

Utah Municipal Attorneys' Association  
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## RECENT JUDICIAL DECISIONS AND RECURRING ISSUES OF INTEREST IN THE AREA OF LAND USE, ZONING AND EMINENT DOMAIN

Jody K Burnett  
WILLIAMS & HUNT  
257 East 200 South, Suite 500  
P. O. Box 45678  
Salt Lake City, UT 84145  
Telephone: (801) 521-5678  
Email: [jburnett@williamsandhunt.com](mailto:jburnett@williamsandhunt.com)

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### I. FEDERAL TAKINGS JURISPRUDENCE

- See Koontz v. St. Johns River Water Mgmt. Dist., 133 S. Ct. 2586 (2013).
- Extending the essential nexus/rough proportionality test to monetary payments and exactions involving other property.
- Query: Potential impact on future ad hoc land use decisions?
- With respect to wetlands, see Utah Code Ann. § 10-9a-521.
- For a good discussion about the implications of the Koontz case, see Michael T. Kamprath, A Look at Koontz v. St. Johns River Water Management District, in 45 Urban Lawyer 4, 953-970 (Fall 2013); see id., Robert H. Frelich, et al., How Local Governments Can Resolve Koontz's Prohibitions on Ad Hoc Land Use Restrictions, at 971-989.

### II. THE STATUS OF ABANDONED RAILROAD RIGHT-OF-WAYS: SIGNALING THE END OF RAILS TO TRAILS PROGRAMS AS WE HAVE KNOWN THEM?

- See Brandt Trust v. United States, 134 S. Ct. 1257 (2014).

### III. EMINENT DOMAIN ISSUES.

- A. Properly laying the groundwork for the timely initiation of eminent domain proceedings. See H.B. 25.
- B. What is a “more necessary public use” under Utah Code Ann. § 78B-6-504(1)(d)?
  - See Schroeder Invs. v. Edwards, 2013 UT 25.

### IV. OTHER UTAH LAND USE DECISIONS OF INTEREST.

- A. Olsen v. Park City Mun. Corp., 2013 UT App. 262, 315 P.3d 1055 (Utah App. 2013). When does the thirty day limitations period run for the purpose of challenging a local enactment under Utah Code Ann. § 10-9a-801(5)?
- B. Powder Run at Deer Valley Owner Ass’n. v. Black Diamond Lodge at Deer Valley Ass’n. of Unit Owners, 2014 UT App. 43, 320 P.3d 1076 (Utah App. 2014). Acceptance of easement as a land use decision that must be challenged within thirty days under Utah Code Ann. § 10-9a-801(2)(a).
- C. Hatch v. Kane County Bd. of Adjustment, 2013 UT App. 119, 302 P.3d 146, 148 (UT App. 2013), cert. denied, 308 P.3d 536 (Utah 2013). A somewhat fact specific treatment of improper subdivision as the basis for denial of a building permit.