

Dixie Springs ACC August 2023 Newsletter

False Election

The following information is from the ACC attorney:

A group of anonymous owners has put up signs and posted a website and on Facebook that an ACC election will be held on September 23, 2023. This election, however, is not being conducted by the ACC. We encourage the owners in Dixie Springs not to participate in it.

Now that Amendment 5 has been rejected and invalidated by a court, this anonymous group of owners is apparently trying to challenge the ACC a different way, by forming a rouge architectural control committee. These owners argue that the Dixie Springs Architectural Control Committee, Inc. (DSACC Inc.), which is a Utah nonprofit corporation and has functioned as the ACC since 2015, is not valid because the CC&Rs do not explicitly refer to the ACC as a nonprofit corporation. But this argument ignores the facts.

The Dixie Springs CC&Rs gave the developer of Dixie Springs (Dixie Springs, Inc.) “the right to appoint members of the architectural control committee” until the developer had sold 90% of the lots in Dixie Springs. The CC&Rs say that after that, the owners “shall elect and appoint members of the Architectural Control Committee.” The CC&Rs don’t prohibit members of the ACC from incorporating (forming a nonprofit corporation), nor do the CC&Rs condition the validity of the ACC on staying unincorporated. This means nothing in the CC&Rs prohibited the members of the ACC from incorporating in 2015 as the DSACC Inc. and nothing in the CC&Rs prohibited subsequent members of the ACC from conducting ACC business as the DSACC Inc. Considering all this, it is no surprise that last year, a court recognized the DSACC Inc. as the ACC referred to in the Dixie Springs CC&Rs.

It only makes sense that the members of the ACC incorporated and continue to conduct ACC business as a nonprofit corporation. The statues in Utah for nonprofit corporations were enacted to encourage people to serve as board members of nonprofit corporations by decreasing their exposure to personal liability for their decisions as board members. *Reedeker v. Salisbury*, 952 P.2d 577, 588–89 (Utah Ct. App. 1998).

The real ACC, which is the DSACC, Inc., will be holding an ACC election soon, but it will notify all owners of the election by mail.

Dixie Springs ACC Election

The Dixie Springs ACC has delayed the election until Amendment 5 has been removed from our lots. Now that the judge has ordered that amendment 5 be removed retroactively, which means it never existed, the ACC can go forward with plans for an election.

The ACC will be sending proper notice to all lot owners with the election process and schedule, including the nomination process. You will see this information in your mail.

Room Rentals

Utah House Bill 82 modifies provisions related to single-family housing. The Bill addresses the regulation of internal accessory units. These are defined as an accessory dwelling unit within a primary dwelling, for the purpose of offering long term rental of 30 consecutive days or longer, and is occupied as the primary

residence of the owner of record. The Bill states that the rental of accessory dwelling units should be permitted, in most cases.

The Dixie Springs ACC therefore allows the rental of accessory dwelling units.

The current violations are for the rental of external buildings and for renting for less than 30 days. The ACC is complying with HB 82.

Dixie Springs ACC

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