

ACCESS TO LANDLOCKED PARCELS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark W. Walker

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This bill modifies a provision relating to the Office of the Property Rights Ombudsman.

Highlighted Provisions:

This bill:

- modifies the duties of the Office of the Property Rights Ombudsman to include advising the owners of landlocked property.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-43-203, as enacted by Laws of Utah 2006, Chapter 258

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-43-203 is amended to read:

13-43-203. Office of the Property Rights Ombudsman -- Duties.

(1) The Office of the Property Rights Ombudsman shall:

- (a) develop and maintain expertise in and understanding of takings, eminent domain, and land use law;

- (b) assist state agencies and local governments in developing the guidelines required by Title 63, Chapter 90a, Constitutional Taking Issues;

30 (c) at the request of a state agency or local government, assist the state agency or local
31 government, in analyzing actions with potential takings implications or other land use issues;

32 (d) advise real property owners who:

33 (i) have a legitimate potential or actual takings claim against a state or local government
34 entity or have questions about takings, eminent domain, and land use law; or

35 (ii) own a parcel of property that is landlocked, as to the owner's rights and options
36 with respect to obtaining access to a public street;

37 (e) identify state or local government actions that have potential takings implications
38 and, if appropriate, advise those state or local government entities about those implications; and

39 (f) provide information to private citizens, civic groups, government entities, and other
40 interested parties about takings, eminent domain, and land use law and their rights and
41 responsibilities under the takings, eminent domain, or land use laws through seminars and
42 publications, and by other appropriate means.

43 (2) The Office of the Property Rights Ombudsman may not represent private property
44 owners, state agencies, or local governments in court or in adjudicative proceedings under Title
45 63, Chapter 46b, Administrative Procedures Act.

46 (3) No member of the Office of the Property Rights Ombudsman nor a neutral third
47 party rendering an advisory opinion under Section 13-43-205 or 13-43-206, may be compelled
48 to testify in a civil action filed concerning the subject matter of any review, mediation, or
49 arbitration by, or arranged through, the office.

50 (4) (a) Except as provided in Subsection (4)(b), evidence of a review by the Office of
51 the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the
52 Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action.

53 (b) Subsection (4)(a) does not apply to:

54 (i) actions brought under authority of Title 78, Chapter 6, Small Claims Courts;

55 (ii) a judicial confirmation or review of the arbitration itself as authorized in Title 78,
56 Chapter 31a, Utah Uniform Arbitration Act;

57 (iii) actions for de novo review of an arbitration award or issue brought under the

58 authority of Subsection 13-43-204(3)(a)(i); or

59 (iv) advisory opinions provided for in Sections 13-43-205 and 13-43-206.