

BERRY.



The Utah Land Use Institute

Regulation Topical Series: Vested Rights

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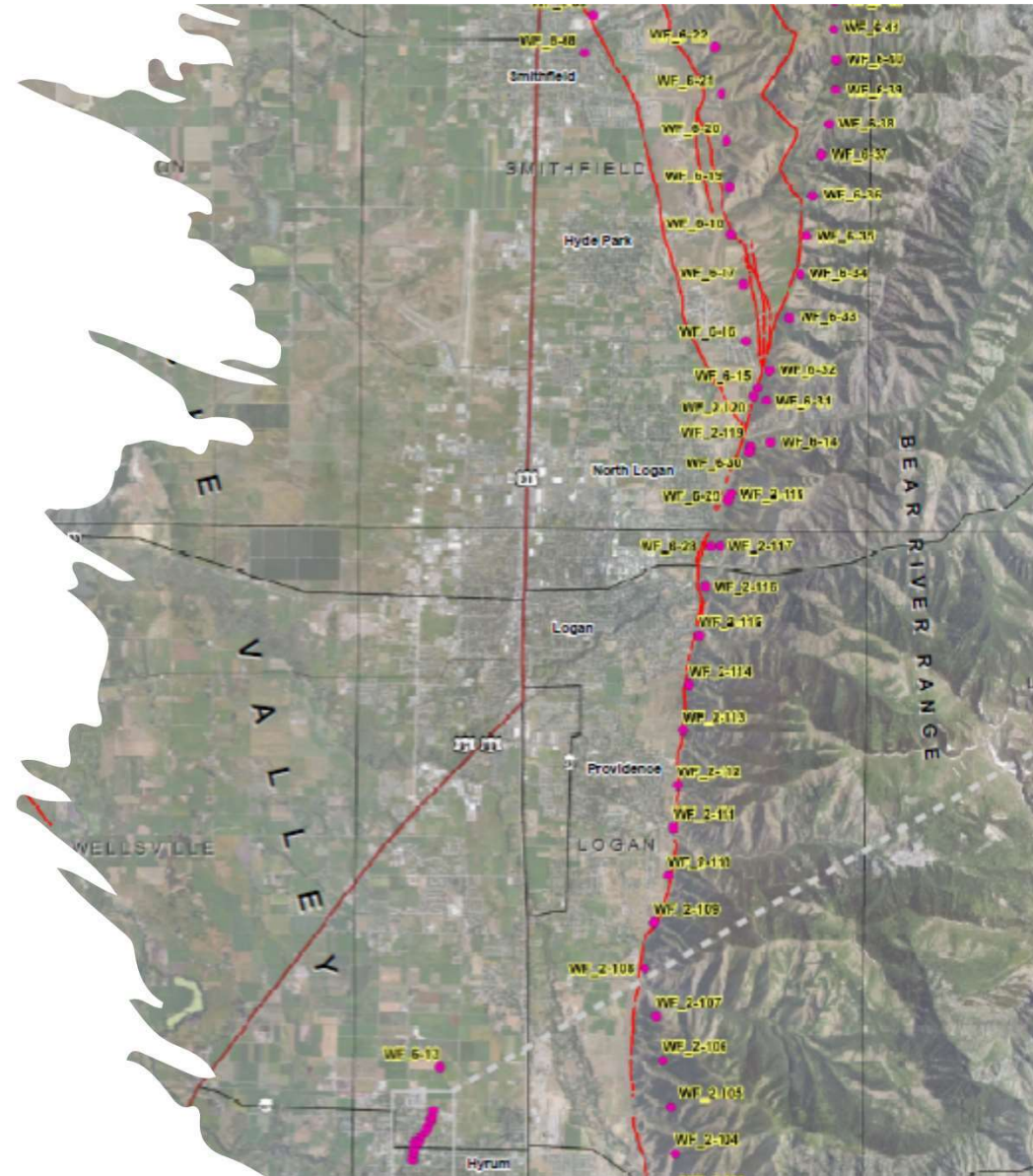


OUTLINE

- 1** | Steps & Nature of Vested Rights
- 2** | Exceptions
- 3** | Zoning Estoppel



*W. Land Equities, Inc.
v. City of Logan,*
617 P.2d 388, 396 (Utah 1980)





WHAT ARE VESTED RIGHTS?

A property owner should be able to plan for developing his property in a manner permitted by existing zoning regulations with some degree of assurance that the basic ground rules will not be changed in midstream An applicant for approval of a planned and permitted use should not be subject to shifting policies that do not reflect serious public concerns.

W. Land Equities, Inc. v. City of Logan, 617 P.2d 388, 396 (Utah 1980)



WHAT ARE VESTED RIGHTS?

An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations in effect on the date that the application is complete and applicable to the application or to the information shown on the submitted application.

Utah Code § 17-27a-508(1)(a)(i) and § 10-9a-509(1)(a)(i)





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STEPS

- (1) Complete Application
- (2) Conformance
- (3) Reasonable Diligence





STEPS: Application

- Correct form
- All required information
- Fees paid

Note: Land-use authority timely review





STEPS: Conformance

- Meets requirements of land use regulations, decision, and development standards at time of submission.

Stated simply, the City cannot “change the rules halfway through the game.”

Springville Citizens for a Better Cmty. v. City of Springville, 1999 UT 25, 979 P.2d 332

- No “placeholders”
- Rights of referendum





STEPS: Diligence

We have uncovered no authority that suggests a property owner has a vested property right in a contemplated development or subdivision. Moreover, the [plaintiffs'] argument, taken to its logical conclusion, would allow property owners who fail to act for many years on a granted variance to frustrate a city's ability to update its land use regulations.

Spencer v. Pleasant View City, 2003 UT App 379, 80 P.3d 546





2 |

EXCEPTIONS

- (1) Compelling Public Interest
- (2) Pending Legislation





EXCEPTIONS: Public Interest

- Fundamental, seriously threatening public health, safety, or welfare.
- Run-of-the-mill land use issues don't qualify
- Extraordinary circumstances
- Specified interest in writing





EXCEPTIONS: Pending Legislation

- Contrary legislation
- Process started before application submission
- Denial not mandatory
- Must be an actual law – not just a concept
- Potential effect of citizen initiative





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ZONING ESTOPPEL

- (1) Clear, Definite, Affirmative Act
- (2) Reasonable, Good Faith Reliance
- (3) Substantial Change in Position





THANK YOU!

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