

PROPERTY RIGHTS OMBUDSMAN AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Property Rights Ombudsman Act.

Highlighted Provisions:

This bill:

▶ clarifies that a party who prevails in court on an issue that the Office of Property Rights Ombudsman previously decided in the party's favor is entitled to an award of attorney fees;

▶ provides that the party described above ~~H→~~ **[is entitled to] may be entitled to a civil penalty and ←H** consequential damages; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-43-206, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

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

Section 1. Section **13-43-206** is amended to read:

13-43-206. Advisory opinion -- Process.



59 time to render an opinion, which may not exceed 30 calendar days.

60 (9) An advisory opinion shall include a statement of the facts and law supporting the
61 opinion's conclusions.

62 (10) (a) Copies of any advisory opinion issued by the Office of the Property Rights
63 Ombudsman shall be delivered as soon as practicable to all necessary parties.

64 (b) A copy of the advisory opinion shall be delivered to the government entity in the
65 manner provided for in Section 63G-7-401.

66 (11) An advisory opinion issued by the Office of the Property Rights Ombudsman is
67 not binding on any party to, nor admissible as evidence in, a dispute involving land use law
68 except as provided in Subsection (12).

69 (12) Subject to Subsection (13), if the Office of the Property Rights Ombudsman issues
70 an advisory opinion described in this section, and if the same issue that is the subject of the
71 advisory opinion is subsequently litigated in court on a cause of action alleging the same facts
72 and circumstances that are at issue in the advisory opinion, and if the court resolves the issue
73 consistent with the advisory opinion, the court ~~H→~~ **[shall award the substantially prevailing party]**

73a ~~←H~~ :

74 (a) ~~H→~~ **shall award the substantially prevailing party:**

74a **(i) ←H reasonable attorney fees and court costs pertaining to the development of the cause**
75 **of action from the date the Office of the Property Rights Ombudsman delivers the advisory**
76 **opinion to the date of the court's resolution; ~~H→~~ and ←H**

77 ~~H→~~ **[(b) consequential damages; and**

78 ~~←H~~ **(c) (ii) ←H if the court finds that the opposing party knowingly and intentionally violated**
78a **the**

79 **law governing the cause of action, a civil penalty of \$250 per day ~~H→~~ [:] ; and**

79a **(b) may award the substantially prevailing party consequential damages. ←H**

80 ~~[(12) Subject to Subsection (13), if a dispute involving land use law results in the~~
81 ~~issuance of an advisory opinion described in this section, if the same issue that is the subject of~~
82 ~~the advisory opinion is subsequently litigated on the same facts and circumstances at issue in~~
83 ~~the advisory opinion, and if the relevant issue is resolved consistent with the advisory opinion,~~
84 ~~the substantially prevailing party on that cause of action may collect:]~~

85 ~~[(a) reasonable attorney fees and court costs pertaining to the development of that~~
86 ~~cause of action from the date of the delivery of the advisory opinion to the date of the court's~~
87 ~~resolution; and]~~

88 ~~[(b) subject to Subsection (13), if the court finds that the opposing party knowingly and~~
89 ~~intentionally violated the law governing that cause of action, a civil penalty of \$250 per day:]~~