	Subdivision
Hillsides - platted lot is vested right to build.	78	Martino	Salt Lake County	None	11/24/2009	A lot owner has a vested right to building within the building pad area designated on an approved subdivision plat. The county's legitimate interest in protecting hillsides and ridgelines can only restrict such building with the showing of a compelling public interest beyond protecting hillsides and ridgelines. The justification must be a threat to public health and safety.	Single Family Lot
Historic Buildings	248	Union Block LLC	Brigham City	None	12/27/2021	City could require fire sprinkler system on ground level of building before occupancy of renovated second floor as a residence even though a certificate of occupancy had been granted to the owner for the ground level.	Mixed Use Bldg
Historic Buildings - appeals	131	505 Woodside Development LLC	Park City	Meadows	10/18/2013	This AO deals with same property as AO No. _____ and AO 143. More than one appeal authority may be designated to hear different types of appeals, even in all the appeals relate to a single project.	Single Family Home
Historic Buildings - application expiration	181	Kershaw	Park City	None	3/7/2017	Application for Determination of Significant Historic Building did not expire prior to its consideration. Pending ordinance rule does not apply after the ordinance is adopted.	Historic Building
Historic Buildings - denial of permit	139	Jorgensen	Park City	None	3/28/2014	Denial of a conditional use permit is only justified if the detrimental impacts of the use cannot be substantially mitigated. City must identify the detrimental impacts and which conditions were considered to mitigate them. Planning Commission may not revisit previous approvals and adopt definitions counter to previous city definition of terms. Steep slope ordinance cannot be applied to structures not on a steep slope even if lot includes a steep slope.	Single Family Lot
Historic Buildings - moving building - decisions must be based in fact	104	Love	Park City	None	7/27/2011	Decisions of an appeal authority must be based on the ordinance and objective facts. The motives and sincerity of the applicant are not relevant.	Permit to Move Building
Historic Buildings - neighbors - vesting	88	Woodside Development LLC	Park City	Meadows	7/14/2010	As a potentially aggrieved person, a neighbor can request an AO. There is no vesting to an incomplete application. Significant errors in the application can render it incomplete and thus not vested. An appeal authority need not hear an appeal on an application that is withdrawn.	Home Remodel

Home Occupation - lot combination	98	Checketts	Providence City		3/28/2011	A nonconforming use must have been established legally. The city does not waive the ability to enforce its ordinances if it does not do so in other cases. Combining two lots, even in an usual manner, can meet the requirement that a home occupation be on the same lot. Not a taking if economic use remains. NOTE: See Providence City v. Checketts, Utah Court of Appeals.	Countertop Manufacturing
Homeowner Associations - Road Fees	251	Bluth, Oscar	Swiss Alpine Water Company	None	1/20/2022	A private water company can be subject to the County Land Use, Development and Management Act if it is the only realistic source of water to a lot. It must thus respect due process, timely review of applications, and reasonable diligence in review. If the water company is also an HOA, CLUDMA usually would not apply - such as to fees for roads in this instance. The roads fee is not an impact fee.	Building Lot
Homeowner Associations - Water	251	Bluth, Oscar	Swiss Alpine Water Company	None	1/20/2022	A private water company can be subject to the County Land Use, Development and Management Act if it is the only realistic source of water to a lot. It must thus respect due process, timely review of applications, and reasonable diligence in review. If the water company is also an HOA, CLUDMA usually would not apply - such as to fees for roads in this instance. The roads fee is not an impact fee.	Building Lot
Hotel - new condominium use	178	Lodge at Stillwater HOA	Wasatch County	Kosakowski	12/16/2016	When management of approved hotel changed use to condominium, it was obligated to comply with land use regulations associated with condominiums.	Hotel/Condo
Impact Fees	251	Bluth, Oscar	Swiss Alpine Water Company	None	1/20/2022	A private water company can be subject to the County Land Use, Development and Management Act if it is the only realistic source of water to a lot. It must thus respect due process, timely review of applications, and reasonable diligence in review. If the water company is also an HOA, CLUDMA usually would not apply - such as to fees for roads in this instance. The roads fee is not an impact fee.	Building Lot
Impact Fees - A424 Waiver - funds from other sources	183	Wasatch School District	Heber City	None	4/28/2017	City may not charge extraterritorial development a higher impact fee than it has justified for development within the city. Impact fees can only be charged for current impact, not past impact that was not charged for. Impact fee must be justified by an analysis of additional burden on public services, not solely on whether a building size is increased without proof of more traffic, for example. If an impact fee waiver is given for some development, there must be some provision for recovery of the amount of the waiver from another source to make the impact fee plan whole.	School

Impact Fees - as-applied challenge based on reasonableness of fee is the only issue an advisory opinion will consider if an impact fee otherwise complies with the facial requirement of state statute.	242	Utah Valley Home Builders	Eagle Mountain City	None	7/30/2021	To challenge an impact fee which complies with the form required by statute, a person must demonstrate that the resulting fee is unreasonable on an as-applied basis. A person may not contest only the means used to arrive at fee calculations where the fee is facially valid in that it complies with the mandatory considerations imposed by the Impact Fee Act.	Impact Fee
Impact Fees - asphalt overlay fee	200	Mitchell Development Inc	Provo City	None	8/27/2018	An asphalt overlay fee is not an impact fee and not subject to the impact fee act. An overlay fee is an exaction and must be roughly proportionate under Dolan. Companion opinion on same issues AO 201	Subdivision
Impact Fees - asphalt overlay fee	201	Ivory Development	Provo City	None	8/27/2018	An asphalt overlay fee is not an impact fee and not subject to the impact fee act. An overlay fee is an exaction and must be roughly proportionate under Dolan. An inspection fee cannot exceed the reasonable estimated cost of the inspections. Companion opinion on same issues AO 200	Subdivision
Impact Fees - burden on challenger	72	Florence	Central Weber Sewer Improvement District	None	6/30/2009	The person challenging an impact fee has the burden to demonstrate that it is illegal. This developer has not met that burden.	Restaurant
Impact Fees - burden on challenger	73	Waxie Enterprises	Salt Lake City	None	8/31/2009	Person appealing impact fees must present reasoned studies and analysis showing actual impact of development and what fees should be.	Warehouse/Office
Impact Fees - burden on challenger	129	Miner	Timpanogos Special Service District	None	7/31/2013	Miner had burden to show the TSSD impact fees were not legal and did not meet that burden. TSSD did not respond to requests to comment but AO issued anyway.	Single Family Home
Impact Fees - burden on challenger	132	Miner	Lehi City	None	10/22/2013	This opinion reconsidered in AO 138. A party challenging an impact fee has the burden to prove that the impact fee fails to comply with the law. The applicant has not met this burden. AO issued even though City did not respond to requests for comments. City has the opportunity to adjust the fee but need not do so if the property owner has not proven that the fee must be adjusted.	Single Family Home
Impact Fees - burden on challenger	167	Price/Bangerter Distribution	Salt Lake City	None	4/22/2016	Where entity paying impact fees does not meet its burden to demonstrate the the fees are not proportionate or legal, a refund of any part of the fee cannot be required.	Commercial Development
Impact Fees - capital facilities plan - expenditures - benefit development - service area	197	None	Morgan County	Franklin	5/28/2018	The County may not spend impact fee funds on projects not included in the Impact Fee Facilities Plan. Projects using funds from development must provide a demonstrable benefit to the development where the fees are collected. A county-wide service area is not, on its face, unreasonable.	Subdivision

Impact Fees - charter school	160	Boyer Dixie LC	Washington City	None	7/10/2015	Charter schools are entitled to same treatment under the impact fee act as other public schools. Impact fee can only be charged if new system improvements are needed to serve the school. Impact fee must be charged when development occurs, and not at subdivision stage. The OPRO will issue an advisory opinion even if the governmental entity involved refuses to participate in the review.	Charter School
Impact Fees - charter school	160	Boyer Dixie LC	Washington City	None	7/10/2015	Charter schools are entitled to same treatment under the impact fee act as other public schools. Impact fee can only be charged if new system improvements are needed to serve the school. Impact fee must be charged when development occurs, and not at subdivision stage. The OPRO will issue an advisory opinion even if the governmental entity involved refuses to participate in the review.	Charter School
Impact Fees - compliance with Impact Fee Act	138	Miner	Lehi City	None	3/25/2014	Reconsideration of AO 132. Word "identify" does not mean "analyze" or "prove". Lehi impact fee documents minimally comply with code.	Single Family Home
Impact Fees - compliance with Impact Fee Act	163	None	Toquerville City	None	10/8/2015	Draft impact fee documents do not comply with Impact Fee Act; do not identify facilities; do not properly establish a level of service; do not include all essential information; do not rely on actual cost of facilities; propose use of impact fees to cure existing deficiencies; and are incomplete	City Government
Impact Fees - condominium conversion	39	Carlson	Salt Lake City	Greater Avenues Community Council	4/28/2008	A change in ownership is not a change in use. To convert rental property to condo does not change the use as multifamily. Language in Impact Fee Ordinance is not a land use regulation.	Multifamily
Impact Fees - Definition - water supply fee is an impact fee	147	Arrington	Mantua Town	None	10/31/2014	Water Supply Fee is an impact fee if it is imposed as a condition of obtaining land use permit. It must comply with impact fee act. Even if not an impact fee, it is an exaction and must comply with conditions for an exaction.	Subdivision - Small
Impact Fees - development activity	151	Cranney	Brigham City	None	12/19/2014	Electrical upgrade can qualify as a development activity subject to impact fees if it is demonstrated that it imposes a new burden on public facilities. IT is not the extent of the demand that justifies impact fees, but the existence of additional demand. The fee imposed must, however, be roughly proportionate to the burden created.	Commercial Development

Impact Fees - early review by OPRO	168	None	Kearns Improvement District	None	6/30/2016	Kearns Improvement District impact fees substantially comply with the Impact Fee Act. Early review by the OPRO is appropriate but limited to legal issues.	Water District
Impact Fees - excess capacity cost	71	Florence	South Ogden City	None	6/30/2009	An impact fee may only recover the city's cost of facilities provided, not the current replacement cost. The city must consider the time/price differential inherent in fair considerations of amounts paid at different times.	Restaurant
Impact Fees - Existing Deficiencies - replacement dwelling	150	Davis	Tooele City	None	12/19/2014	Supplemented by Later AO 154. There is no impact which would justify an impact fee when an existing home is replaced with a new one. A requirement for the dedication of new water rights as a condition to allow rebuilding of a demolished home cures an existing deficiency which is prohibited by the Impact Fee Act. State guidelines are not sufficient proof of demand in an individualized determination of rough proportionality.	Single Family Home
Impact Fees - Existing Deficiencies - replacement dwelling	154	Davis	Tooele City	None	3/2/2015	Addendum to AO 150. There is no impact which would justify an impact fee when an existing home is replaced with a new one. A requirement for the dedication of new water rights as a condition to allow rebuilding of a demolished home cures an existing deficiency which is prohibited by the Impact Fee Act.	Single Family Home
Impact Fees - extraterritorial fee higher than local fee - current impact only - based on burden created	183	Wasatch School District	Heber City	None	4/28/2017	City may not charge extraterritorial development a higher impact fee than it has justified for development within the city. Impact fees can only be charged for current impact, not past impact that was not charged for. Impact fee must be justified by an analysis of additional burden on public services, not solely on whether a building size is increased without proof of more traffic, for example. If an impact fee waiver is given for some development, there must be some provision for recovery of the amount of the waiver from another source to make the impact fee plan whole.	School
Impact Fees - facial challenge - if the imposition of an impact fee complies with the mandatory requirements of the Impact Fee Act, only an as-applied challenge will be considered by the OPRO in an advisory opinion.	242	Utah Valley Home Builders	Eagle Mountain City	None	7/30/2021	To challenge an impact fee which complies with the form required by statute, a person must demonstrate that the resulting fee is unreasonable on an as-applied basis. A person may not contest only the means used to arrive at fee calculations where the fee is facially valid in that it complies with the mandatory considerations imposed by the Impact Fee Act.	Impact Fee

Impact Fees - for electrical upgrade	151	Cranney	Brigham City	None	12/19/2014	Electrical upgrade can qualify as a development activity subject to impact fees if it is demonstrated that it imposes a new burden on public facilities. IT is not the extent of the demand that justifies impact fees, but the existence of additional demand. The fee imposed must, however, be roughly proportionate to the burden created.	Commercial Development
Impact Fees - Individualized Determination - replacement dwelling	150	Davis	Tooele City	None	12/19/2014	Supplemented by Later AO 154. There is no impact which would justify an impact fee when an existing home is replaced with a new one. A requirement for the dedication of new water rights as a condition to allow rebuilding of a demolished home cures an existing deficiency which is prohibited by the Impact Fee Act. State guidelines are not sufficient proof of demand in an individualized determination of rough proportionality.	Single Family Home
Impact Fees - level of service - capital facilities plan	155	None	Herriman City	None	4/14/2015	Herrimans impact fee for parks, trails and recreation meets requirements of Impact Fee Act. Investment per thousand can qualify as level of service. Specific list of improvements not required but as facilities are built with impact fee funds they must qualify under the Impact Fee Act and the criteria in the enactment documents.	City Government
Impact Fees - level of service - parks - police	59	Utah Valley Home Builders	Lehi City	None	1/13/2009	City could not include in its level of service proposed park facilities that it neither owns nor has improved. Police calls as measure of level of service is allowed. Other issues also discussed	Single Family Home
Impact Fees - method of calculation of fee will only be considered by an advisory opinion as part of an as-applied issue of reasonableness of the fee and not in a facial challenge where the imposition of an impact fee complies with the mandatory requirements of the Impact Fee Act.	242	Utah Valley Home Builders	Eagle Mountain City	None	7/30/2021	To challenge an impact fee which complies with the form required by statute, a person must demonstrate that the resulting fee is unreasonable on an as-applied basis. A person may not contest only the means used to arrive at fee calculations where the fee is facially valid in that it complies with the mandatory considerations imposed by the Impact Fee Act.	Impact Fee

Impact Fees - private utility	157	SUHBA	None	Dixie Power	4/30/2015	Private utility companies are not subject to the impact fees act (as of the date of this opinion) but are governed by the Utah Public Service Commission. Their fees and rules must be just and reasonable.	Power Company
Impact Fees - Refund - must be justified	167	Price/Bangerter Distribution	Salt Lake City	None	4/22/2016	Where entity paying impact fees does not meet its burden to demonstrate the the fees are not proportionate or legal, a refund of any part of the fee cannot be required.	Commercial Development
Impact Fees - review by OPRO	206	None	Central Weber Sewer Improvement District	None	12/21/2018	Proposed Impact fee documents comply with the Impact Fee Act	Sewer Facility
Impact Fees - school - update documents	225	Weber School District	Pleasant Grove City	None	6/25/2020	City can only impose impact fees on school if new facilities are needed to serve the school and it updates its Impact Fee Analysis and Facilities Plan.	School
Impact Fees - sewer - school district - fees need not be paid before connection	177	Wasatch School District	Heber City	None	11/30/2016	Where city requires connection to sewer, and even though school was beyond city limits, City could not refuse to connect sewer until impact fees were paid.	School
Impact Fees - storm water	204	Walz	American Fork	None	12/12/2018	Storm water impact fees may not be charged against a development that retains all its storm waters. Plan review fees prohibited for residential development may be charged for commercial projects	Commercial Development
Impact Fees - water supply fee exaction	147	Arrington	Mantua Town	None	10/31/2014	Water Supply Fee is an impact fee if it is imposed as a condition of obtaining land use permit. It must comply with impact fee act. Even if not an impact fee, it is an exaction and must comply with conditions for an exaction.	Subdivision - Small
Impervious Surfaces - limit by ordinance	219	Van Buren	Hooper City	None	4/9/2020	Limit on impervious surfaces in ordinance applies but City should consider legalizing the concrete on this lot	Single Family Home

Independent Agencies - exactions imposed by county - approval of applications	158	Glexos	Salt Lake County	Unified Fire Authority	6/2/2015	While the City requires improvement of a public road with sidewalks it may not require the fire district owning the land where the sidewalk would be placed to convey the land to the city or developer. A local district is not subject to the land use application approval process if it is not the applicant.	Sidewalk
Individualized Determination - road exaction	30	Greek Orthodox Church of Greater Salt Lake	Holladay City	None	2/13/2008	Since the City did not provide an individualized analysis of proportionality, a street exaction imposed on a permit for the church's construction of an outdoor pavilion is illegal.	Outdoor Pavilion
Initiative and Referendum - vested right before referendum - pending ordinance	65	Sevier Power Company LLC	Sevier County	None	3/26/2009	Although citizens initiative which was approved requires public vote for a power plant conditional use permit, the application was received prior to the initiation of the initiative and vested under the former ordinances. An initiative is not a pending ordinance for purposes of defeating vested rights for an application filed before the initiative process began. Authored by independent counsel, not the OPRO.	Power Plant
Interpretation of Agreement - harmonize provisions	212	Village Dev. Group/Silver Creek Village	Summit Co	None	6/21/2019	All relevant provisions of an agreement are to be read to harmonize them.	Reception Center
Interpretation of Conditions - open space	153	Coyote Development LLC	Heber City	None	2/24/2015	Designating a parcel on a plat as "open space" does not restrict future development of the parcel where the restriction was not a condition of approval. No prescriptive easements for public or private use could have been created because the necessary time has not run.	Subdivision
Interpretation of Ordinance - access rights	70	Rasmussen	Carbon County	None	6/30/2009	County can require proof of permanent access to lot before allowing a building permit. County may consider 30 year lease of access rights to be inadequate. Difficulty in proving access rights across state and federal lands does not make county requirement illegal.	Single Family Lot

Interpretation of Ordinance - accessory structure	84	Warner	Clearfield City	None	3/2/2010	A shed attached to the main building is not an accessory structure. It is an addition to a home and violated the setbacks when it was built. It may not now be rebuilt. A structure with electricity attached to a home needs a building permit.	Shed
Interpretation of Ordinance - ancillary use	108	Jones, Rulon	Weber County	Barry	11/8/2011	A meat packing and packaging operation incidental to a larger hunting operation is not simply an ancillary use to an agricultural use. County prohibitions are valid. Designation of a land use authority in this case was valid.	Meat Packing
Interpretation of Ordinance - appeals	62	Alliance Youth Services	Pleasant Grove City	None	2/11/2009	An appeal authority may remand a matter back to the land use authority. A new record can be created on remand. A person has not exhausted their administrative remedies until the appeal process is completed. Purchase of property is not sufficient reliance to establish estoppel. The city has no affirmative duty to raise issues with applicants and explain all its land use regulations.	Residential Treatment Facility
Interpretation of Ordinance - appeals	105	Mertens	Salt Lake City	None	8/23/2011	Appeals can not be brought after the deadline to appeal has passed. Letter from Community Development Dept. was not appealed and cannot be now. Property owners are entitled to full review of whether their use is nonconforming. Previous decisions by the Board of Adjustments on variance applications are not determinative of whether nonconforming status now exists.	Fourplex
Interpretation of Ordinance - application - complete application	88	Woodside Development LLC	Park City	Meadows	7/14/2010	As a potentially aggrieved person, a neighbor can request an AO. There is no vesting to an incomplete application. Significant errors in the application can render it incomplete and thus not vested. An appeal authority need not hear an appeal on an application that is withdrawn.	Home Remodel
Interpretation of Ordinance - change in use - multi family - impact fee ordinance	39	Carlson	Salt Lake City	Greater Avenues Community Council	4/28/2008	A change in ownership is not a change in use. To convert rental property to condo does not change the use as multifamily. Language in Impact Fee Ordinance is not a land use regulation.	Multifamily
Interpretation of Ordinance - clamor - conditional use	117	Cottonwood Partners	Cottonwood Heights City		10/15/2012	Decision to approve a conditional use permit was valid despite public clamor from neighbors.	Commercial Development
Interpretation of Ordinance - conditional use	128	Baguley	North Ogden City	Crippen	7/31/2013	After time period passes, an appeal may not be filed. The City may revoke a CUP for violations of its conditions.	Auto Service Facility
Interpretation of Ordinance - conditional use	124	The Gun Vault	South Jordan City	Hughes	4/30/2013	Conditional use permit was properly issued and supported by substantial evidence in the record.	Gun Range

Interpretation of Ordinance - conditional use - PUD	208	Kelly Hughes Const. LLC	West Point City	None	2/22/2019	Where city ordinances provide for a PUD overlay zone but also lists PUD as a conditional use in a given zone, the property owner has no duty to get an overlay but may rely on the conditional use process for PUD approval. Calculation of density per acre includes area designated as open space unless ordinance clearly provides otherwise	PUD
Interpretation of Ordinance - conditional use - steep slope	139	Jorgensen	Park City	None	3/28/2014	Denial of a conditional use permit is only justified if the detrimental impacts of the use cannot be substantially mitigated. City must identify the detrimental impacts and which conditions were considered to mitigate them. Planning Commission may not revisit previous approvals and adopt definitions counter to previous city definition of terms. Steep slope ordinance cannot be applied to structures not on a steep slope even if lot includes a steep slope.	Single Family Lot
Interpretation of Ordinance - conditional use standards	116	Red Hawk Wildlife Preserve Fdtn	Summit Co	None	9/20/2012	A County may impose threshold requirements related to a conditional use which must be met before a conditional use would be considered.	Gated Access
Interpretation of Ordinance - condominium conversion	178	Lodge at Stillwater HOA	Wasatch County	Kosakowski	12/16/2016	When management of approved hotel changed use to condominium, it was obligated to comply with land use regulations associated with condominiums.	Hotel/Condo
Interpretation of Ordinance - covenants	109	Mount	Summit Co	None	12/6/2011	See also AO 126. A declaration of covenants is a private contract and does not control local zoning regulation. Mere ownership is not sufficient expense to constitute zoning estoppel.	Single Family Home
Interpretation of Ordinance - deference to staff expertise	27	Barber	Salt Lake City	Low	12/7/2007	Calculation of the required setback for a replacement home, based on average setbacks in the area, was logical and consistent with the ordinances even though it did not take into account the setback of the home being replaced. The staff could either consider that setback or not. Either option for calculation would be appropriate. The opinion deferred to the staff's expertise.	Single Family Home
Interpretation of Ordinance - development agreement	67	Ivory Development LLC	West Point City	None	5/4/2009	Where a development agreement allows units above 1300 total feet and the land use ordinance requires that 1200 feet be above grade, the ordinance governs even though the DA is less restrictive. The DA includes a provision that the development must follow local codes.	Subdivision
Interpretation of Ordinance - exaction	110	Promontory School of Expeditionary Learning	Perry City	None	2/16/2012	An exaction for school sidewalk and road improvements is allowed if the road is contiguous to school property and reasonably necessary for the safety of children as it is in this case	Charter School

Interpretation of Ordinance - fence and retaining wall	255	Belnap, Troy	Cedar Hills City	None	5/11/2022	Property Owners sought permit to build fence and retaining wall in utility easement. Ordinance requires easement agreement to build a dwelling, main building, or permanent accessory building in an easement. The definition does not include a fence or retaining wall so ppo may proceed without an easement agreement.	Fence Permit
Interpretation of Ordinance - geologic hazards - report meets requirements of ordinance.	83	Nilssen	Draper City	None	2/1/2010	Potential geologic hazards justify additional burdens imposed on land use applicants. A geologic hazard evaluation is required by the ordinance. Once submitted, that evaluation meets the requirements of the ordinance unless there is a factual basis to reject it. Simply disagreeing with the report is not sufficient evidence to deny the permit.	Single Family Lot
Interpretation of Ordinance - geotechnical issues	75	Widener	Morgan County	None	9/30/2009	Requiring applicant to provide geotechnical report is reasonable. Requiring three reports is not. Report may be rejected based on fact based, objective reasons. Applicant should be given the chance to respond to issues raised in its reports. Process of review must be within a reasonable time frame but in this case 10 months is reasonable.	Single Family Home
Interpretation of Ordinance - harsh regulations	102	Brown	Wasatch County	None	7/9/2011	Even though not imposed on others, county can impose regulations in the ordinance. Regulations here do not constitute a taking even though harsh because the benefit the property owner much more than the public	Subdivision
Interpretation of Ordinance - hillside development - geological issues	2	Parks	Riverdale City	None	7/11/2006	An application for hillside development is entitled to approval, despite misgivings by staff and neighbors, if the only substantial evidence related to geologic issues is by applicant's expert which deems the proposed subdivision safe. If there is a compelling public interest which is relied upon for a denial it must be identified with substantial evidence to support the denial. The city must either provide expert evidence contrary to that provided by the applicant or provide a means to resolve the compelling public interest.	PUD
Interpretation of Ordinance - lack of substantial evidence	20	Hamlet Homes	Draper City	None	8/9/2007	Continued denial of subdivision is not justified by any evidence before the City Council.	Subdivision
Interpretation of Ordinance - master plan	106	Draper Holdings LC	Draper City	Citizens for Responsible Govt	9/21/2011	City reasonably concluded that master plan would not be required. Allowing a road to be built within a buffer zone was not a reasonable interpretation of the ordinance. A Natural Resources Inventory must be completed	Subdivision

Interpretation of Ordinance - maximum unrelated residents - second kitchen	165	Frandsen	Provo City	None	12/30/2015	Rule prohibiting second kitchen is legal. State law allowing three unrelated persons in a home is also legal. Those legally occupying the home must simply use the same kitchen.	Single Family Home
Interpretation of Ordinance - merger of nonconforming lots	61	Pace	Holladay City	None	1/21/2009	A city ordinance requiring nonconforming lots under common ownership to be merged into larger conforming lots is not invalid as it is a legislative matter involving high deference.	Residential Lots
Interpretation of Ordinance - name of zone	172	Cottonwood Commercial Properties LLC	Morgan County	Kelley	8/30/2016	Change to name of zone or regulations within zone does not change zoning map which requires a separate approval. If the zoning district shown on the map does not exist in the ordinances the intent of the legislative body must be determined. In this case the zoning designation which allows the pet crematorium is to be applied to the property.	Pet Crematorium
Interpretation of Ordinance - natural waterways	85	Shrontz	Alta Town	None	3/10/2010	Designation of natural waterways by Town was not arbitrary and capricious as it was supported by substantial evidence in the record. It is not illegal as it conforms to plain language of ordinance.	Subdivision
Interpretation of Ordinance - noncomplying structure	113	Sandoval	West Valley City	None	3/29/2012	Where a noncomplying structure was removed by action of the highway authority, the property owner may rebuild the structure if the rebuilding is pursued with reasonable diligence. City bears burden to show abandonment.	Sign
Interpretation of Ordinance - nonconforming lot	16	Bunnell	Salt Lake City	Cromer	6/22/2007	Nonconforming lot is not eligible for new conditional use because, as per ordinance, the structure on the lot does not comply with setback requirements. Staff interpretation of the ordinance was incorrect.	Multifamily
Interpretation of Ordinance - nonconforming use	169	Lake Fox Investments LLC	Salt Lake City	Taylor	7/14/2016	The statutory presumption that a nonconforming use has been abandoned by one year of nonuse is rebuttable. In this case the property owner has maintained current permit approvals for renovations showing an intent to continue the nonconforming use and the nonconforming use remains legal.	Rooming House
Interpretation of Ordinance - Nonconforming Use	257	Christensen, Steve	Washington County	None	6/14/2022	Where short term rentals were not specifically prohibited but multi family occupancies were clearly prohibited when nonconforming use was established, NCU continues for single family STR but never existed for multi family STR. Person may request Advisory Opinion before being denied an application for a land use.	Recreational Cabin

Interpretation of Ordinance - Nonconforming Use	258	Morris, Lorrie and Robert	Washington County	None	6/14/2022	Where short term rentals were not specifically prohibited but multi family occupancies were clearly prohibited when nonconforming use was established, NCU continues for single family STR but never existed for multi family STR. To establish a NCU ppo need not comply with business licensing requirements not in the land use regulations. Person may request Advisory Opinion before being denied an application for a land use.	Recreational Cabin
Interpretation of Ordinance - nonconforming use - land use codes govern not other codes such as building code	68	Davidson	Provo City	None	5/5/2009	A nonconforming duplex is legal with regard to the land use ordinance even if it does not comply with other codes. The City may not impose code requirements to define the nonconforming status at the time the use was established. A duplex was legal even if no building permit was produced by property owner.	Duplex
Interpretation of Ordinance - nonconforming uses - amortization	57	Perry	Ogden City	None	11/24/2008	A city may amortize nonconforming uses. Rental to more unrelated individuals in a single residence may be established as a nonconforming use and may be amortized over a reasonable period of time so the property owner can recover any investment in the use. If amortization is required, it must be made available to all affected property owners. That availability may not be arbitrarily cut off by the city by imposing a date afterwhich the nonconformity is terminated without the opportunity to amortize.	Student Rental - Duplex
Interpretation of Ordinance - objectivity	104	Love	Park City	None	7/27/2011	Decisions of an appeal authority must be based on the ordinance and objective facts. The motives and sincerity of the applicant are not relevant.	Permit to Move Building
Interpretation of Ordinance - on site manager	215	SITLA	Washington City	None	11/11/2019	Language requiring that on-site manager live in short term rental community could not be interpreted so broadly as to require 24/7 presence and that manager must do all maintenance.	Short Term Rental
Interpretation of Ordinance - open space - detention pond - purpose language	216	Ovation Homes	Kaysville City	Halls	10/11/2019	City's determination that detention pond area qualifies as open space upheld. General purpose language is not enforceable as code requirements.	Open Space
Interpretation of Ordinance - past nonenforcement	52	Dunkley	Logan City	None	9/25/2008	The city may enforce an ordinance prohibiting parking on the parking strip area between the curb and the sidewalk that it has not enforced consistently in the past. A nonconforming use must have once been legal.	Parking

Interpretation of Ordinance - past nonenforcement	93	Fuller	Springville	None	11/15/2010	An ordinance may be changed while it is being challenged in court. A settlement agreement did not change land use regulations. Previous failure to enforce and ordinance does not waive future enforcement. Remedies for violation may be mitigated by past non-enforcement.	Accessory Apartment
Interpretation of Ordinance - previous interpretations	9	Bean	Salt Lake City		12/16/2006	Error in foundation placement of inches was innocent mistake. Building inspector confirmed placement and city is estopped from requiring new home to be moved or altered. Six inch overhang may be denied by city or approved if such a decision is consistent with previous interpretations of the ordinance.	Single Family Home
Interpretation of Ordinance - private lane - public utilities	82	Lee	Springdale Town	Unknown	1/19/2010	Designation of a private lane for emergency access and maintenance of public utilities in the lane is appropriate. Others may access public utilities in the private lane.	Private Road
Interpretation of Ordinance - proposal must be sufficiently detailed to determine if complies with ordinance	89	Park City Ranches LLC	Summit Co	Old Ranch Road Neighborhood Group	8/17/2010	Where the county requires conformance to the General Plan, a proposal for development must be sufficiently detailed to determine if it complies. A rezone application in this case must comply with the General Plan. As a legislative decision, the determination that it does or does not will be given deference.	Subdivision
Interpretation of Ordinance - purpose language	164	Horizon Development & Management LLC	Pleasant View City		10/26/2015	While purpose language promotes mixed use development, multi family uses are permitted in the zone and must be approved, even though this project utilizes the last parcel available in the zone and there is no mixed use on other parcels. A condition attached to the conditional use permit requiring non residential uses would be illegal. City may amend its ordinances but has not done so.	Multifamily
Interpretation of Ordinance - purpose statements - deference	112	Haertel	Saratoga Springs City	Krejci	3/29/2012	A development agreement is valid even if City cannot find original agreement. Such an agreement, the PUD approval, and the zoning ordinance should be read as a whole to guide development. Policy and purpose statements provide general guidance but are not substantive parts of ordinance. The city's interpretation of its ordinance is entitled to deference and should stand. (Note - Later case law moderates this conclusion).	Subdivision

Interpretation of Ordinance - read as a whole - purpose language	149	Jacobson	Herriman City	None	12/5/2014	Vested rights occur when an application complies with the requirements in the ordinance for a complete application. The ordinance must be read as a whole to determine compliance. Reference in the zoning ordinance to "intent and purpose" of general plan as the means to limit overall density is not illegal.	Subdivision
Interpretation of Ordinance - Recreational vehicles	76	Johnson	Levan Town	None	11/27/2009	Where local ordinance allows connection of RV to electrical service for up to three months and allows RV use outside of authorized parks for up to three months, property owner could not be denied temporary use of RV on vacant lot.	RV
Interpretation of Ordinance - review by OPRO	87	Deepwater Distribution Co	Wasatch County	None	6/17/2010	An AO can be written to address an issue of interpretation of a land use ordinance before an application is submitted. The Division of Drinking Water may not impose fireflow requirements. The Fire Code imposes conditions on development, and therefore is subject to a takings claim. Fire suppression system is not an exaction because it does not involve a mandatory dedication. Not a Penn Central Taking either. Private benefits outweigh public benefits here.	Water System
Interpretation of Ordinance - senior living arrangements	60	Taylor	Lindon City	None	1/20/2009	City prohibits senior living arrangements unless one resident is an owner of the property. This is legal and consistent with state law. A corporate owner is not a resident.	Senior Residential Facility
Interpretation of Ordinance - setbacks	38	Weidauer	Cedar Fort	Ault	4/16/2008	The ordinance imposes setback requirements on dwellings, buildings, and storage sheds. A hay barn/horse shed with one solid wall must meet setback requirements.	Storage Shed
Interpretation of Ordinance - setbacks imposed after subdivision platted	54	McDougal	Eagle Mountain City	None	11/5/2008	The setback rules in place when a subdivision was approved apply to construction within the subdivision if the developer relied on those setbacks in designing the lots. Later increases in setback distances would not apply. New setback requirements that render building on an approved lot impossible or impractical are invalid.	Subdivision

Interpretation of Ordinance - settlement of litigation did not change ordinance - past nonenforcement	93	Fuller	Springville	None	11/15/2010	An ordinance may be changed while it is being challenged in court. A settlement agreement did not change land use regulations. Previous failure to enforce and ordinance does not waive future enforcement. Remedies for violation may be mitigated by past non-enforcement.	Accessory Apartment
Interpretation of Ordinance - sewer connection	177	Wasatch School District	Heber City	None	11/30/2016	Where city requires connection to sewer, and even though school was beyond city limits, City could not refuse to connect sewer until impact fees were paid.	School
Interpretation of Ordinance - Short term rental	257	Christensen, Steve	Washington County	None	6/14/2022	Where short term rentals were not specifically prohibited but multi family occupancies were clearly prohibited when nonconforming use was established, NCU continues for single family STR but never existed for multi family STR. Person may request Advisory Opinion before being denied an application for a land use.	Recreational Cabin
Interpretation of Ordinance - Short term rental	258	Morris, Lorrie and Robert	Washington County	None	6/14/2022	Where short term rentals were not specifically prohibited but multi family occupancies were clearly prohibited when nonconforming use was established, NCU continues for single family STR but never existed for multi family STR. To establish a NCU ppo need not comply with business licensing requirements not in the land use regulations. Person may request Advisory Opinion before being denied an application for a land use.	Recreational Cabin
Interpretation of Ordinance - sign regulation	111	Paras Investments	West Valley City	None	2/16/2012	Landscaping requirements are exactions. Exactions must be based on new development, not existing development. A cosmetic revision of a sign does not constitute an alteration. Content-based sign regulation is subject to compelling public interest analysis.	Retail Store
Interpretation of Ordinance - similar uses - automotive services	115	Greenville Corner LLC	Wellsville City	Perrett	8/28/2012	An ordinance allowingsome automotive service uses cannot be interpreted to allow a truck stop, where that use is markedly different than other automotive services.	Truck Stop
Interpretation of Ordinance - structure	232	Bluth	Summit Co	None	11/12/2020	County could not apply ordinance to consider a driveway a "structure". Shared driveway not prohibited so thus allowed.	Single Family Home

Interpretation of Ordinance - subdivision - conditions after approval	86	Peterson Development	West Jordan City	None	5/10/2010	An AO can be written to address an issue of interpretation of subdivision conditions after the subdivision is approved. A local government can select a connection point for public utilities so long as that selection is rationally based and reasonably acceptable. Local governments may use eminent domain for sewer systems.	Subdivision
Interpretation of Ordinance - text defines rule not longstanding practice	171	Trolley Square Ventures LLC	Salt Lake City	Davis	8/17/2016	Because the City failed to meet its own 45 day notice requirement, approval of the development is void. A new notice for a new hearing must be provided. The text of the ordinance, and not longstanding practice, defines the rule.	Commercial Development
Interpretation of Ordinance - vesting of density - statements of purpose	45	Gabel/Summit Hollow	Summit County	None	11/3/2008	Reconsideration and replacement of previous advisory opinion. Density of a project vests when a complete application is submitted. While development must comply with code requirements, mere statements of purpose cannot justify a reduction in density. OPRO may revise or replace an AO as part of the dispute resolution process.	Subdivision
Interpretation of Ordinance - water system stand by fees	101	Blackham	Garden City	None	7/6/2011	A monthly stand by fee may be charged to properties which have not yet been connected to a water system. Fees must be fair and reasonably related to the cost of providing the service or benefits.	Water System
Interpretation of Ordinance - watershed - extraterritorial area	120	Ciel Investment Co	Salt Lake City, Salt Lake County	None	2/15/2013	Salt Lake City has jurisdiction over the watershed areas that provide culinary water and may impose regulations and conditions on building and uses. This authority does not extend to protect wetland habitat.	Residential Lot
Interpretation of Ordinance - word "identify"	138	Miner	Lehi City	None	3/25/2014	Reconsideration of AO 132. Word "identify" does not mean "analyze" or "prove". Lehi impact fee documents minimally comply with code.	Single Family Home
Interpretation of Ordinance - wording does not make sense - trucks	202	Thomas	Marriott-Slaterville City	None	8/31/2018	While ordinance allows large RV Sales and a truck stop in the zone, City may deny repair show for diesel trucks since "heavy trucks" are prohibited in zone. Ordinances are presumed valid even if it does not make sense. City should reconsider wording of ordinance.	Truck Shop
Interpretation of Ordinances - Definitions	250	Bracken, Scott	Weber County	None	1/20/2022	County ordinance requiring 75 foot setback from watercourse does not apply to manmade canal. Definition of stream in ordinance applies only to year round watercourse. This notwithstanding the fact that the county shows the canal on a map of watercourses associated with the ordinance.	Building Lot
Interpretation of Ordinances - Fire Code	248	Union Block LLC	Brigham City	None	12/27/2021	City could require fire sprinkler system on ground level of building before occupancy of renovated second floor as a residence even though a certificate of occupancy had been granted to the owner for the ground level.	Mixed Use Bldg

Interpretation of Ordinances - Impact Fee Ordinance not a land use ordinance	39	Carlson	Salt Lake City	Greater Avenues Community Council	4/28/2008	A change in ownership is not a change in use. To convert rental property to condo does not change the use as multifamily. Language in Impact Fee Ordinance is not a land use regulation.	Multifamily
Jurisdiction of OPRO - standing	214	Blue Rock Medical	Provo City	Evans	8/6/2019	Members of the public who pass by property with legal non-conforming illuminated sign do not have standing to challenge its approval.	Sign
Lack of Enforcement - geologic issues	145	Sauer	Morgan County		10/1/2014	Failure to enforce ordinance in the past does not affect duty to enforce it now. Conditions imposed here seem reasonable. Geological hazard ordinance applies. Regulation requirements may be heavy but that does not make them invalid.	Single Family Home
Land Use Authority - designation	108	Jones, Rulon	Weber County	Barry	11/8/2011	A meat packing and packaging operation incidental to a larger hunting operation is not simply an ancillary use to an agricultural use. County prohibitions are valid. Designation of a land use authority in this case was valid.	Meat Packing
Land Use Decision - includes actions taken by zoning enforcement officer and may be appealed or be the subject of an advisory opinion.	244	Adams	Woodland Hills City	Fuja	10/14/2021	Neighbor may challenge amendment to otherwise vested building permit. Project did not comply with ordinances and codes but could proceed under zoning estoppel. Amendment to permit is not protected by estoppel. Allowing continued construction is a land use decision subject to appeal and an advisory opinion.	Home under construction
Land Use Decision - letter from zoning administrator	17	Uinta Academy LC	Cache County	None	6/28/2007	With regard to vested rights, if a compelling public interest is served by a denial or if the application does not conform to the existing ordinances there does not need to be a pending or temporary regulation under consideration to justify denial. A pending ordinance may be in effect whether the proposed ordinance is a temporary ordinance or not. A temporary ordinance may prohibit group homes if it does not unduly discriminate. In this case, the 71 day time taken to consider the application was not unreasonable. A letter from the zoning administrator may be appealed as it is a land use decision.	Group Home
Land Use Decision - moving forward to conduct inspections on challenged amended building permit is a land use decision subject to appeal.	244	Adams	Woodland Hills City	Fuja	10/14/2021	Neighbor may challenge amendment to otherwise vested building permit. Project did not comply with ordinances and codes but could proceed under zoning estoppel. Amendment to permit is not protected by estoppel. Allowing continued construction is a land use decision subject to appeal and an advisory opinion.	Home under construction

Land use fees - school - water connection charges - building permits for school - impact fees	12	Jordan School District	West Jordan City	None	3/1/2007	The City can only require a school to connect to its sewer utility if the site is within 300 feet of an existing sewer line. Water connection charges must be reasonable. Street improvements requirements for school must be the minimum required for public safety, proportionate, and reasonably related to school safety. A school can be required to pay building inspection fees and reasonable impact fees but not other land use fees	School
Land Use Regulation - includes development and construction standards as well as subdivision ordinances.	244	Adams	Woodland Hills City	Fuja	10/14/2021	Neighbor may challenge amendment to otherwise vested building permit. Project did not comply with ordinances and codes but could proceed under zoning estoppel. Amendment to permit is not protected by estoppel. Allowing continued construction is a land use decision subject to appeal and an advisory opinion.	Home under construction
Landscaping - exaction	100	Macqueen	West Valley City	None	6/20/2011	A requirement for the dedication of land to the public is an exaction, not a simple regulation. Building orientation standards are legislative regulations subject to the reasonably debatable standard, not exactions. Ao may be prepared although no application for land use approval is pending.	Retail Store
Landscaping - exaction	111	Paras Investments	West Valley City	None	2/16/2012	Landscaping requirements are exactions. Exactions must be based on new development, not existing development. A cosmetic revision of a sign does not constitute an alteration. Content-based sign regulation is subject to compelling public interest analysis.	Retail Store
Landscaping Easement - exaction	134	Green	Layton City	None	11/15/2013	Obligation in previously negotiated annexation agreement is enforceable, even if now found to be disproportionate. Exaction of landscaping easement is illegal exaction if it does not solve a problem created by the development.	Subdivision
Legislative Decision - discretion	3	Gardner Cottonwood Creek LLC	Morgan County	Richards	7/10/2006	Approval of PUD cluster development would be held by a court as consistent with the general plan based on deference to local decisions. Legislative judgment would be upheld.	PUD
Legislative Decision - discretion	162	Baguley	North Ogden City	None	8/25/2015	City acted within discretion to amend ordinance. Public clamor does not invalidate a legislative act. Amortization of nonconforming uses is allowed by statute but may require the payment of just compensation.	City Government
Level of Service - demand of new use	15	Hofheins	Wasatch County	None	4/27/2007	Requirement that water rights be conveyed by developer is an exaction, which must be supported by proof of proportionality. Demand by the new use is the issue, not previous use of property for irrigated crops.	Subdivision - Small

Level of Service - demand of new use - parks - police	59	Utah Valley Home Builders	Lehi City	None	1/13/2009	City could not include in its level of service proposed park facilities that it neither owns nor has improved. Police calls as measure of level of service is allowed. Other issues also discussed	Single Family Home
Level of Service - investment per thousand residents	155	None	Herriman City	None	4/14/2015	Herrimans impact fee for parks, trails and recreation meets requirements of Impact Fee Act. Investment per thousand can qualify as level of service. Specific list of improvements not required but as facilities are built with impact fee funds they must qualify under the Impact Fee Act and the criteria in the enactment documents.	City Government
Lot - antiquated subdivision	90	Josephs	Park City	None	8/26/2010	If a parcel abuts a public street and a non-existent street, it is not a corner lot. Larger setback requirements would not apply. A post division review of antiquated lots is legal if adopted by ordinance.	Duplex
Lot - Setbacks - PUD	235	Flake	Provo City	Loftus	12/30/2020	Where there is a dispute over whether a matter is final or not, the OPRO will not prepare an advisory opinion. This AO prepared after a new land use decision was made. The setback provisions in the code for the underlying zone do not apply to individual units within a PUD approved within the zone, even though the units in the PUD were designated as "lots" and numbered sequentially.	PUD
Lot by Judicial Decree - access+A516	56	Dudley	Salem City	None	11/18/2008	If a property owner does not provide proof that a lot has a legal and permanent right of access to a public street, a building permit may be denied. This is so even though the city has expressed an interest in acquiring the property and to deny the permit reduces its appraised value	Single Family Lot
Lot Merger - nonconforming lots	61	Pace	Holladay City	None	1/21/2009	A city ordinance requiring nonconforming lots under common ownership to be merged into larger conforming lots is not invalid as it is a legislative matter involving high deference.	Residential Lots
Lot Merger - unusual method	98	Checketts	Providence City		3/28/2011	A nonconforming use must have been established legally. The city does not waive the ability to enforce its ordinances if it does not do so in other cases. Combining two lots, even in an usual manner, can meet the requirement that a home occupation be on the same lot. Not a taking if economic use remains. NOTE: See Providence City v. Checketts, Utah Court of Appeals.	Countertop Manufacturing
Lot Split - access	56	Dudley	Salem City	None	11/18/2008	If a property owner does not provide proof that a lot has a legal and permanent right of access to a public street, a building permit may be denied. This is so even though the city has expressed an interest in acquiring the property and to deny the permit reduces its appraised value	Single Family Lot

Lot Split - lack of evidence of official approval	236	Potter	Leeds Town	None	2/11/2021	Town statute provides hillside restrictions do not apply to subdivisions before 1999. Property owner claimed approved lot split subdivision but no record of approval was found in Town minutes. Town had sufficient evidence in the record to conclude there was no subdivision approval and could therefore apply hillside ordinance to property.	Subdivision
Lot Split - metes and bounds - agricultural lot splits	64	Day	Sanpete County	None	3/11/2009	Lots created by metes and bounds descriptions were not legally created under subdivision ordinance in place at the time they were created and must conform to the current ordinance. Agricultural lot splits do not result in buildable lots once the proposed use changes from agriculture to residential.	Subdivision
Lot Split - prohibition by ordinance	13	Wixom	West Haven	None	3/15/2007	Ordinance prohibits the creation of new lots by division of existing lots in subdivision. Statement that original intent of plat approval was to limit division of lots is sufficient evidence to support city's decision to deny lot split where local decisions are to be given deference	Single Family Lot
Mandatory Ordinances - condominium conversion	178	Lodge at Stillwater HOA	Wasatch County	Kosakowski	12/16/2016	When management of approved hotel changed use to condominium, it was obligated to comply with land use regulations associated with condominiums.	Hotel/Condo
Mandatory Ordinances - mixed uses	164	Horizon Development & Management LLC	Pleasant View City		10/26/2015	While purpose language promotes mixed use development, multi family uses are permitted in the zone and must be approved, even though this project utilizes the last parcel available in the zone and there is no mixed use on other parcels. A condition attached to the conditional use permit requiring non residential uses would be illegal. City may amend its ordinances but has not done so.	Multifamily
Mandatory Ordinances - sewer connection for school	177	Wasatch School District	Heber City	None	11/30/2016	Where city requires connection to sewer, and even though school was beyond city limits, City could not refuse to connect sewer until impact fees were paid.	School
Merger of lots - antiquated lots not subdivision lots	239	Crowther	Big Water Town	Harbut/Sawyer	5/5/2021	Ordinance says subdivided lots cannot be consolidated. Old federal lots were not considered to be subdivided. Private easement rights should normally not be resolved in land use application processes but could constitute compelling public interest and thus affect approval of application. In this case there is no taking of easement rights held by neighbors in approving development	Antiquated Lots

Metes and Bounds Lots - agricultural uses - building permit	64	Day	Sanpete County	None	3/11/2009	Lots created by metes and bounds descriptions were not legally created under subdivision ordinance in place at the time they were created and must conform to the current ordinance. Agricultural lot splits do not result in buildable lots once the proposed use changes from agriculture to residential.	Subdivision
Metes and Bounds Lots - subsequent subdivision	193	Abbott	Sevier County	None	1/25/2018	Even though past division of property owners land was allowed by metes and bounds descriptions she must now follow subdivision ordinance to further subdivide property.	Subdivision
Mining - nonconforming use - critical infrastructure statute	217	Kilgore Companies	Stockton Town	None	2/24/2020	Mining use was not nonconforming and may be prohibited. Owner did not meet burden of evidence to establish NCU. Critical Infrastructure statute not applicable if never legal.	Mining
Moot Appeal - complete application - withdrawn application	88	Woodside Development LLC	Park City	Meadows	7/14/2010	As a potentially aggrieved person, a neighbor can request an AO. There is no vesting to an incomplete application. Significant errors in the application can render it incomplete and thus not vested. An appeal authority need not hear an appeal on an application that is withdrawn.	Home Remodel
Moratorium - compelling public interest	14	Moyal, MBI	Ogden City	None	4/16/2007	The preference for one zoning district over another by a subsequent city council does not constitute a compelling public interest sufficient to support a temporary zoning ordinance. An application for a restaurant is vested and must be considered under the existing ordinances.	Restaurant
Moratorium - compelling public interest	233	Haviland	Trenton Town	None	12/3/2020	Applicant's sketch plan is vested. Temporary ordinance is not valid as it is not supported by a compelling public interest. Limit on water hookups may be valid if it is an enacted ordinance but not if it is simply town policy.	Subdivision
Moratorium - compelling public interest	234	Lapray	Trenton Town	None	12/3/2020	Applicant's sketch plan is vested. Temporary ordinance is not valid as it is not supported by a compelling public interest. Limit on water hookups may be valid if it is an enacted ordinance but not if it is simply town policy.	Subdivision
Moratorium - compelling public interest - group home	17	Uinta Academy LC	Cache County	None	6/28/2007	With regard to vested rights, if a compelling public interest is served by a denial or if the application does not conform to the existing ordinances there does not need to be a pending or temporary regulation under consideration to justify denial. A pending ordinance may be in effect whether the proposed ordinance is a temporary ordinance or not. A temporary ordinance may prohibit group homes if it does not unduly discriminate. In this case, the 71 day time taken to consider the application was not unreasonable. A letter from the zoning administrator may be appealed as it is a land use decision.	Group Home

Moratorium - compelling public interest - solar panels	238	Davis	Ephraim City	None	4/16/2021	City denied application for solar panels during moratorium/temporary regulation period. There was no compelling public interest justifying a temporary regulation	Solar Panels
Moratorium - processing applications during - corridor preservation act	6	Brown	West Valley City	None	9/5/2006	A temporary land use ordinance may be imposed during the review time for proposed transportation corridor planning as provided in state law. During the period of the temporary ordinance land use applications need not be processed.	Subdivision
Motives and Sincerity of PPO - not relevant to legal appeal	104	Love	Park City	None	7/27/2011	Decisions of an appeal authority must be based on the ordinance and objective facts. The motives and sincerity of the applicant are not relevant.	Permit to Move Building
Multifamily - condominium conversion	39	Carlson	Salt Lake City	Greater Avenues Community Council	4/28/2008	A change in ownership is not a change in use. To convert rental property to condo does not change the use as multifamily. Language in Impact Fee Ordinance is not a land use regulation.	Multifamily
Multifamily - nonconforming lot	16	Bunnell	Salt Lake City	Cromer	6/22/2007	Nonconforming lot is not eligible for new conditional use because, as per ordinance, the structure on the lot does not comply with setback requirements. Staff interpretation of the ordinance was incorrect.	Multifamily
Natural waterways - definition and designation of	85	Shrontz	Alta Town	None	3/10/2010	Designation of natural waterways by Town was not arbitrary and capricious as it was supported by substantial evidence in the record. It is not illegal as it conforms to plain language of ordinance.	Subdivision
Neighbor - advisory opinions	195	McCullough	South Jordan City	Grant	3/16/2018	An advisory opinion will not be available after the deadline passes to appeal a decision which would be the subject of the opinion. The City approval of the site plan was proper because the plan complies with the ordinances.	Assisted Living Facility
Non enforcement of ordinance - impervious surfaces	219	Van Buren	Hooper City	None	4/9/2020	Limit on impervious surfaces in ordinance applies but City should consider legalizing the concrete on this lot	Single Family Home
Noncomplying Structures - containing nonconforming uses	135	Church	Laverkin City	None	11/29/2013	Uses within a noncomplying structure are not necessarily nonconforming uses, but need to be established as nonconforming uses in a separate analysis. Uses in a noncomplying structure must comply with current law if not nonconforming.	Barn - Single Family Home

Noncomplying Structures - expansion - parking requirements	127	Miles, Legacy House	Bountiful City	None	7/31/2013	City ordinance requiring compliance with ordinances to expand a noncomplying structure is valid. City can require entire structure to meet parking requirements, not just the addition.	Assisted Living Facility
Noncomplying Structures - shed	84	Warner	Clearfield City	None	3/2/2010	A shed attached to the main building is not an accessory structure. It is an addition to a home and violated the setbacks when it was built. It may not now be rebuilt. A structure with electricity attached to a home needs a building permit.	Shed
Noncomplying Structures - sign - abandonment	113	Sandoval	West Valley City	None	3/29/2012	Where a noncomplying structure was removed by action of the highway authority, the property owner may rebuild the structure if the rebuilding is pursued with reasonable diligence. City bears burden to show abandonment.	Sign
Nonconforming Lots - lack of evidence that lot was formally approved	236	Potter	Leeds Town	None	2/11/2021	Town statute provides hillside restrictions do not apply to subdivisions before 1999. Property owner claimed approved lot split subdivision but no record of approval was found in Town minutes. Town had sufficient evidence in the record to conclude there was no subdivision approval and could therefore apply hillside ordinance to property.	Subdivision
Nonconforming Lots - setbacks - corner lot	90	Josephs	Park City	None	8/26/2010	If a parcel abuts a public street and a non-existent street, it is not a corner lot. Larger setback requirements would not apply. A post division review of antiquated lots is legal if adopted by ordinance.	Duplex
Nonconforming Uses - abandonment	169	Lake Fox Investments LLC	Salt Lake City	Taylor	7/14/2016	The statutory presumption that a nonconforming use has been abandoned by one year of nonuse is rebuttable. In this case the property owner has maintained current permit approvals for renovations showing an intent to continue the nonconforming use and the nonconforming use remains legal.	Rooming House
Nonconforming Uses - airstrip - never legal	159	Wilkinson Construction Inc	Morgan County	Eggett	7/7/2015	Private landing strip was never legal and is therefore not a nonconforming use. The use is illegal.	Airport
Nonconforming Uses - amortization - compensation	162	Baguley	North Ogden City	None	8/25/2015	City acted within discretion to amend ordinance. Public clamor does not invalidate a legislative act. Amortization of nonconforming uses is allowed by statute but may require the payment of just compensation.	City Government
Nonconforming Uses - amortization - compensation	162	Baguley	North Ogden City	None	8/25/2015	City acted within discretion to amend ordinance. Public clamor does not invalidate a legislative act. Amortization of nonconforming uses is allowed by statute but may require the payment of just compensation.	City Government

Nonconforming Uses - amortization - rentals+A552	57	Perry	Ogden City	None	11/24/2008	A city may amortize nonconforming uses. Rental to more unrelated individuals in a single residence may be established as a nonconforming use and may be amortized over a reasonable period of time so the property owner can recover any investment in the use. If amortization is required, it must be made available to all affected property owners. That availability may not be arbitrarily cut off by the city by imposing a date after which the nonconformity is terminated without the opportunity to amortize.	Student Rental - Duplex
Nonconforming Uses - bench - billboard	99	Porter	Clearfield	None	3/29/2011	A nonconforming bus bench is the same as a billboard under state law and entitled to all the protections afforded to billboards in state law.	Bus Benches
Nonconforming Uses - building health and fire codes	68	Davidson	Provo City	None	5/5/2009	A nonconforming duplex is legal with regard to the land use ordinance even if it does not comply with other codes. The City may not impose code requirements to define the nonconforming status at the time the use was established. A duplex was legal even if no building permit was produced by property owner.	Duplex
Nonconforming Uses - conditional use - setbacks A547	16	Bunnell	Salt Lake City	Cromer	6/22/2007	Nonconforming lot is not eligible for new conditional use because, as per ordinance, the structure on the lot does not comply with setback requirements. Staff interpretation of the ordinance was incorrect.	Multifamily
Nonconforming Uses - condominium conversion - multifamily	39	Carlson	Salt Lake City	Greater Avenues Community Council	4/28/2008	A change in ownership is not a change in use. To convert rental property to condo does not change the use as multifamily. Language in Impact Fee Ordinance is not a land use regulation.	Multifamily
Nonconforming Uses - Failure to obtain business license	258	Morris, Lorrie and Robert	Washington County	None	6/14/2022	Where short term rentals were not specifically prohibited but multi family occupancies were clearly prohibited when nonconforming use was established, NCU continues for single family STR but never existed for multi family STR. To establish a NCU ppo need not comply with business licensing requirements not in the land use regulations. Person may request Advisory Opinion before being denied an application for a land use.	Recreational Cabin
Nonconforming Uses - gravel pit A559	186	Harwood	Tooele County	Hunter	5/24/2017	A nonconforming gravel pit may expand its operations beyond the boundaries in place when the use became non-conforming, but not beyond the boundaries of the parcel or parcels where the use existed when it became nonconforming. Abandonment of a NCU is by physical non-use, not by intention.	Gravel Pit

Nonconforming Uses - gravel pit+A558	176	South Rim LC	Tooele County	Hunter	11/29/2016	Conditional use permit issued 20 years earlier still valid but change of zone made use nonconforming. Condition listed in staff report does not govern use because it was not specifically adopted by the land use authority when the permit was issued. When rezoned to prohibit gravel operation the CUP became illegal but the pit continues as a nonconforming use unless and until it is abandoned.	Gravel Pit
Nonconforming Uses - Illegal Uses	257	Christensen, Steve	Washington County	None	6/14/2022	Where short term rentals were not specifically prohibited but multi family occupancies were clearly prohibited when nonconforming use was established, NCU continues for single family STR but never existed for multi family STR. Person may request Advisory Opinion before being denied an application for a land use.	Recreational Cabin
Nonconforming Uses - Illegal Uses	258	Morris, Lorrie and Robert	Washington County	None	6/14/2022	Where short term rentals were not specifically prohibited but multi family occupancies were clearly prohibited when nonconforming use was established, NCU continues for single family STR but never existed for multi family STR. To establish a NCU ppo need not comply with business licensing requirements not in the land use regulations. Person may request Advisory Opinion before being denied an application for a land use.	Recreational Cabin
Nonconforming Uses - in noncomplying structure	135	Church	Laverkin City	None	11/29/2013	Uses within a noncomplying structure are not necessarily nonconforming uses, but need to be established as nonconforming uses in a separate analysis. Uses in a noncomplying structure must comply with current law if not nonconforming.	Barn - Single Family Home
Nonconforming Uses - merger of lots	61	Pace	Holladay City	None	1/21/2009	A city ordinance requiring nonconforming lots under common ownership to be merged into larger conforming lots is not invalid as it is a legislative matter involving high deference.	Residential Lots
Nonconforming Uses - must have once been legal	98	Checketts	Providence City		3/28/2011	A nonconforming use must have been established legally. The city does not waive the ability to enforce its ordinances if it does not do so in other cases. Combining two lots, even in an usual manner, can meet the requirement that a home occupation be on the same lot. Not a taking if economic use remains. NOTE: See Providence City v. Checketts, Utah Court of Appeals.	Countertop Manufacturing
Nonconforming Uses - parking	80	Buttars	Harrisville City	None	12/9/2009	City appeal authority may alter the decision which is the subject of the appeal. The planning commission must require pavement of parking if the ordinance requires it. A court order requiring the rezoning of property does not mean the city cannot require a site plan. Current parking ordinance may be imposed.	Parking

Nonconforming Uses - past denial	46	Hirschi	Rockville Town	None	7/15/2008	A 1997 decision denying nonconforming use status stands as it was not appealed at the time. Town cannot now approve additional applications for gravel use now.	Gravel Pit
Nonconforming Uses - past non enforcement	93	Fuller	Springville	None	11/15/2010	An ordinance may be changed while it is being challenged in court. A settlement agreement did not change land use regulations. Previous failure to enforce and ordinance does not waive future enforcement. Remedies for violation may be mitigated by past non-enforcement.	Accessory Apartment
Nonconforming Uses - past non enforcement - parking	52	Dunkley	Logan City	None	9/25/2008	The city may enforce an ordinance prohibiting parking on the parking strip area between the curb and the sidewalk that it has not enforced consistently in the past. A nonconforming use must have once been legal.	Parking
Nonconforming Uses - private disputes - appeals	97	Unknown	Weber County	Brown	3/14/2011	An appeal filed more than 15 days after constructive notice that a building permit had been issued is not timely. Time may not have run if appellant was notified by the county, in error, that permit had not been issued. Disputes regarding private easements and rights of way should be resolved between the private parties and do not involve local government.	Single Family Home
Nonconforming Uses - proof	123	Central Bank	Saratoga Springs City	None	4/30/2013	This AO superseded in part by AO 140. The existence of a nonconforming use cannot be presumed or implied, but must be proven with factual evidence. It is not fatal to the city's claims of non-conformity that the applicable ordinance in place at the time the use was established cannot be produced. (Note - AO 140 reversed this conclusion).	Barn
Nonconforming Uses - proof	140	Central Bank	Saratoga Springs City		5/20/2014	Reconsideration of AO 123. Circumstantial evidence of what a land use ordinance provided for at some point in history is not sufficient to defeat a nonconforming use. If the use was illegal under the ordinance, a copy of the ordinance must be produced.	Barn
Nonconforming Uses - proof - mining	217	Kilgore Companies	Stockton Town	None	2/24/2020	Mining use was not nonconforming and may be prohibited. Owner did not meet burden of evidence to establish NCU. Critical Infrastructure statute not applicable if never legal.	Mining
Nonconforming Uses - rental - maximum number of residents	224	Ruth S Eyre Trust	Logan City	None	6/10/2020	Official recognition of nonconforming triplex under city ordinance did not include vesting of number of residents allowed on the premises - city rules confirming use must be complied with	Triplex

Nonconforming Uses - setbacks - barn	38	Weidauer	Cedar Fort	Ault	4/16/2008	The ordinance imposes setback requirements on dwellings, buildings, and storage sheds. A hay barn/horse shed with one solid wall must meet setback requirements.	Storage Shed
Nonconforming Uses - short term rental	179	Stowell	St George City	None	1/27/2017	Use of townhome for short term rental is not a Nonconforming Use because it was not legal when initiated.	Townhome
Nonconforming Uses - Short term rental	257	Christensen, Steve	Washington County	None	6/14/2022	Where short term rentals were not specifically prohibited but multi family occupancies were clearly prohibited when nonconforming use was established, NCU continues for single family STR but never existed for multi family STR. Person may request Advisory Opinion before being denied an application for a land use.	Recreational Cabin
Nonconforming Uses - Short term rental	258	Morris, Lorrie and Robert	Washington County	None	6/14/2022	Where short term rentals were not specifically prohibited but multi family occupancies were clearly prohibited when nonconforming use was established, NCU continues for single family STR but never existed for multi family STR. To establish a NCU ppo need not comply with business licensing requirements not in the land use regulations. Person may request Advisory Opinion before being denied an application for a land use.	Recreational Cabin
Nonconforming Uses - store	111	Paras Investments	West Valley City	None	2/16/2012	Landscaping requirements are exactions. Exactions must be based on new development, not existing development. A cosmetic revision of a sign does not constitute an alteration. Content-based sign regulation is subject to compelling public interest analysis.	Retail Store
Nonconforming Uses - wireless tower - federal rules	125	Western	Delta City	None	5/31/2013	Federal law requires the city to approve changes to a wireless tower which fall within the federal definition of eligible changes. Other issues of nonconforming uses or appeals are moot and not considered	Telecommunications
Nonconforming Uses -A531 determination	105	Mertens	Salt Lake City	None	8/23/2011	Appeals can not be brought after the deadline to appeal has passed. Letter from Community Development Dept. was not appealed and cannot be now. Property owners are entitled to full review of whether their use is nonconforming. Previous decisions by the Board of Adjustments on variance applications are not determinative of whether nonconforming status now exists.	Fourplex

Notice - neighbors	81	Bear River Valley Co-op	Corrine City	Neighborhood Non-profit Housing Corp	1/14/2010	Owner of neighboring subdivision has standing to appeal CUP approval. Application must meet requirements of ordinance. If neighbor identifies with substantial evidence the detrimental effects of proposed CUP they must be addressed. Public must have opportunity to respond to submittals.	Fertilizer Storage
Notice - Building Permit - appeal	97	Unknown	Weber County	Brown	3/14/2011	An appeal filed more than 15 days after constructive notice that a building permit had been issued is not timely. Time may not have run if appellant was notified by the county, in error, that permit had not been issued. Disputes regarding private easements and rights of way should be resolved between the private parties and do not involve local government.	Single Family Home
Notice - failure of	171	Trolley Square Ventures LLC	Salt Lake City	Davis	8/17/2016	Because the City failed to meet its own 45 day notice requirement, approval of the development is void. A new notice for a new hearing must be provided. The text of the ordinance, and not long-standing practice, defines the rule.	Commercial Development
Nuisances - fertilizer plant - conditional use - standing	81	Bear River Valley Co-op	Corrine City	Neighborhood Non-profit Housing Corp	1/14/2010	Owner of neighboring subdivision has standing to appeal CUP approval. Application must meet requirements of ordinance. If neighbor identifies with substantial evidence the detrimental effects of proposed CUP they must be addressed. Public must have opportunity to respond to submittals.	Fertilizer Storage
Occupancy Permit - fire suppression	231	Peterson House LLC	Morgan Co	None	10/30/2020	Even though building permit issued, cannot occupy home without adequate supply of water for fire suppression.	Single Family Home
Open Meetings - closed deliberations are allowed for appeal authority.	246	Geist	Summit Co	Neighbors	11/16/2021	Conditional Use Permit for horse boarding facility was legal even though the building is much larger than nearby homes because allowed by code and anticipated detrimental effects could be mitigated. Due process rights of neighbors not violated.	Horse Boarding
Open Space - dedication - future uses	136	None	Highland City	None	12/26/2013	Voluntary dedications for development concessions or other incentives are not exactions. The property may be sold or disposed of in the same manner as other city property.	Open Space
Open Space - definition - detention pond	216	Ovation Homes	Kaysville City	Halls	10/11/2019	City's determination that detention pond area qualifies as open space upheld. General purpose language is not enforceable as code requirements.	Open Space

Open Space - density calculations	208	Kelly Hughes Const. LLC	West Point City	None	2/22/2019	Where city ordinances provide for a PUD overlay zone but also lists PUD as a conditional use in a given zone, the property owner has no duty to get an overlay but may rely on the conditional use process for PUD approval. Calculation of density per acre includes area designated as open space unless ordinance clearly provides otherwise	PUD
Open Space - future use	153	Coyote Development LLC	Heber City	None	2/24/2015	Designating a parcel on a plat as "open space" does not restrict future development of the parcel where the restriction was not a condition of approval. No prescriptive easements for public or private use could have been created because the necessary time has not run.	Subdivision
Open Space - public access	148	Peterson	Hooper City	None	11/21/2014	While setback requirements can be valid to promote public welfare if reasonable a requirement to dedicate land within the setback for public open space or trails is an exaction that must meet requirements for an exaction.	Subdivision
Open Space - requirements	95	SR Silver Lake LLC	Park City	Wilson	1/31/2011	An AO can only be requested on current issues within the time frame to appeal them. An AO cannot be requested on issues which, long ago, became beyond appeal. The development as approved meets the requirement of 60% open space.	Mixed Use Development
Open Space - road within	106	Draper Holdings LC	Draper City	Citizens for Responsible Govt	9/21/2011	City reasonably concluded that master plan would not be required. Allowing a road to be built within a buffer zone was not a reasonable interpretation of the ordinance. A Natural Resources Inventory must be completed	Subdivision
OPRO Advisory Opinion Process - interpretation of ordinance	212	Village Dev. Group/Silver Creek Village	Summit Co	None	6/21/2019	All relevant provisions of an agreement are to be read to harmonize them.	Reception Center
Owner Resident Requirement - senior living facility	60	Taylor	Lindon City	None	1/20/2009	City prohibits senior living arrangements unless one resident is an owner of the property. This is legal and consistent with state law. A corporate owner is not a resident.	Senior Residential Facility
Parking - ancillary uses	133	Canyons School District	Cottonwood Heights City	Kartchner	10/22/2013	School district must submit development plans to City and did so, although belatedly. The City need not apply a parking requirement for each ancillary use if the overall main use parking requirements are met.	School

Parking - parking strip	52	Dunkley	Logan City	None	9/25/2008	The city may enforce an ordinance prohibiting parking on the parking strip area between the curb and the sidewalk that it has not enforced consistently in the past. A nonconforming use must have once been legal.	Parking
Parking - pavement	80	Buttars	Harrisville City	None	12/9/2009	City appeal authority may alter the decision which is the subject of the appeal. The planning commission must require pavement of parking if the ordinance requires it. A court order requiring the rezoning of property does not mean the city cannot require a site plan. Current parking ordinance may be imposed.	Parking
Parking - requirements	127	Miles, Legacy House	Bountiful City	None	7/31/2013	City ordinance requiring compliance with ordinances to expand a noncomplying structure is valid. City can require entire structure to meet parking requirements, not just the addition.	Assisted Living Facility
Parks - completion bond	29	Woodside Homes	Kaysville City	None	2/4/2008	Although it was proper for the city to require completion bond under the ordinances, it may only be used to fund public improvements, not a park which was included in the development but not considered when setting the amount of the bond. City may only enforce requirements found in its ordinances.	Subdivision
Parks - exactions - when not required by ordinance	8	Neighborhood Nonprofit Housing Corporation	Smithfield City	None	9/7/2006	Exactions must be based on requirements in the ordinance. Where proposed subdivision access complies with ordinances, an additional access cannot be required. Where ordinances do not require park areas, either public or private parks may not be required as conditions of approval.	Subdivision
Payment under protest - exactions	42	Equidigm Holding LLC	North Ogden City	None	5/29/2008	City may not require that developer purchase right of way from city, complete street improvements, and then dedicate ROW back to city without demonstrating proportionality. Preservation of right to challenge exaction by payment under protest may be permissible although it is by no means clear.	Subdivision
Pending Ordinance - agenda - zoning estoppel	19	Webber, Hayes	Washington Terrace	None	8/9/2007	An ordinance may be applied against a new application if it is published on the agenda of a public meeting before the application is filed. Zoning estoppel may not be based on a city's failure to notify developers of possible changes to the ordinance.	Multifamily
Pending Ordinance - Expires	181	Kershaw	Park City	None	3/7/2017	Application for Determination of Significant Historic Building did not expire prior to its consideration. Pending ordinance rule does not apply after the ordinance is adopted.	Historic Building

Pending Ordinance - initiation of formal proceedings to amend not found	240	White	Tooele County	None	6/10/2021	Failure to conduct a required preapplication conference does not waive vested right to approval of application if it complies with the ordinances. These third party appeals do not establish required adverse effects or error. An application, if complete, vests whether or not it is reviewed for completeness. Nothing in the record indicates a formal consideration of a pending ordinance. Relates to AO 222 also requested by White.	PUD
Pending Ordinance - initiative	65	Sevier Power Company LLC	Sevier County	None	3/26/2009	Although citizens initiative which was approved requires public vote for a power plant conditional use permit, the application was received prior to the initiation of the initiative and vested under the former ordinances. An initiative is not a pending ordinance for purposes of defeating vested rights for an application filed before the initiative process began. Authored by independent counsel, not the OPRO.	Power Plant
Performance Bonds - private improvements	58	Belvedere	Payson City	None	12/8/2008	A city may require completion bonds including for private improvements if provided for in ordinance. A bond is a valid condition for development. Warranty bond amount must be roughly equal to cost of impact by development.	Senior Housing Development
Permit Amendments - may require additional review by the designated land use authority.	244	Adams	Woodland Hills City	Fuja	10/14/2021	Neighbor may challenge amendment to otherwise vested building permit. Project did not comply with ordinances and codes but could proceed under zoning estoppel. Amendment to permit is not protected by estoppel. Allowing continued construction is a land use decision subject to appeal and an advisory opinion.	Home under construction
Plan Check Fees - commercial development	204	Walz	American Fork	None	12/12/2018	Storm water impact fees may not be charged against a development that retains all its storm waters. Plan review fees prohibited for residential development may be charged for commercial projects	Commercial Development
Planned Unit Development - setback rules for lots	235	Flake	Provo City	Loftus	12/30/2020	Where there is a dispute over whether a matter is final or not, the OPRO will not prepare an advisory opinion. This AO prepared after a new land use decision was made. The setback provisions in the code for the underlying zone do not apply to individual units within a PUD approved within the zone, even though the units in the PUD were designated as "lots" and numbered sequentially.	PUD
Planning Commission - appeals from decisions	80	Buttars	Harrisville City	None	12/9/2009	City appeal authority may alter the decision which is the subject of the appeal. The planning commission must require pavement of parking if the ordinance requires it. A court order requiring the rezoning of property does not mean the city cannot require a site plan. Current parking ordinance may be imposed.	Parking

Plat Amendment - unrecorded	50	Hazen	Perry City	None	9/15/2008	An approved plat amendment that the city did not record is not valid. Owner of lot supposedly affected by amendment was entitled to reply on previous recorded plat. Realignment of road that makes a lot unbuildable can only be done with compensation to property owner.	Subdivision
Plat Conditions - open space	153	Coyote Development LLC	Heber City	None	2/24/2015	Designating a parcel on a plat as "open space" does not restrict future development of the parcel where the restriction was not a condition of approval. No prescriptive easements for public or private use could have been created because the necessary time has not run.	Subdivision
Plat Conditions - zoning ordinance	114	HJ Silver Creek LP	Summit Co	None	4/30/2012	The designation of uses on a subdivision plat does not supersede the uses allowed under the zoning ordinance. Expenditure of funds to purchase and improve property meets the standard for zoning estoppel.	Subdivision
Police Power - future waiver of	184	Concord Holdings LC	Saratoga Springs City	None	4/28/2017	Agreement allowing 6 units per acre supercedes discretion of city to allow 8 units with density bonus. While City may allow more units, it has no duty to do so under the agreement. City met its obligation in the agreement to dead end a road but could not bargain away the police power when it signed the agreement limiting its ability to manage the use of the public road in the future.	Subdivision
Police Power - streets - duty to regulate	185	Residents of Country Way Estates	Washington City		5/16/2017	A city may regulate commercial and industrial traffic on a city street but has no duty to do so.	Roads
Power Lines - exactions -	237	South Valley Large Animal Clinic	Saratoga Springs City	None	3/9/2021	City required commercial development to bury power lines. Lines served larger area and work extended beyond owners lot. Cost appears excessive and not proportionate to burden imposed by development of a veterinary clinic.	Veterinary Clinic
Power Utility - conditional use permit - initiative	65	Sevier Power Company LLC	Sevier County	None	3/26/2009	Although citizens initiative which was approved requires public vote for a power plant conditional use permit, the application was received prior to the initiation of the initiative and vested under the former ordinances. An initiative is not a pending ordinance for purposes of defeating vested rights for an application filed before the initiative process began. Authored by independent counsel, not the OPRO.	Power Plant
Preapplication Conference - application accepted without is still vested	240	White	Tooele County	None	6/10/2021	Failure to conduct a required preapplication conference does not waive vested right to approval of application if it complies with the ordinances. These third party appeals do not establish required adverse effects or error. An application, if complete, vests whether or not it is reviewed for completeness. Nothing in the record indicates a formal consideration of a pending ordinance. Relates to AO 222 also requested by White.	PUD

Preemption of Laws - completion bond	152	Clifford - Snow Hound LLC	Moab City	None	1/7/2015	Completion bond amount must be limited to a reasonable costs of improvements and administration of completion. City provision requiring completion of improvements within six months is void as it conflicts with state law.	Subdivision
Preemption of Laws - state fire code - fire sprinklers	189	None	Elk Ridge City	UHBA	7/27/2017	State Fire Code prohibits a local ordinance requiring fire sprinklers in all new buildings.	Fireplaces
Preliminary Plat - issue to be resolved at final approval	28	North Salt Lake Heights LLC	North Salt Lake City	Lakeview Rock Products	1/23/2008	At the preliminary approval phase of development review the City should not deny the application because of the presence of an unused fifty foot wide access easement that conflicts with the proposed plan. Resolution of the easement issue could be made a condition for final approval. No compelling public interest is found since the issue does not require an amendment to the ordinances.	Subdivision
Preliminary Plat - required detail	89	Park City Ranches LLC	Summit Co	Old Ranch Road Neighborhood Group	8/17/2010	Where the county requires conformance to the General Plan, a proposal for development must be sufficiently detailed to determine if it complies. A rezone application in this case must comply with the General Plan. As a legislative decision, the determination that it does or does not will be given deference.	Subdivision
Preliminary Plat - vesting	33	Danville Land Investments LLC	Draper City	None	3/12/2008	After project applications vested, City could not change requirements to prohibit development on both sides of a street to protect views and public access. These are not compelling public interests. 30 day period to deem an application incomplete passed - application is therefore deemed complete.	Subdivision
Preliminary Plat - vesting	141	Thayne	Syracuse City	None	6/10/2014	Previous vested preliminary approvals included the layout and design of the development that cannot later be set aside by the City.	Subdivision
Preliminary Plat - vesting	233	Haviland	Trenton Town	None	12/3/2020	Applicant's sketch plan is vested. Temporary ordinance is not valid as it is not supported by a compelling public interest. Limit on water hookups may be valid if it is an enacted ordinance but not if it is simply town policy.	Subdivision
Preliminary Plat - vesting	234	Lapray	Trenton Town	None	12/3/2020	Applicant's sketch plan is vested. Temporary ordinance is not valid as it is not supported by a compelling public interest. Limit on water hookups may be valid if it is an enacted ordinance but not if it is simply town policy.	Subdivision

Prescriptive Easements - road	35	Greek Orthodox Church of Greater Salt Lake	Holladay City	None	3/31/2008	Where the City required dedication of roadway as a condition of approval but did not enforce the dedication a seven year statute of limitation applies. The city may claim the roadway by adverse possession however. The land has also been used as a public thoroughfare for more than ten years so it has been dedicated to public use. The property owner retains fee title to a worthless strip of land.	Road Right of Way
Private Disputes - not to be resolved in land use application review	256	Symphony Homes	Centerville City	Parker, Spencer	5/11/2022	Claim by neighbor of conflicting easement is not a basis for denial of subdivision application. Ordinance require the plat to show the disputed easement but must approve subdivision if it complies with ordinances. Private disputes need not be settled in reviewing land use application.	Subdivision
Private Easements - factor in land use application approvals	239	Crowther	Big Water Town	Harbut/Sawyer	5/5/2021	Ordinance says subdivided lots cannot be consolidated. Old federal lots were not considered to be subdivided. Private easement rights should normally not be resolved in land use application processes but could constitute compelling public interest and thus affect approval of application. In this case there is no taking of easement rights held by neighbors in approving development	Antiquated Lots
Private Road - requirement to make public	1	Ivory Development	Taylorsville City	None	7/5/2006	Where the ordinance states that the streets within a PUD are to be private the City cannot require them to be public. In calculating density the area of the streets is therefore included in the total area of the development.	PUD
Private Road - utility easements	82	Lee	Springdale Town	Unknown	1/19/2010	Designation of a private lane for emergency access and maintenance of public utilities in the lane is appropriate. Others may access public utilities in the private lane.	Private Road
Procedure - to adopt an ordinance	93	Fuller	Springville	None	11/15/2010	An ordinance may be changed while it is being challenged in court. A settlement agreement did not change land use regulations. Previous failure to enforce and ordinance does not waive future enforcement. Remedies for violation may be mitigated by past non-enforcement.	Accessory Apartment
Public Benefit - required part of exaction calculation	51	Glines	Washington City, St. George City	None	9/25/2008	A city may require a second access to a proposed subdivision even if that access is from another city. Such a requirement must be proportionate and the public benefits conferred by the road should be part of the calculation.	Subdivision
Public Clamor - concept plan	118	Taylor	North Logan City	None	10/31/2012	Development rights vested when concept plan approved. Subsequent applications must be approved if they comply with ordinances	Residential Townhome Development
Public Clamor - conditional use	117	Cottonwood Partners	Cottonwood Heights City		10/15/2012	Decision to approve a conditional use permit was valid despite public clamor from neighbors.	Commercial Development

Public Clamor - conditional use	192	Cedar Hills Farm Land LLC	Cedar Hills City	None	12/28/2017	Conditions imposed on a CUP must be related to and substantially mitigate the anticipated negative aspects of a development. Standards in ordinance for CUP review may be general and may be approved by resolution rather than by ordinance if the standards are referred to in the ordinance. Condition to limit density of project is illegal. Condition imposing specific services for residents is illegal. Parking condition is legal. Overnight parking prohibition is probably legal. Landscaping and open area condition illegal. Project phasing condition illegal. Conditions to limit impact on public safety illegal because prohibition of density not shown to be necessary to mitigate impact of use. Condition prohibiting young adults and requiring senior residents illegal not legal as not supported by evidence. Low level lighting condition is legal. Condition related to processing of development application is unnecessary and redundant.	Commercial Development
Public Clamor - conditonal use	220	Madsen, Young	Lehi City	None	3/31/2020	Decision to deny conditional use was not supported by substantial evidence in the record and thus illegal.	ADU
Public Clamor - legislative decision	162	Baguley	North Ogden City	None	8/25/2015	City acted within discretion to amend ordinance. Public clamor does not invalidate a legislative act. Amortization of nonconforming uses is allowed by statute but may require the payment of just compensation.	City Government
Purpose Language in Ordinance - density	45	Gabel/Summit Hollow	Summit County	None	11/3/2008	Reconsideration and replacement of previous advisory opinion. Density of a project vests when a complete application is submitted. While development must comply with code requirements, mere statements of purpose cannot justify a reduction in density. OPRO may revise or replace an AO as part of the dispute resolution process.	Subdivision

Purpose Language in Ordinance - density	149	Jacobson	Herriman City	None	12/5/2014	Vested rights occur when an application complies with the requirements in the ordinance for a complete application. The ordinance must be read as a whole to determine compliance. Reference in the zoning ordinance to "intent and purpose" of general plan as the means to limit overall density is not illegal.	Subdivision
Purpose Language in Ordinance - general design standards	218	Tippetts	Millcreek City	None	3/3/2020	General design standard language does not trump specific minimum lot widths in code	Subdivision
Purpose Language in Ordinance - mixed use	164	Horizon Development & Management LLC	Pleasant View City		10/26/2015	While purpose language promotes mixed use development, multi family uses are permitted in the zone and must be approved, even though this project utilizes the last parcel available in the zone and there is no mixed use on other parcels. A condition attached to the conditional use permit requiring non residential uses would be illegal. City may amend its ordinances but has not done so.	Multifamily
Purpose Language in Ordinance - open space	216	Ovation Homes	Kaysville City	Halls	10/11/2019	City's determination that detention pond area qualifies as open space upheld. General purpose language is not enforceable as code requirements.	Open Space
Purpose Language in Ordinance - subdivision	112	Haertel	Saratoga Springs City	Krejci	3/29/2012	A development agreement is valid even if City cannot find original agreement. Such an agreement, the PUD approval, and the zoning ordinance should be read as a whole to guide development. Policy and purpose statements provide general guidance but are not substantive parts of ordinance. The city's interpretation of its ordinance is entitled to deference and should stand. (Note - Later case law moderates this conclusion).	Subdivision

Reasonable Diligence - plat expiration	53	Kriser	Mapleton City	None	10/22/2008	A provision that an approved plat expires if not recorded is valid. To require curb gutter and sidewalk across the frontage of a 2.3 acre lot where there is none existing in the area is an excessive exaction and does not solve a problem created by the construction of a single family home.	Single Family Home
Reasonable Diligence - tolling time to comply during appeal	107	United Park City Mines	Park City	None	10/27/2011	The duty to complete a required condition should be tolled during an appeal period unless it is simply an excuse for inactivity by a developer	Subdivision
Reasonable Time for Review - conditional use	5	Deepwater Distribution Co	Wasatch County	None	8/14/2006	Countys refusal to consider conditional use application was illegal. Staff could not simply refuse to allow the planning commission to hear it.	Water Tank
Reasonable Time for Review - geologic issues	75	Widener	Morgan County	None	9/30/2009	Requiring applicant to provide geotechnical report is reasonable. Requiring three reports is not. Report may be rejected based on fact based, objective reasons. Applicant should be given the chance to respond to issues raised in its reports. Process of review must be within a reasonable time frame but in this case 10 months is reasonable.	Single Family Home
Reasonable Time for Review - group home	17	Uinta Academy LC	Cache County	None	6/28/2007	With regard to vested rights, if a compelling public interest is served by a denial or if the application does not conform to the existing ordinances there does not need to be a pending or temporary regulation under consideration to justify denial. A pending ordinance may be in effect whether the proposed ordinance is a temporary ordinance or not. A temporary ordinance may prohibit group homes if it does not unduly discriminate. In this case, the 71 day time taken to consider the application was not unreasonable. A letter from the zoning administrator may be appealed as it is a land use decision.	Group Home
Reasonable Time for Review - pause during temporary regulation	6	Brown	West Valley City	None	9/5/2006	A temporary land use ordinance may be imposed during the review time for proposed transportation corridor planning as provided in state law. During the period of the temporary ordinance land use applications need not be processed.	Subdivision

Reasonable Time for Review - subdivision	21	Pitts/Bowler Development LC	Tooele County	None	9/7/2007	Requirement to stub sewer lines is an exaction. Where there is now not any public sewer, it is a reasonable condition to require stubs for future sewer connections at the foundation of a new home if the cost is reasonable but not to require sewer laterals extending into the street and sewer mains for future use.	Subdivision
Reconsideration - advisory opinion	45	Gabel/Summit Hollow	Summit County	None	11/3/2008	Reconsideration and replacement of previous advisory opinion. Density of a project vests when a complete application is submitted. While development must comply with code requirements, mere statements of purpose cannot justify a reduction in density. OPRO may revise or replace an AO as part of the dispute resolution process.	Subdivision
Recreational Facilities - exactions	47	Grotegut	Spanish Fork City	None	7/29/2008	Where PUD had two owners, entire project demand and benefit may be used to calculate proportionality of trail and storm water exactions, not just the part of the PUD owned by one owner. Parcel owner not entitled to lot split if applicable ordinances do not allow street access for second lot.	Subdivision
Referenda - RV Park	213	Zion Sunset Resort LLC	Virgin Town	Timmerman	7/30/2019	Approval of CUP under illegal ordinance could be challenged in court. Town must follow own ordinances. Voters as legislative body also must follow relevant ordinances. Ordinance may be challenged as part of a challenge to a land use decision applying the ordinance.	RV Park
Referenda - vested rights	40	Paramount Development Inc	Providence City	Not Named	4/29/2008	Vested rights occur when the application conforms to the ordinances, even if that occurs after the application is filed. A subsequent change in the ordinances would not apply to the application.	Subdivision
Requirements imposed on Development - access	70	Rasmussen	Carbon County	None	6/30/2009	County can require proof of permanent access to lot before allowing a building permit. County may consider 30 year lease of access rights to be inadequate. Difficulty in proving access rights across state and federal lands does not make county requirement illegal.	Single Family Lot

Requirements imposed on Development - complete application	103	Brown	Wasatch County	None	7/6/2011	An application is not complete until all fees are paid, even if the fee is challenged, and all information required is submitted. Fees must be based on cost to process, not on percentage of cost. Requirements for a complete application must be based on specific, objective, ordinance-based criteria.	Water System
Requirements imposed on Development - completion bond - private improvements	58	Belvedere	Payson City	None	12/8/2008	A city may require completion bonds including for private improvements if provided for in ordinance. A bond is a valid condition for development. Warranty bond amount must be roughly equal to cost of impact by development.	Senior Housing Development
Requirements imposed on Development - completion bond - private park	29	Woodside Homes	Kaysville City	None	2/4/2008	Although it was proper for the city to require completion bond under the ordinances, it may only be used to fund public improvements, not a park which was included in the development but not considered when setting the amount of the bond. City may only enforce requirements found in its ordinances.	Subdivision
Requirements imposed on Development - dedication of land - building orientation	100	Macqueen	West Valley City	None	6/20/2011	A requirement for the dedication of land to the public is an exaction, not a simple regulation. Building orientation standards are legislative regulations subject to the reasonably debatable standard, not exactions. Ao may be prepared although no application for land use approval is pending.	Retail Store
Requirements imposed on Development - detention basin	41	Ukena, Stanger, Clark	South Weber City	None	5/13/2008	Developers may be required to contribute to detention basin needed to offset burdens created by their development. Where developers had previously agreed to their share of cost of detention basin, the city could still change the project and enlarge the basin. There was no duty to lower the contribution of the developers to the project which they had voluntarily agreed to as proportionate to the impact of their development.	Detention Basin
Requirements imposed on Development - development agreement	67	Ivory Development LLC	West Point City	None	5/4/2009	Where a development agreement allows units above 1300 total feet and the land use ordinance requires that 1200 feet be above grade, the ordinance governs even though the DA is less restrictive. The DA includes a provision that the development must follow local codes.	Subdivision
Requirements imposed on Development - emergency access - utility easements	82	Lee	Springdale Town	Unknown	1/19/2010	Designation of a private lane for emergency access and maintenance of public utilities in the lane is appropriate. Others may access public utilities in the private lane.	Private Road

Requirements imposed on Development - excessive road improvements	53	Kriser	Mapleton City	None	10/22/2008	A provision that an approved plat expires if not recorded is valid. To require curb gutter and sidewalk across the frontage of a 2.3 acre lot where there is none existing in the area is an excessive exaction and does not solve a problem created by the construction of a single family home.	Single Family Home
Requirements imposed on Development - expert report	37	Mansell	Santa Clara City	None	4/8/2008	Where the applicant provides an expert report that the proposed development is safe, the City must approve the application unless there is proof the development is unsafe in another expert opinion. A general compelling public interest does not become a compelling interest in a specific application without specific proof.	Subdivision
Requirements imposed on Development - fire suppression	55	Shea	Wasatch County	None	11/12/2008	The County may require a fire suppression system in order to issue a building permit. This is an exaction and the burden imposed must be proportionate. If the cost is not proportionate, the county or other property owners must bear some of the cost.	Recreational Lot
Requirements imposed on Development - fire suppression	79	Buj	Iron County	None	11/30/2009	A fire suppression condition is an exaction. The act of subdividing property does not create a burden on the county to be offset by this exaction, but only by development of property.	Subdivision
Requirements imposed on Development - fireflow	87	Deepwater Distribution Co	Wasatch County	None	6/17/2010	An AO can be written to address an issue of interpretation of a land use ordinance before an application is submitted. The Division of Drinking Water may not impose fireflow requirements. The Fire Code imposes conditions on development, and therefore is subject to a takings claim. Fire suppression system is not an exaction because it does not involve a mandatory dedication. Not a Penn Central Taking either. Private benefits outweigh public benefits here.	Water System
Requirements imposed on Development - flag lot - variance	69	Cox	Willard City	None	5/18/2009	Existing flag lot may be nonconforming but is legal and may be the subject of a variance.	Single Family Lot

Requirements imposed on Development - geologic issues	2	Parks	Riverdale City	None	7/11/2006	An application for hillside development is entitled to approval, despite misgivings by staff and neighbors, if the only substantial evidence related to geologic issues is by applicant's expert which deems the proposed subdivision safe. If there is a compelling public interest which is relied upon for a denial it must be identified with substantial evidence to support the denial. The city must either provide expert evidence contrary to that provided by the applicant or provide a means to resolve the compelling public interest.	PUD
Requirements imposed on Development - geologic issues	83	Nilssen	Draper City	None	2/1/2010	Potential geologic hazards justify additional burdens imposed on land use applicants. A geologic hazard evaluation is required by the ordinance. Once submitted, that evaluation meets the requirements of the ordinance unless there is a factual basis to reject it. Simply disagreeing with the report is not sufficient evidence to deny the permit.	Single Family Lot
Requirements imposed on Development - harsh	102	Brown	Wasatch County	None	7/9/2011	Even though not imposed on others, county can impose regulations in the ordinance. Regulations here do not constitute a taking even though harsh because the benefit the property owner much more than the public	Subdivision
Requirements imposed on Development - metes and bounds lots	64	Day	Sanpete County	None	3/11/2009	Lots created by metes and bounds descriptions were not legally created under subdivision ordinance in place at the time they were created and must conform to the current ordinance. Agricultural lot splits do not result in buildable lots once the proposed use changes from agriculture to residential.	Subdivision
Requirements imposed on Development - road improvements	10	Warnke	Grand County	None	2/7/2007	Requirement to improve existing roads abutting subdivision lots is proportionate and legal. Past inconsistent actions by the county are not controlling if the current actions are consistent with the ordinances. Estoppel and equal protection arguments do not apply	Subdivision
Requirements imposed on Development - road improvements	44	Pool and Smith/R&D Property Holding LLC	Draper City	None	6/26/2008	Exactions for street improvements must be proportional even though developer signed a reimbursement agreement. Duties of developer could be adjusted through the approval process since they did not impose new requirements but only cost allocations. Improvements to Carlquist Drive are illegal exactions as they are disproportionate.	Subdivision

Requirements imposed on Development - road improvements	77	Craig	Hyde Park City	None	11/9/2009	The requirement to purchase property and construct a road is an exaction. City failed to show proportionality. Property owner may only be required to build and dedicate road improvements justified by the impact of one home. Requirement of frontage on a public road is appropriate but must be balance with property rights. Requirement of 1000 feet of fully improved roadway is excessive.	Single Family Lot
Requirements imposed on Development - road improvements - if found only in record of approval	49	Kent	Grand County	None	8/20/2008	Road improvements and bond requirements are exactions subject to proportionality analysis. Where the County did not analysis, the exactions are not valid until this is done. Conditions not included in the motion to approve a subdivision, but frequently and patently included in the record of the approval, are valid.	Subdivision
Requirements imposed on Development - road realignment	50	Hazen	Perry City	None	9/15/2008	An approved plat amendment that the city did not record is not valid. Owner of lot supposedly affected by amendment was entitled to reply on previous recorded plat. Realignment of road that makes a lot unbuildable can only be done with compensation to property owner.	Subdivision
Requirements imposed on Development - roads - buffer zone - natural resources inventory	106	Draper Holdings LC	Draper City	Citizens for Responsible Govt	9/21/2011	City reasonably concluded that master plan would not be required. Allowing a road to be built within a buffer zone was not a reasonable interpretation of the ordinance. A Natural Resources Inventory must be completed	Subdivision
Requirements imposed on Development - storm water detention - road improvements	94	Seiter	Lehi City	None	12/23/2010	Exactions of street improvements can be made for development but must be proportionate. Requirement to provide storm water retention basin for public street is not proportionate and therefore illegal unless the govt entity pays compensation.	Office Building
Requirements imposed on Development - subdivision approval	23	Ames	West Jordan City	None	10/23/2007	Although a subdivision plat was approved by Taylorsville City during the time period when the property involved was deannexed from Taylorsville and annexed into West Jordan, the plat is invalid because it did not include approval by the water authority as required by the West Jordan ordinances. The plat approval included an express condition that West Jordan approve the plat prior to recordation, which it had not done.	Subdivision

Requirements imposed on Development - sufficient detail in proposal	89	Park City Ranches LLC	Summit Co	Old Ranch Road Neighborhood Group	8/17/2010	Where the county requires conformance to the General Plan, a proposal for development must be sufficiently detailed to determine if it complies. A rezone application in this case must comply with the General Plan. As a legislative decision, the determination that it does or does not will be given deference.	Subdivision
Requirements imposed on Development - utility connection	86	Peterson Development	West Jordan City	None	5/10/2010	An AO can be written to address an issue of interpretation of subdivision conditions after the subdivision is approved. A local government can select a connection point for public utilities so long as that selection is rationally based and reasonably acceptable. Local governments may use eminent domain for sewer systems.	Subdivision
Requirements imposed on Development - vesting	43	Johnson/D&D Concrete/Nilson Homes	Morgan County	None	7/12/2008	Zone change after an application was submitted does not apply to that application. County action denying application was arbitrary and capricious. While plan proposed was different than previously proposed it still met the requirements of the ordinance and was entitled to approval absent evidence to the contrary,	Subdivision
Requirements imposed on Development - vesting	54	McDougal	Eagle Mountain City	None	11/5/2008	The setback rules in place when a subdivision was approved apply to construction within the subdivision if the developer relied on those setbacks in designing the lots. Later increases in setback distances would not apply. New setback requirements that render building on an approved lot impossible or impractical are invalid.	Subdivision
Requirements imposed on Development - water stand by fee	101	Blackham	Garden City	None	7/6/2011	A monthly stand by fee may be charged to properties which have not yet been connected to a water system. Fees must be fair and reasonably related to the cost of providing the service or benefits.	Water System
Resort - Golf Course - Nightly Rentals	230	Wohali Partners LLC	Coalville City	Coalville for Resp Growth	10/27/2020	Resort With Overnight Rentals Allowed in Zone	Resort Development
Resort - single family residences	174	Sugarbowl Developers LLC	Summit Co	None	11/9/2016	Although zone prohibits permanent residences, development could include detached single family homes since they may be occupied temporarily just as could a hotel room. Zone does not prohibit single family residences, but only permanent residences. County was in error to deny approval.	PUD

Ridgelines - building within pad shown on plat.	78	Martino	Salt Lake County	None	11/24/2009	A lot owner has a vested right to building within the building pad area designated on an approved subdivision plat. The county's legitimate interest in protecting hillsides and ridgelines can only restrict such building with the showing of a compelling public interest beyond protecting hillsides and ridgelines. The justification must be a threat to public health and safety.	Single Family Lot
Right to Approval - resort with overnight rentals	230	Wohali Partners LLC	Coalville City	Coalville for Resp Growth	10/27/2020	Resort With Overnight Rentals Allowed in Zone	Resort Development
Right to Approval - shared driveway	232	Bluth	Summit Co	None	11/12/2020	County could not apply ordinance to consider a driveway a "structure". Shared driveway not prohibited so thus allowed.	Single Family Home
Rights of Way - private disputes	97	Unknown	Weber County	Brown	3/14/2011	An appeal filed more than 15 days after constructive notice that a building permit had been issued is not timely. Time may not have run if appellant was notified by the county, in error, that permit had not been issued. Disputes regarding private easements and rights of way should be resolved between the private parties and do not involve local government.	Single Family Home
Road Fees - HOA	251	Bluth, Oscar	Swiss Alpine Water Company	None	1/20/2022	A private water company can be subject to the County Land Use, Development and Management Act if it is the only realistic source of water to a lot. It must thus respect due process, timely review of applications, and reasonable diligence in review. If the water company is also an HOA, CLUDMA usually would not apply - such as to fees for roads in this instance. The roads fee is not an impact fee.	Building Lot
Roads	249	Auburn Hills LLC	Hyrum City	None	12/11/2021	In imposing an exaction, government entity must first make some sort of individualized determination of nexus and proportionality. Exaction must be proportionate to current phase of development, not past or future phases.	Subdivision
Roads - Dedication - exactions	30	Greek Orthodox Church of Greater Salt Lake	Holladay City	None	2/13/2008	Since the City did not provide an individualized analysis of proportionality, a street exaction imposed on a permit for the church's construction of an outdoor pavilion is illegal.	Outdoor Pavilion
Roads - overlay	58	Belvedere	Payson City	None	12/8/2008	A city may require completion bonds including for private improvements if provided for in ordinance. A bond is a valid condition for development. Warranty bond amount must be roughly equal to cost of impact by development.	Senior Housing Development

Roads - corner lot - owner may be required to complete road improvements on both sides of lot.	226	Reddish	Hurricane City	None	7/31/2020	Development may be required to provide street improvements for both streets on a corner parcel.	Subdivision - Small
Roads - created by use	35	Greek Orthodox Church of Greater Salt Lake	Holladay City	None	3/31/2008	Where the City required dedication of roadway as a condition of approval but did not enforce the dedication a seven year statute of limitation applies. The city may claim the roadway by adverse possession however. The land has also been used as a public thoroughfare for more than ten years so it has been dedicated to public use. The property owner retains fee title to a worthless strip of land.	Road Right of Way
Roads - design standards	137	Bybee, Cadence Homes	American Fork City	None	1/31/2014	Design and construction standards must be in place before a development application is submitted. New standards may not be imposed on existing applications or previously issued permits.	Subdivision
Roads - development both sides of street	33	Danville Land Investments LLC	Draper City	None	3/12/2008	After project applications vested, City could not change requirements to prohibit development on both sides of a street to protect views and public access. These are not compelling public interests. 30 day period to deem an application incomplete passed - application is therefore deemed complete.	Subdivision
Roads - development both sides of street	33	Danville Land Investments LLC	Draper City	None	3/12/2008	After project applications vested, City could not change requirements to prohibit development on both sides of a street to protect views and public access. These are not compelling public interests. 30 day period to deem an application incomplete passed - application is therefore deemed complete.	Subdivision
Roads - duty of county to maintain	211	Ruch/Eagle Valley Ranches	Iron County	None	6/18/2019	Roads may be dedicated to the County but the County has no duty to maintain them.	Roads
Roads - exactions	42	Equidigm Holding LLC	North Ogden City	None	5/29/2008	City may not require that developer purchase right of way from city, complete street improvements, and then dedicate ROW back to city without demonstrating proportionality. Preservation of right to challenge exaction by payment under protest may be permissible although it is by no means clear.	Subdivision

Roads - exactions - prescriptive easement	35	Greek Orthodox Church of Greater Salt Lake	Holladay City	None	3/31/2008	Where the City required dedication of roadway as a condition of approval but did not enforce the dedication a seven year statute of limitation applies. The city may claim the roadway by adverse possession however. The land has also been used as a public thoroughfare for more than ten years so it has been dedicated to public use. The property owner retains fee title to a worthless strip of land.	Road Right of Way
Roads - improvement bond - exactions	49	Kent	Grand County	None	8/20/2008	Road improvements and bond requirements are exactions subject to proportionality analysis. Where the County did not analysis, the exactions are not valid until this is done. Conditions not included in the motion to approve a subdivision, but frequently and patently included in the record of the approval, are valid.	Subdivision
Roads - Improvements - conveyance of land - fire district	158	Glexos	Salt Lake County	Unified Fire Authority	6/2/2015	While the City requires improvement of a public road with sidewalks it may not require the fire district owning the land where the sidewalk would be placed to convey the land to the city or developer. A local district is not subject to the land use application approval process if it is not the applicant.	Sidewalk
Roads - Improvements - exaction appropriate	205	McCabe	Paradise City	None	12/12/2018	Town may withhold building permit until road to property is built. Homeowner is "developer" if building a house. Exaction of road appears proportionate.	Single Family Home
Roads - Improvements - exactions	11	Pierce, Utah Valley Real Estate LLC	Pleasant Grove City	None	3/1/2007	Requirement to extend street through small subdivision appears not to be proportionate. Requirement for 33 foot half street must be supported by individualized analysis or proportionality. City may require resolution of ownership of unowned gap between legal descriptions shown on county records before allowing final plat approval.	Subdivision - Small
Roads - Improvements - exactions	42	Equidigm Holding LLC	North Ogden City	None	5/29/2008	City may not require that developer purchase right of way from city, complete street improvements, and then dedicate ROW back to city without demonstrating proportionality. Preservation of right to challenge exaction by payment under protest may be permissible although it is by no means clear.	Subdivision
Roads - Improvements - exactions	44	Pool and Smith/R&D Property Holding LLC	Draper City	None	6/26/2008	Exactions for street improvements must be proportional even though developer signed a reimbursement agreement. Duties of developer could be adjusted through the approval process since they did not impose new requirements but only cost allocations. Improvements to Carlquist Drive are illegal exactions as they are disproportionate.	Subdivision

Roads - Improvements - exactions	77	Craig	Hyde Park City	None	11/9/2009	The requirement to purchase property and construct a road is an exaction. City failed to show proportionality. Property owner may only be required to build and dedicate road improvements justified by the impact of one home. Requirement of frontage on a public road is appropriate but must be balance with property rights. Requirement of 1000 feet of fully improved roadway is excessive.	Single Family Lot
Roads - Improvements - exactions	77	Craig	Hyde Park City	None	11/9/2009	The requirement to purchase property and construct a road is an exaction. City failed to show proportionality. Property owner may only be required to build and dedicate road improvements justified by the impact of one home. Requirement of frontage on a public road is appropriate but must be balance with property rights. Requirement of 1000 feet of fully improved roadway is excessive.	Single Family Lot
Roads - Improvements - exactions	94	Seiter	Lehi City	None	12/23/2010	Exactions of street improvements can be made for development but must be proportionate. Requirement to provide storm water retention basin for public street is not proportionate and therefore illegal unless the govt entity pays compensation.	Office Building
Roads - Improvements - exactions	100	Macqueen	West Valley City	None	6/20/2011	A requirement for the dedication of land to the public is an exaction, not a simple regulation. Building orientation standards are legislative regulations subject to the reasonably debatable standard, not exactions. Ao may be prepared although no application for land use approval is pending.	Retail Store
Roads - Improvements - exactions	173	Salter	Morgan County	None	9/30/2016	Road improvements required for road a three lot subdivision abuts but does not access were excessive and illegal in this instance. Exaction does not address any burden created by the development.	Small Subdivision
Roads - Improvements - exactions - annexation agreement	134	Green	Layton City	None	11/15/2013	Obligation in previously negotiated annexation agreement is enforceable, even if now found to be disproportionate. Exaction of landscaping easement is illegal exaction if it does not solve a problem created by the development.	Subdivision
Roads - Improvements - exactions - excessive	53	Kriser	Mapleton City	None	10/22/2008	A provision that an approved plat expires if not recorded is valid. To require curb gutter and sidewalk across the frontage of a 2.3 acre lot where there is none existing in the area is an excessive exaction and dies not solve a problem created by the construction of a single family home.	Single Family Home

Roads - Improvements - exactions - excessive	53	Kriser	Mapleton City	None	10/22/2008	A provision that an approved plat expires if not recorded is valid. To require curb gutter and sidewalk across the frontage of a 2.3 acre lot where there is none existing in the area is an excessive exaction and does not solve a problem created by the construction of a single family home.	Single Family Home
Roads - Improvements - exactions - fire district	158	Glexos	Salt Lake County	Unified Fire Authority	6/2/2015	While the City requires improvement of a public road with sidewalks it may not require the fire district owning the land where the sidewalk would be placed to convey the land to the city or developer. A local district is not subject to the land use application approval process if it is not the applicant.	Sidewalk
Roads - Improvements - exactions - full width improvement required	180	Beehive Storage LLC	Tooele City	None	2/14/2017	Requirement that a storage unit development bear the cost of full width improvements to both sides of a 66 foot wide street appears not to be proportionate. Even legislative actions must be proportionate if they constitute exactions.	Storage Units
Roads - Improvements - exactions - full width improvement required	187	Ironwood Development Group LC	Smithfield City	None	6/15/2017	Requirement to complete full improvements on both sides of abutting street appears to be disproportionate and thus illegal	Roads
Roads - Improvements - exactions - full width improvement required	188	Hirschi	Nibley City	None	7/13/2017	Requirement to complete full improvement of 80 foot wide arterial road that the subdivision does not access is excessive and illegal.	Roads
Roads - Improvements - exactions - full width improvement required	190	Jackson	i90ooo8	None	9/8/2017	It is a valid role for the City to require access to a public street for a new home. It is not a taking to deny use of lot for a home because the city did not deprive the owner of anything he had when he purchased the lot. Any requirements for utilities and improvements must be proportionate. To extend a 50 foot wide public street with full improvements may be disproportionate.	Roads
Roads - Improvements - exactions - half width street - trails	199	Cronquist	Nibley City	None	7/17/2018	Half with street deemed roughly proportionate and therefore legal exaction although proposed subdivision abuts street but has no access to it. Trail dedication also a legal exaction because new residents of the subdivision will use the trail and other recreational facilities of the city.	Subdivision
Roads - Improvements - exactions - school sidewalk	110	Promontory School of Expeditionary Learning	Perry City	None	2/16/2012	An exaction for school sidewalk and road improvements is allowed if the road is contiguous to school property and reasonably necessary for the safety of children as it is in this case	Charter School

Roads - Improvements - second access	51	Glines	Washington City, St. George City	None	9/25/2008	A city may require a second access to a proposed subdivision even if that access is from another city. Such a requirement must be proportionate and the public benefits conferred by the road should be part of the calculation.	Subdivision
Roads - Improvements - two lot subdivision	66	Harper	South Jordan City	None	4/7/2009	Street improvements may be required for a two lot subdivision but must be proportionate. The calculation of individualized impact may use generalized studies of impacts and costs but must be based on reliable information and not speculative data or non-economic factors personal to the property owner.	Two Lot Subdivision
Roads - Improvements - warranty	31	Ivory Development LLC	Draper City	None	2/28/2008	Warranty and bonds can be legal exactions if proportionate. Warranty repairs may be exacted if damage caused by development or design or construction flaw but not normal wear and tear. Requirements may be modified by agreement.	Subdivision
Roads - police power to manage roads	184	Concord Holdings LC	Saratoga Springs City	None	4/28/2017	Agreement allowing 6 units per acre supercedes discretion of city to allow 8 units with density bonus. While City may allow more units, it has no duty to do so under the agreement. City met its obligation in the agreement to dead end a road but could not bargain away the police power when it signed the agreement limiting its ability to manage the use of the public road in the future.	Subdivision
Roads - police power to manage roads	185	Residents of Country Way Estates	Washington City		5/16/2017	A city may regulate commercial and industrial traffic on a city street but has no duty to do so.	Roads
Roads - private - not required to be public	1	Ivory Development	Taylorsville City	None	7/5/2006	Where the ordinance states that the streets within a PUD are to be private the City cannot require them to be public. In calculating density the area of the streets is therefore included in the total area of the development.	PUD
Roads - public road may be required for permit	56	Dudley	Salem City	None	11/18/2008	If a property owner does not provide proof that a lot has a legal and permanent right of access to a public street, a building permit may be denied. This is so even though the city has expressed an interest in acquiring the property and to deny the permit reduces its appraised value	Single Family Lot
Roads - public road may be required for permit	70	Rasmussen	Carbon County	None	6/30/2009	County can require proof of permanent access to lot before allowing a building permit. County may consider 30 year lease of access rights to be inadequate. Difficulty in proving access rights across state and federal lands does not make county requirement illegal.	Single Family Lot

Roads - realignment - unbuildable lot	50	Hazen	Perry City	None	9/15/2008	An approved plat amendment that the city did not record is not valid. Owner of lot supposedly affected by amendment was entitled to reply on previous recorded plat. Realignment of road that makes a lot unbuildable can only be done with compensation to property owner.	Subdivision
Roads - second access - exactions	8	Neighborhood Nonprofit Housing Corporation	Smithfield City	None	9/7/2006	Exactions must be based on requirements in the ordinance. Where proposed subdivision access complies with ordinances, an additional access cannot be required. Where ordinances do not require park areas, either public or private parks may not be required as conditions of approval.	Subdivision
Roads - second access - exactions	51	Glines	Washington City, St. George City	None	9/25/2008	A city may require a second access to a proposed subdivision even if that access is from another city. Such a requirement must be proportionate and the public benefits conferred by the road should be part of the calculation.	Subdivision
Roads - Secondary Access	51	Glines	Washington City, St. George City	None	9/25/2008	A city may require a second access to a proposed subdivision even if that access is from another city. Such a requirement must be proportionate and the public benefits conferred by the road should be part of the calculation.	Subdivision
Roads - stub road requirement	221	Bybee, Lindon OW LLC	Lindon City	None	4/21/2020	Stub road may be required where necessary for development and to comply with maximum cul-de-sac length regulations.	Subdivision - Industrial
Roads - vacation	166	Les Olson Company	South Salt Lake City	Stillman	1/15/2016	Vacation of a street requires strict compliance with the relevant laws. It was illegal to vacate half a street to the abutting landowner under the city ordinances. City must vacate entire street width.	Commercial Development
Roads - warranty	31	Ivory Development LLC	Draper City	None	2/28/2008	Warranty and bonds can be legal exactions if proportionate. Warranty repairs may be exacted if damage caused by development or design or construction flaw but not normal wear and tear. Requirements may be modified by agreement.	Subdivision
Roads - width standards	223	Porter	Logan City	None	5/5/2020	While city road standards show twenty foot road profile, the land use regulations required 60 foot width for a city street.	Subdivision
Roads Impact Fees - challenge	73	Waxie Enterprises	Salt Lake City	None	8/31/2009	Person appealing impact fees must present reasoned studies and analysis showing actual impact of development and what fees should be.	Warehouse/Office
RV ordinance - temporary use on vacant lot	76	Johnson	Levan Town	None	11/27/2009	Where local ordinance allows connection of RV to electrical service for up to three months and allows RV use outside of authorized parks for up to three months, property owner could not be denied temporary use of RV on vacant lot.	RV

School - Impact Fees - extraterritorial fees - current impact only	183	Wasatch School District	Heber City	None	4/28/2017	City may not charge extraterritorial development a higher impact fee than it has justified for development within the city. Impact fees can only be charged for current impact, not past impact that was not charged for. Impact fee must be justified by an analysis of additional burden on public services, not solely on whether a building size is increased without proof of more traffic, for example. If an impact fee waiver is given for some development, there must be some provision for recovery of the amount of the waiver from another source to make the impact fee plan whole.	School
School - Impact Fees	225	Weber School District	Pleasant Grove City	None	6/25/2020	City can only impose impact fees on school if new facilities are needed to serve the school and it updates its Impact Fee Analysis and Facilities Plan.	School
School - sewer connection - impact fees	177	Wasatch School District	Heber City	None	11/30/2016	Where city requires connection to sewer, and even though school was beyond city limits, City could not refuse to connect sewer until impact fees were paid.	School
Secondary Water Requirement	91	Schemehl	North Ogden City	Weber-Box Elder Conservancy District	10/6/2010	Both the city and the water district are responsibly for an exaction if both make connection mandatory for approval of land use application and thus must prove proportionality. The burdens on each govt entity may vary. Choice of route for water line must be reasonable.	Subdivision
Septic Tanks - required connection to sewer	7	Zollinger	Nibley City	None	9/6/2006	Where there is no city sewer within 300 feet of a home the city may not require connection to the sewer nor ban a septic tank.	Single Family Home
Setbacks - barn	38	Weidauer	Cedar Fort	Ault	4/16/2008	The ordinance imposes setback requirements on dwellings, buildings, and storage sheds. A hay barn/horse shed with one solid wall must meet setback requirements.	Storage Shed
Setbacks - calculation of average setback	27	Barber	Salt Lake City	Lowe	12/7/2007	Calculation of the required setback for a replacement home, based on average setbacks in the area, was logical and consistent with the ordinances even though it did not take into account the setback of the home being replaced. The staff could either consider that setback or not. Either option for calculation would be appropriate. The opinion deferred to the staff's expertise.	Single Family Home

Setbacks - corner lot	90	Josephs	Park City	None	8/26/2010	If a parcel abuts a public street and a non-existent street, it is not a corner lot. Larger setback requirements would not apply. A post division review of antiquated lots is legal if adopted by ordinance.	Duplex
Setbacks - error in foundation placement	9	Bean	Salt Lake City		12/16/2006	Error in foundation placement of inches was innocent mistake. Building inspector confirmed placement and city is estopped from requiring new home to be moved or altered. Six inch overhang may be denied by city or approved if such a decision is consistent with previous interpretations of the ordinance.	Single Family Home
Setbacks - nonconforming lot	16	Bunnell	Salt Lake City	Cromer	6/22/2007	Nonconforming lot is not eligible for new conditional use because, as per ordinance, the structure on the lot does not comply with setback requirements. Staff interpretation of the ordinance was incorrect.	Multifamily
Setbacks - not a taking	182	None	Ivins City	None	3/29/2017	Multiple setback requirements do not constitute a taking of private property without just compensation if they do not eliminate all economically viable use of any part of the private property involved. A duty to provide a public trail in the setback is an exaction which must be justified as roughly proportionate to some burden created by the development. If not proportionate, it would require the payment of just compensation.	Commercial Development
Setbacks - PUD	235	Flake	Provo City	Loftus	12/30/2020	Where there is a dispute over whether a matter is final or not, the OPRO will not prepare an advisory opinion. This AO prepared after a new land use decision was made. The setback provisions in the code for the underlying zone do not apply to individual units within a PUD approved within the zone, even though the units in the PUD were designated as "lots" and numbered sequentially.	PUD
Setbacks - shed	84	Warner	Clearfield City	None	3/2/2010	A shed attached to the main building is not an accessory structure. It is an addition to a home and violated the setbacks when it was built. It may not now be rebuilt. A structure with electricity attached to a home needs a building permit.	Shed
Setbacks - Stream	250	Bracken, Scott	Weber County	None	1/20/2022	County ordinance requiring 75 foot setback from watercourse does not apply to manmade canal. Definition of stream in ordinance applies only to year round watercourse. This notwithstanding the fact that the county shows the canal on a map of watercourses associated with the ordinance.	Building Lot

Setbacks - unbuildable plot	54	McDougal	Eagle Mountain City	None	11/5/2008	The setback rules in place when a subdivision was approved apply to construction within the subdivision if the developer relied on those setbacks in designing the lots. Later increases in setback distances would not apply. New setback requirements that render building on an approved lot impossible or impractical are invalid.	Subdivision
Settlement Agreement - effect on land use regulations	93	Fuller	Springville	None	11/15/2010	An ordinance may be changed while it is being challenged in court. A settlement agreement did not change land use regulations. Previous failure to enforce an ordinance does not waive future enforcement. Remedies for violation may be mitigated by past non-enforcement.	Accessory Apartment
Settlement Agreement - mining - nonconforming use	217	Kilgore Companies	Stockton Town	None	2/24/2020	Mining use was not nonconforming and may be prohibited. Owner did not meet burden of evidence to establish NCU. Critical Infrastructure statute not applicable if never legal.	Mining
Sewer - Impact Fees - burden to challenge	72	Florence	Central Weber Sewer Improvement District	None	6/30/2009	The person challenging an impact fee has the burden to demonstrate that it is illegal. This developer has not met that burden.	Restaurant
Sewer - Laterals - exactions - requiring stubs	21	Pitts/Bowler Development LC	Tooele County	None	9/7/2007	Requirement to stub sewer lines is an exaction. Where there is now not any public sewer, it is a reasonable condition to require stubs for future sewer connections at the foundation of a new home if the cost is reasonable but not to require sewer laterals extending into the street and sewer mains for future use.	Subdivision
Sewer - required connection	7	Zollinger	Nibley City	None	9/6/2006	Where there is no city sewer within 300 feet of a home the city may not require connection to the sewer nor ban a septic tank.	Single Family Home
Sewer - required connection	12	Jordan School District	West Jordan City	None	3/1/2007	The City can only require a school to connect to its sewer utility if the site is within 300 feet of an existing sewer line. Water connection charges must be reasonable. Street improvements requirements for school must be the minimum required for public safety, proportionate, and reasonably related to school safety. A school can be required to pay building inspection fees and reasonable impact fees but not other land use fees	School
Sewer - required connection	86	Peterson Development	West Jordan City	None	5/10/2010	An AO can be written to address an issue of interpretation of subdivision conditions after the subdivision is approved. A local government can select a connection point for public utilities so long as that selection is rationally based and reasonably acceptable. Local governments may use eminent domain for sewer systems.	Subdivision

Shed - accessory structure	84	Warner	Clearfield City	None	3/2/2010	A shed attached to the main building is not an accessory structure. It is an addition to a home and violated the setbacks when it was built. It may not now be rebuilt. A structure with electricity attached to a home needs a building permit.	Shed
Short Term Rental	257	Christensen, Steve	Washington County	None	6/14/2022	Where short term rentals were not specifically prohibited but multi family occupancies were clearly prohibited when nonconforming use was established, NCU continues for single family STR but never existed for multi family STR. Person may request Advisory Opinion before being denied an application for a land use.	Recreational Cabin
Short Term Rental	258	Morris, Lorrie and Robert	Washington County	None	6/14/2022	Where short term rentals were not specifically prohibited but multi family occupancies were clearly prohibited when nonconforming use was established, NCU continues for single family STR but never existed for multi family STR. To establish a NCU ppo need not comply with business licensing requirements not in the land use regulations. Person may request Advisory Opinion before being denied an application for a land use.	Recreational Cabin
Short Term Rentals - conditional use	25	Stapel	Cottonwood Heights City	None	11/29/2007	The city improperly denied a conditional use based on standards not found in the ordinances. Where reasonable conditions may be imposed to mitigate negative impacts of the use, the conditional use must be approved. Standards must be found in the ordinances and not created at the time an application is reviewed.	Short Term Rental
Short Term Rentals - conditional use	92	Davis	Cottonwood Heights City	None	11/1/2010	If a conditional use is allowed in a zone it is determined that the use is a desirable use. The City must grant the use unless it establishes that detrimental effects cannot be mitigated. City's determination that too many STR's exist may constitute a detrimental effect but it must process the CUP applications and make individual determinations that detrimental effects cannot be mitigated.	Condo
Short Term Rentals - conditional use	220	Madsen, Young	Lehi City	None	3/31/2020	Decision to deny conditional use was not supported by substantial evidence in the record and thus illegal.	ADU
Short Term Rentals - nonconforming use	179	Stowell	St George City	None	1/27/2017	Use of townhome for short term rental is not a Nonconforming Use because it was not legal when initiated.	Townhome
Short Term Rentals - when not prohibited	174	Sugarbowl Developers LLC	Summit Co	None	11/9/2016	Although zone prohibits permanent residences, development could include detached single family homes since they may be occupied temporarily just as could a hotel room. Zone does not prohibit single family residences, but only permanent residences. County was in error to deny approval.	PUD

Signs - alteration - content-based regulation	111	Paras Investments	West Valley City	None	2/16/2012	Landscaping requirements are exactions. Exactions must be based on new development, not existing development. A cosmetic revision of a sign does not constitute an alteration. Content-based sign regulation is subject to compelling public interest analysis.	Retail Store
Signs - noncomplying structure	113	Sandoval	West Valley City	None	3/29/2012	Where a noncomplying structure was removed by action of the highway authority, the property owner may rebuild the structure if the rebuilding is pursued with reasonable diligence. City bears burden to show abandonment.	Sign
Signs - nonconforming - bus bench	99	Porter	Clearfield	None	3/29/2011	A nonconforming bus bench is the same as a billboard under state law and entitled to all the protections afforded to billboards in state law.	Bus Benches
Similar Uses - automotive services	115	Greenville Corner LLC	Wellsville City	Perrett	8/28/2012	An ordinance allowing some automotive service uses cannot be interpreted to allow a truck stop, where that use is markedly different than other automotive services.	Truck Stop
Single Family Homes - resort	174	Sugarbowl Developers LLC	Summit Co	None	11/9/2016	Although zone prohibits permanent residences, development could include detached single family homes since they may be occupied temporarily just as could a hotel room. Zone does not prohibit single family residences, but only permanent residences. County was in error to deny approval.	PUD
Single Lot Subdivision - metes and bounds	64	Day	Sanpete County	None	3/11/2009	Lots created by metes and bounds descriptions were not legally created under subdivision ordinance in place at the time they were created and must conform to the current ordinance. Agricultural lot splits do not result in buildable lots once the proposed use changes from agriculture to residential.	Subdivision
Solar Panels - moratorium - compelling public interest	238	Davis	Ephraim City	None	4/16/2021	City denied application for solar panels during moratorium/temporary regulation period. There was no compelling public interest justifying a temporary regulation	Solar Panels
Solid Fuel Stoves and Fireplaces	194	None	Summit Co	UHBA	2/22/2018	State law related to how solid fuel burning devices are used and installed does not pre-empt local regulations of where they are allowed.	Wood Burning
Standard of Review - administrative	80	Buttars	Harrisville City	None	12/9/2009	City appeal authority may alter the decision which is the subject of the appeal. The planning commission must require pavement of parking if the ordinance requires it. A court order requiring the rezoning of property does not mean the city cannot require a site plan. Current parking ordinance may be imposed.	Parking

Standard of Review - legislative	3	Gardner Cottonwood Creek LLC	Morgan County	Richards	7/10/2006	Approval of PUD cluster development would be held by a court as consistent with the general plan based on deference to local decisions. Legislative judgment would be upheld.	PUD
Standard of Review - legislative	89	Park City Ranches LLC	Summit Co	Old Ranch Road Neighborhood Group	8/17/2010	Where the county requires conformance to the General Plan, a proposal for development must be sufficiently detailed to determine if it complies. A rezone application in this case must comply with the General Plan. As a legislative decision, the determination that it does or does not will be given deference.	Subdivision
Standards in Ordinance - conditional use	191	Reeves' Riverton Ranch LLC	Riverton City	None	9/19/2017	If the City has only general standards in the ordinance to base a review of a CUP upon, those standards are sufficient for review, but it can only impose conditions which deal with health, safety and welfare. Parking condition unsupported by evidence and thus illegal. Prohibition on gates is unsupported and illegal. Permanent restroom facilities requirement inappropriate. Irrigated landscaping requirement unsupported and illegal. Eight foot tall fence requirement unsupported and illegal. No evidence supporting requirement to enclosed trash containers so illegal. Condition designating access point to project is supported and legal. Other conditions which replicate city codes and other laws are unnecessary.	Recreational Property
Standards in Ordinance - design criteria	175	Church of Jesus Christ of Latter-day Saints	Lehi City	Conley	11/17/2016	City approval of office building and church building was supported by substantial evidence and within discretion. Design criteria of avoiding flat roofs did not prohibit approval.	Church

Standards in Ordinance - ordinance read as a whole - purpose statements	149	Jacobson	Herriman City	None	12/5/2014	Vested rights occur when an application complies with the requirements in the ordinance for a complete application. The ordinance must be read as a whole to determine compliance. Reference in the zoning ordinance to "intent and purpose" of general plan as the means to limit overall density is not illegal.	Subdivision
Standing - neighbor	81	Bear River Valley Co-op	Corrine City	Neighborhood Non-profit Housing Corp	1/14/2010	Owner of neighboring subdivision has standing to appeal CUP approval. Application must meet requirements of ordinance. If neighbor identifies with substantial evidence the detrimental effects of proposed CUP they must be addressed. Public must have opportunity to respond to submittals.	Fertilizer Storage
Standing - public	214	Blue Rock Medical	Provo City	Evans	8/6/2019	Members of the public who pass by property with legal non-conforming illuminated sign do not have standing to challenge its approval.	Sign
Standing - third party proved A937no adverse effects in failure to hold required preapplication conference.	240	White	Tooele County	None	6/10/2021	Failure to conduct a required preapplication conference does not waive vested right to approval of application if it complies with the ordinances. These third party appeals do not establish required adverse effects or error. An application, if complete, vests whether or not it is reviewed for completeness. Nothing in the record indicates a formal consideration of a pending ordinance. Relates to AO 222 also requested by White.	PUD
Standing to Request AO	143	Woodside Development LLC	Park City	Meadows	8/14/2014	This AO deals with the same property as AO 131 and AO _____. Even though all information needed to finalize the application was not provided when it was filed, the City could review the application. An appeal to the Historic Preservation Commission is not a duplicative appeal.	Single Family Home

State Law Preemption - solid fuel burning devices	194	None	Summit Co	UHBA	2/22/2018	State law related to how solid fuel burning devices are used and installed does not pre-empt local regulations of where they are allowed.	Wood Burning
Statutes of Limitation - road dedication	35	Greek Orthodox Church of Greater Salt Lake	Holladay City	None	3/31/2008	Where the City required dedication of roadway as a condition of approval but did not enforce the dedication a seven year statute of limitation applies. The city may claim the roadway by adverse possession however. The land has also been used as a public thoroughfare for more than ten years so it has been dedicated to public use. The property owner retains fee title to a worthless strip of land.	Road Right of Way
Steep Slopes	131	505 Woodside Development LLC	Park City	Meadows	10/18/2013	This AO deals with same property as AO No. _____ and AO 143. More than one appeal authority may be designated to hear different types of appeals, even in all the appeals relate to a single project.	Single Family Home
Steep Slopes - structure not on slope	139	Jorgensen	Park City	None	3/28/2014	Denial of a conditional use permit is only justified if the detrimental impacts of the use cannot be substantially mitigated. City must identify the detrimental impacts and which conditions were considered to mitigate them. Planning Commission may not revisit previous approvals and adopt definitions counter to previous city definition of terms. Steep slope ordinance cannot be applied to structures not on a steep slope even if lot includes a steep slope.	Single Family Lot
Storage Uses - accessory use	142	Mason	Centerville City	None	7/16/2014	Although not specifically approved for the entire lot in site plan review, storage of vehicles and inventory is an accessory use to a commercial vehicle service facility. Any storage must comply with city ordinances. As an allowed accessory use, the existing use is not nonconforming.	Auto Service Facility
Storm Water - exactions	47	Grotegut	Spanish Fork City	None	7/29/2008	Where PUD had two owners, entire project demand and benefit may be used to calculate proportionality of trail and storm water exactions, not just the part of the PUD owned by one owner. Parcel owner not entitled to lot split if applicable ordinances do not allow street access for second lot.	Subdivision
Storm Water - exactions	48	Ensign Development	Tooele City, Tooele County	None	7/29/2008	Flood oontrol improvements required by City are exactions and must be proportional.	Subdivision

Storm Water - exactions	94	Seiter	Lehi City	None	12/23/2010	Exactions of street improvements can be made for development but must be proportionate. Requirement to provide storm water retention basin for public street is not proportionate and therefore illegal unless the govt entity pays compensation.	Office Building
Stream - Definition	250	Bracken, Scott	Weber County	None	1/20/2022	County ordinance requiring 75 foot setback from watercourse does not apply to manmade canal. Definition of stream in ordinance applies only to year round watercourse. This notwithstanding the fact that the county shows the canal on a map of watercourses associated with the ordinance.	Building Lot
Stream Setback	250	Bracken, Scott	Weber County	None	1/20/2022	County ordinance requiring 75 foot setback from watercourse does not apply to manmade canal. Definition of stream in ordinance applies only to year round watercourse. This notwithstanding the fact that the county shows the canal on a map of watercourses associated with the ordinance.	Building Lot
Street Beautification - agreement valid even if disproportionate.	134	Green	Layton City	None	11/15/2013	Obligation in previously negotiated annexation agreement is enforceable, even if now found to be disproportionate. Exaction of landscaping easement is illegal exaction if it does not solve a problem created by the development.	Subdivision
Streets - See "Roads", this database							
Student Housing - nonconforming use - amortization	57	Perry	Ogden City	None	11/24/2008	A city may amortize nonconforming uses. Rental to more unrelated individuals in a single residence may be established as a nonconforming use and may be amortized over a reasonable period of time so the property owner can recover any investment in the use. If amortization is required, it must be made available to all affected property owners. That availability may not be arbitrarily cut off by the city by imposing a date afterwhich the nonconformity is terminated without the opportunity to amortize.	Student Rental - Duplex
Subdivision	158	Glexos	Salt Lake County	Unified Fire Authority	6/2/2015	While the City requires improvement of a public road with sidewalks it may not require the fire district owning the land where the sidewalk would be placed to convey the land to the city or developer. A local district is not subject to the land use application approval process if it is not the applicant.	Sidewalk
Subdivision - plat approval - recording - invalid	50	Hazen	Perry City	None	9/15/2008	An approved plat amendment that the city did not record is not valid. Owner of lot supposedly affected by amendment was entitled to rely on previous recorded plat. Realignment of road that makes a lot unbuildable can only be done with compensation to property owner.	Subdivision

Subdivision - amendment - lot owner consent	18	Galway Group LLC	Uintah County	Unknown	8/2/2007	County may amend a subdivision plat even if all lot owners do not agree. The County may not force a property owner to accept additional land as a result of an amendment.	Subdivision
Subdivision - improvements - asphalt overlay	200	Mitchell Development Inc	Provo City	None	8/27/2018	An asphalt overlay fee is not an impact fee and not subject to the impact fee act. An overlay fee is an exaction and must be roughly proportionate under Dolan. Companion opinion on same issues AO 201	Subdivision
Subdivision - improvements - asphalt overlay	201	Ivory Development	Provo City	None	8/27/2018	An asphalt overlay fee is not an impact fee and not subject to the impact fee act. An overlay fee is an exaction and must be roughly proportionate under Dolan. An inspection fee cannot exceed the reasonable estimated cost of the inspections. Companion opinion on same issues AO 200	Subdivision
Subdivision - legality requires proof of official action - lack of evidence that subdivision was officially approved	236	Potter	Leeds Town	None	2/11/2021	Town statute provides hillside restrictions do not apply to subdivisions before 1999. Property owner claimed approved lot split subdivision but no record of approval was found in Town minutes. Town had sufficient evidence in the record to conclude there was no subdivision approval and could therefore apply hillside ordinance to property.	Subdivision
Subdivision - metes and bounds	193	Abbott	Sevier County	None	1/25/2018	Even though past division of property owners land was allowed by metes and bounds descriptions she must now follow subdivision ordinance to further subdivide property.	Subdivision
Subdivision - plat - appeal period	107	United Park City Mines	Park City	None	10/27/2011	The duty to complete a required condition should be tolled during an appeal period unless it is simply an excuse for inactivity by a developer	Subdivision
Subdivision - plat - expiration	53	Kriser	Mapleton City	None	10/22/2008	A provision that an approved plat expires if not recorded is valid. To require curb gutter and sidewalk across the frontage of a 2.3 acre lot where there is none existing in the area is an excessive exaction and does not solve a problem created by the construction of a single family home.	Single Family Home
Subdivision - plat - preliminary review	28	North Salt Lake Heights LLC	North Salt Lake City	Lakeview Rock Products	1/23/2008	At the preliminary approval phase of development review the City should not deny the application because of the presence of an unused fifty foot wide access easement that conflicts with the proposed plan. Resolution of the easement issue could be made a condition for final approval. No compelling public interest is found since the issue does not require an amendment to the ordinances.	Subdivision

Subdivision - plat approval - agricultural protection area.	22	Unknown	West Point City	Diamond	10/8/2007	Annexation by City was proper despite presence of adjoining agricultural preservation area. Code restricts installing a new feedlot near homes not new homes near existing feedlot. Wetland issues are state issues and not subject to local control. Previous decisions by the City are strong evidence of how the City should act, but not controlling. Zoning estoppel does not apply.	Subdivision
Subdivision - plat approval - canal easement	36	Loafer Rim Properties LC	Salem City	None	4/8/2008	Where the BOR claims a 200 foot wide easement along a canal that claim may be excessive and require just compensation but the city has a compelling public interest in not approving a proposed subdivision until the nature of the easement is resolved.	Subdivision
Subdivision - plat approval - invalidity	23	Ames	West Jordan City	None	10/23/2007	Although a subdivision plat was approved by Taylorsville City during the time period when the property involved was deannexed from Taylorsville and annexed into West Jordan, the plat is invalid because it did not include approval by the water authority as required by the West Jordan ordinances. The plat approval included an express condition that West Jordan approve the plat prior to recordation, which it had not done.	Subdivision
Subdivision - plat approval - metes and bounds	64	Day	Sanpete County	None	3/11/2009	Lots created by metes and bounds descriptions were not legally created under subdivision ordinance in place at the time they were created and must conform to the current ordinance. Agricultural lot splits do not result in buildable lots once the proposed use changes from agriculture to residential.	Subdivision
Subdivision - plat approval - nonconforming lot	69	Cox	Willard City	None	5/18/2009	Existing flag lot may be nonconforming but is legal and may be the subject of a variance.	Single Family Lot
Subdivision - plat approval - road improvements - exactions	66	Harper	South Jordan City	None	4/7/2009	Street improvements may be required for a two lot subdivision but must be proportionate. The calculation of individualized impact may use generalized studies of impacts and costs but must be based on reliable information and not speculative data or non-economic factors personal to the property owner.	Two Lot Subdivision
Subdivision - roads width	223	Porter	Logan City	None	5/5/2020	While city road standards show twenty foot road profile, the land use regulations required 60 foot width for a city street.	Subdivision

Subdivision - Third Party Easement	256	Symphony Homes	Centerville City	Parker, Spencer	5/11/2022	Claim by neighbor of conflicting easement is not a basis for denial of subdivision application. Ordinance require the plat to show the disputed easement but must approve subdivision if it complies with ordinances. Private disputes need not be settled in reviewing land use application.	Subdivision
Substantial Evidence - church	175	Church of Jesus Christ of Latter-day Saints	Lehi City	Conley	11/17/2016	City approval of office building and church building was supported by substantial evidence and within discretion. Design criteria of avoiding flat roofs did not prohibit approval.	Church
Substantial Evidence - conditional use	34	Walker	Cottonwood Heights City	Brown	3/25/2008	Approval of CUP opposed by neighbors was valid and supported by substantial evidence in the record.	Commercial Development
Substantial Evidence - conditional use	196	Frandsen	Provo City	None	5/25/2018	City illegally denied Conditional Use Permit because it had no evidence that the reasonably anticipated detrimental effects could not be substantially mitigated.	Day Care Center - ADU
Substantial Evidence - conditional use	220	Madsen, Young	Lehi City	None	3/31/2020	Decision to deny conditional use was not supported by substantial evidence in the record and thus illegal.	ADU
Substantial Evidence - CUP appeal	252	Burdick Materials	Uintah County	Haslem, Kim	3/29/2022	Neighbor complained of violation of existing CUP. Planning Commission amended permit rather than revoke it. Decision was valid as it was supported by substantial evidence in the record.	Cement Plant
Substantial Evidence - denial of application	20	Hamlet Homes	Draper City	None	8/9/2007	Continued denial of subdivision is not justified by any evidence before the City Council.	Subdivision
Substantial Evidence - denial of application	43	Johnson/D&D Concrete/Nilson Homes	Morgan County	None	7/12/2008	Zone change after an application was submitted does not apply to that application. County action denying application was arbitrary and capricious. While plan proposed was different than previously proposed it still met the requirements of the ordinance and was entitled to approval absent evidence to the contrary,	Subdivision
Substantial Evidence - geologic issues	37	Mansell	Santa Clara City	None	4/8/2008	Where the applicant provides an expert report that the proposed development is safe, the City must approve the application unless there is proof the development is unsafe in another expert opinion. A general compelling public interest does not become a compelling interest in a specific application without specific proof.	Subdivision

Substantial Evidence - lack of evidence that Town Council had taken action was sufficient evidence to support conclusion that subdivision was not vested	236	Potter	Leeds Town	None	2/11/2021	Town statute provides hillside restrictions do not apply to subdivisions before 1999. Property owner claimed approved lot split subdivision but no record of approval was found in Town minutes. Town had sufficient evidence in the record to conclude there was no subdivision approval and could therefore apply hillside ordinance to property.	Subdivision
Substantial Evidence - lot split	13	Wixom	West Haven	None	3/15/2007	Ordinance prohibits the creation of new lots by division of existing lots in subdivision. Statement that original intent of plat approval was to limit division of lots is sufficient evidence to support city's decision to deny lot split where local decisions are to be given deference	Single Family Lot
Takings - canal easement - subdivision delayed	36	Loafer Rim Properties LC	Salem City	None	4/8/2008	Where the BOR claims a 200 foot wide easement along a canal that claim may be excessive and require just compensation but the city has a compelling public interest in not approving a proposed subdivision until the nature of the easement is resolved.	Subdivision
Takings - claims independent of statute - exactions - proportionality	121	Stewart	Provo City	None	3/15/2013	An exaction is a requirement imposed by the City, not a voluntary act. Exactions are illegal if disproportionate. Property owner may or may not be able to claim credit for work done by previous owner as offset to impact fees and exactions. Statutes cannot limit a constitutional takings claim, regardless of how fully the statute honors the contours of the claim.	Subdivision
Takings - exactions - proportionality	32	Danville Land Investments LLC	Draper City	None	3/12/2008	City bears burden that requirement for 100% of street improvements is proportionate to burden created by development. Opinion discusses factors which could be considered in determining proportionality. If the city fails to meet this burden the result would be a taking.	Subdivision
Takings - exactions - proportionality	77	Craig	Hyde Park City	None	11/9/2009	The requirement to purchase property and construct a road is an exaction. City failed to show proportionality. Property owner may only be required to build and dedicate road improvements justified by the impact of one home. Requirement of frontage on a public road is appropriate but must be balance with property rights. Requirement of 1000 feet of fully improved roadway is excessive.	Single Family Lot
Takings - harsh regulations	102	Brown	Wasatch County	None	7/9/2011	Even though not imposed on others, county can impose regulations in the ordinance. Regulations here do not constitute a taking even though harsh because the benefit the property owner much more than the public	Subdivision

Takings - private easements across development property	239	Crowther	Big Water Town	Harbut/Sawyer	5/5/2021	Ordinance says subdivided lots cannot be consolidated. Old federal lots were not considered to be subdivided. Private easement rights should normally not be resolved in land use application processes but could constitute compelling public interest and thus affect approval of application. In this case there is no taking of easement rights held by neighbors in approving development	Antiquated Lots
Takings - public access requirement	190	Jackson	i90ooo8	None	9/8/2017	It is a valid role for the City to require access to a public street for a new home. It is not a taking to deny use of lot for a home because the city did not deprive the owner of anything he had when he purchased the lot. Any requirements for utilities and improvements must be proportionate. To extend a 50 foot wide public street with full improvements may be disproportionate.	Roads
Takings - setbacks - public trail	182	None	Ivins City	None	3/29/2017	Multiple setback requirements do not constitute a taking of private property without just compensation if they do not eliminate all economically viable use of any part of the private property involved. A duty to provide a public trail in the setback is an exaction which must be justified as roughly proportionate to some burden created by the development. If not proportionate, it would require the payment of just compensation.	Commercial Development
Takings - unbuildable lot	50	Hazen	Perry City	None	9/15/2008	An approved plat amendment that the city did not record is not valid. Owner of lot supposedly affected by amendment was entitled to rely on previous recorded plat. Realignment of road that makes a lot unbuildable can only be done with compensation to property owner.	Subdivision
Temporary Land Use Ordinances - compelling public interest - vested rights	14	Moyal, MBI	Ogden City	None	4/16/2007	The preference for one zoning district over another by a subsequent city council does not constitute a compelling public interest sufficient to support a temporary zoning ordinance. An application for a restaurant is vested and must be considered under the existing ordinances.	Restaurant
Temporary Land Use Ordinances - compelling public interest - vested rights	17	Uinta Academy LC	Cache County	None	6/28/2007	With regard to vested rights, if a compelling public interest is served by a denial or if the application does not conform to the existing ordinances there does not need to be a pending or temporary regulation under consideration to justify denial. A pending ordinance may be in effect whether the proposed ordinance is a temporary ordinance or not. A temporary ordinance may prohibit group homes if it does not unduly discriminate. In this case, the 71 day time taken to consider the application was not unreasonable. A letter from the zoning administrator may be appealed as it is a land use decision.	Group Home

Temporary Land Use Ordinances - compelling public interest - vested rights	233	Haviland	Trenton Town	None	12/3/2020	Applicant's sketch plan is vested. Temporary ordinance is not valid as it is not supported by a compelling public interest. Limit on water hookups may be valid if it is an enacted ordinance but not if it is simply town policy.	Subdivision
Temporary Land Use Ordinances - compelling public interest - vested rights	234	Lapray	Trenton Town	None	12/3/2020	Applicant's sketch plan is vested. Temporary ordinance is not valid as it is not supported by a compelling public interest. Limit on water hookups may be valid if it is an enacted ordinance but not if it is simply town policy.	Subdivision
Temporary Land Use Ordinances - corridor preservation	6	Brown	West Valley City	None	9/5/2006	A temporary land use ordinance may be imposed during the review time for proposed transportation corridor planning as provided in state law. During the period of the temporary ordinance land use applications need not be processed.	Subdivision
Temporary Land Use Regulation - compelling public interest - solar panels	238	Davis	Ephraim City	None	4/16/2021	City denied application for solar panels during moratorium/temporary regulation period. There was no compelling public interest justifying a temporary regulation	Solar Panels
Ten Year Ordinance Vesting	254	None	Ivins City	None	4/13/2022	Absent a development agreement providing otherwise, a subdivision application does not vest future building permit applications in the regulations in place when the subdivision application was filed. Building permit applications vest only when the permit applications are filed. CC&Rs are not normally taken into account in approving a land use application. State Statute vesting subdivisions approved for ten years in then-current land use regulations applies narrowly to subdivisions approved during a specific one year period.	Subdivision
Time/Price Differential	71	Florence	South Ogden City	None	6/30/2009	An impact fee may only recover the city's cost of facilities provided, not the current replacement cost. The city must consider the time/price differential inherent in fair considerations of amounts paid at different times.	Restaurant
Tolling - appeal period	107	United Park City Mines	Park City	None	10/27/2011	The duty to complete a required condition should be tolled during an appeal period unless it is simply an excuse for inactivity by a developer	Subdivision

Trails - exactions	47	Grotegut	Spanish Fork City	None	7/29/2008	Where PUD had two owners, entire project demand and benefit may be used to calculate proportionality of trail and storm water exactions, not just the part of the PUD owned by one owner. Parcel owner not entitled to lot split if applicable ordinances do not allow street access for second lot.	Subdivision
Trails - exactions - public use	148	Peterson	Hooper City	None	11/21/2014	While setback requirements can be valid to promote public welfare if reasonable a requirement to dedicate land within the setback for public open space or trails is an exaction that must meet requirements for an exaction.	Subdivision
Trails - exactions - public use	199	Cronquist	Nibley City	None	7/17/2018	Half with street deemed roughly proportionate and therefore legal exaction although proposed subdivision abuts street but has no access to it. Trail dedication also a legal exaction because new residents of the subdivision will use the trail and other recreational facilities of the city.	Subdivision
Transportation Impact Fees - burden to challenge	73	Waxie Enterprises	Salt Lake City	None	8/31/2009	Person appealing impact fees must present reasoned studies and analysis showing actual impact of development and what fees should be.	Warehouse/Office
Transportation Impact Fees - burden to challenge	167	Price/Bangerter Distribution	Salt Lake City	None	4/22/2016	Where entity paying impact fees does not meet its burden to demonstrate the the fees are not proportionate or legal, a refund of any part of the fee cannot be required.	Commercial Development
Two Lot Subdivision - road improvements - exactions - proportionality	66	Harper	South Jordan City	None	4/7/2009	Street improvements may be required for a two lot subdivision but must be proportionate. The calculation of individualized impact may use generalized studies of impacts and costs but must be based on reliable information and not speculative data or non-economic factors personal to the property owner.	Two Lot Subdivision
Unrecorded Plat - invalidity	50	Hazen	Perry City	None	9/15/2008	An approved plat amendment that the city did not record is not valid. Owner of lot supposedly affected by amendment was entitled to reply on previous recorded plat. Realignment of road that makes a lot unbuildable can only be done with compensation to property owner.	Subdivision
Unrelated occupants - nonconforming use	57	Perry	Ogden City	None	11/24/2008	A city may amortize nonconforming uses. Rental to more unrelated individuals in a single residence may be established as a nonconforming use and may be amortized over a reasonable period of time so the property owner can recover any investment in the use. If amortization is required, it must be made available to all affected property owners. That availability may not be arbitrarily cut off by the city by imposing a date afterwhich the nonconformity is terminated without the opportunity to amortize.	Student Rental - Duplex

Utility Connections	86	Peterson Development	West Jordan City	None	5/10/2010	An AO can be written to address an issue of interpretation of subdivision conditions after the subdivision is approved. A local government can select a connection point for public utilities so long as that selection is rationally based and reasonably acceptable. Local governments may use eminent domain for sewer systems.	Subdivision
Utility Easements - private lane	82	Lee	Springdale Town	Unknown	1/19/2010	Designation of a private lane for emergency access and maintenance of public utilities in the lane is appropriate. Others may access public utilities in the private lane.	Private Road
Vacation of Street	166	Les Olson Company	South Salt Lake City	Stillman	1/15/2016	Vaction of a street requires strict compliance with the relevant laws. It was illegal to vacate half a street to the abutting landowner under the city ordinances. City must vacate entire street width.	Commercial Development
Variance - flag lot	69	Cox	Willard City	None	5/18/2009	Existing flag lot may be nonconforming but is legal and may be the subject of a variance.	Single Family Lot
Variance - run with land	130	Creveling	Park City	None	9/27/2013	Vested rights arise only when a land use application conforms to local land use ordinances. If the application is denied and that denial is not appealed, no vested rights exist. Variances run with land and survive denial of application.	Single Family Home
Vested Rights - access to lot	70	Rasmussen	Carbon County	None	6/30/2009	County can require proof of permanent access to lot before allowing a building permit. County may consider 30 year lease of access rights to be inadequate. Difficulty in proving access rights across state and federal lands does not make county requirement illegal.	Single Family Lot
Vested Rights - access to public road	56	Dudley	Salem City	None	11/18/2008	If a property owner does not provide proof that a lot has a legal and permanent right of access to a public street, a building permit may be denied. This is so even though the city has expressed an interest in acquiring the property and to deny the permit reduces its appraised value	Single Family Lot
Vested Rights - accessory building - on proposed lot without primary structure	122	McKee	Logan City	None	4/11/2013	A small subdivision would isolate an accessory building on a separate lot. The code prohibits accessory buildings without a primary structure. The City may refuse to approve the subdivision until the accessory building is changed to qualify as a primary residence. The application for subdivision is not entitled to approval although it meets all the requirements for a subdivision.	Subdivision - Small

Vested Rights - appeal - duty to complete required addition tolled during	107	United Park City Mines	Park City	None	10/27/2011	The duty to complete a required condition should be tolled during an appeal period unless it is simply an excuse for inactivity by a developer	Subdivision
Vested Rights - appeal - failure to appeal denied application - single family	130	Creveling	Park City	None	9/27/2013	Vested rights arise only when a land use application conforms to local land use ordinances. If the application is denied and that denial is not appealed, no vested rights exist. Variances run with land and survive denial of application.	Single Family Home
Vested Rights - Building Permit	254	None	Ivins City	None	4/13/2022	Absent a development agreement providing otherwise, a subdivision application does not vest future building permit applications in the regulations in place when the subdivision application was filed. Building permit applications vest only when the permit applications are filed. CC&Rs are not normally taken into account in approving a land use application. State Statute vesting subdivisions approved for ten years in then-current land use regulations applies narrowly to subdivisions approved during a specific one year period.	Subdivision
Vested Rights - canal easement - subdivision	36	Loafer Rim Properties LC	Salem City	None	4/8/2008	Where the BOR claims a 200 foot wide easement along a canal that claim may be excessive and require just compensation but the city has a compelling public interest in not approving a proposed subdivision until the nature of the easement is resolved.	Subdivision
Vested Rights - CC&Rs - private condition - single family home	109	Mount	Summit Co	None	12/6/2011	See also AO 126. A declaration of covenants is a private contract and does not control local zoning regulation. Mere ownership is not sufficient expense to constitute zoning estoppel.	Single Family Home
Vested Rights - compelling public interest - building within building pad shown on vested subdivision plat	78	Martino	Salt Lake County	None	11/24/2009	A lot owner has a vested right to building within the building pad area designated on an approved subdivision plat. The county's legitimate interest in protecting hillsides and ridgelines can only restrict such building with the showing of a compelling public interest beyond protecting hillsides and ridgelines. The justification must be a threat to public health and safety.	Single Family Lot
Vested Rights - compelling public interest - compliance with ordinance - subdivision	28	North Salt Lake Heights LLC	North Salt Lake City	Lakeview Rock Products	1/23/2008	At the preliminary approval phase of development review the City should not deny the application because of the presence of an unused fifty foot wide access easement that conflicts with the proposed plan. Resolution of the easement issue could be made a condition for final approval. No compelling public interest is found since the issue does not require an amendment to the ordinances.	Subdivision

Vested Rights - compelling public interest - development across street	33	Danville Land Investments LLC	Draper City	None	3/12/2008	After project applications vested, City could not change requirements to prohibit development on both sides of a street to protect views and public access. These are not compelling public interests. 30 day period to deem an application incomplete passed - application is therefore deemed complete.	Subdivision
Vested Rights - compelling public interest - geologic issue	2	Parks	Riverdale City	None	7/11/2006	An application for hillside development is entitled to approval, despite misgivings by staff and neighbors, if the only substantial evidence related to geologic issues is by applicant's expert which deems the proposed subdivision safe. If there is a compelling public interest which is relied upon for a denial it must be identified with substantial evidence to support the denial. The city must either provide expert evidence contrary to that provided by the applicant or provide a means to resolve the compelling public interest.	PUD
Vested Rights - compelling public interest - pending ordinance - group home	17	Uinta Academy LC	Cache County	None	6/28/2007	With regard to vested rights, if a compelling public interest is served by a denial or if the application does not conform to the existing ordinances there does not need to be a pending or temporary regulation under consideration to justify denial. A pending ordinance may be in effect whether the proposed ordinance is a temporary ordinance or not. A temporary ordinance may prohibit group homes if it does not unduly discriminate. In this case, the 71 day time taken to consider the application was not unreasonable. A letter from the zoning administrator may be appealed as it is a land use decision.	Group Home
Vested Rights - compelling public interest - political preferences - restaurant	14	Moyal, MBI	Ogden City	None	4/16/2007	The preference for one zoning district over another by a subsequent city council does not constitute a compelling public interest sufficient to support a temporary zoning ordinance. An application for a restaurant is vested and must be considered under the existing ordinances.	Restaurant
Vested Rights - complete application	203	HF Holdings Inc	Castle Valley Town	None	11/8/2018	An application is complete when the proper documents have been submitted. The application is complete even if the content of the forms does not entitle the application to approval.	Solar Permit
Vested Rights - complete application - home remodel	88	Woodside Development LLC	Park City	Meadows	7/14/2010	As a potentially aggrieved person, a neighbor can request an AO. There is no vesting to an incomplete application. Significant errors in the application can render it incomplete and thus not vested. An appeal authority need not hear an appeal on an application that is withdrawn.	Home Remodel

Vested Rights - complete application vests even if not reviewed for completeness	240	White	Tooele County	None	6/10/2021	Failure to conduct a required preapplication conference does not waive vested right to approval of application if it complies with the ordinances. These third party appeals do not establish required adverse effects or error. An application, if complete, vests whether or not it is reviewed for completeness. Nothing in the record indicates a formal consideration of a pending ordinance. Relates to AO 222 also requested by White.	PUD
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