

Utah Municipal Attorneys' Association
2016 Spring Conference
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**RECENT JUDICIAL DECISIONS AND RECURRING ISSUES
OF INTEREST IN THE AREA OF LAND USE, ZONING AND
EMINENT DOMAIN**

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I. REVISITING SOME ISSUES OF RENEWED RECENT INTEREST

- A. Short-term rentals (Airbnb?)
Brown v. Sandy City Bd. of Adjustment, 957 P.2d. 207 Utah Ct. App. (1998).
HB 409.
- B. Authority and purpose of local appropriations and property disposition.
Price v. Orem City, 995 P.2d. 1237 (Utah 2000).
Toone v. Weber Co., 57 P.3d 1079 (Utah 2002).
Utah Code Ann. § 10-8-2(3) & (4).
- C. Regulation and licensing of “Sober Living Facilities” or “Recovery Residences.”
See changes in Utah Code Ann. §§ 62A-2-101, *et seq.*
By H.B. 259.
Andersen v. State of Utah, case pending in federal district court.
- D. Land Use Authorities and Appeal Authorities.
- E. Development Agreements.

II. FIRST AMENDMENT CHALLENGES TO SIGN ORDINANCES.

Increased level of scrutiny of content based distinctions between different types of non-commercial signage. *See Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015).

III. IMPACT FEES

Must the level of service for capital facilities for water be based on actual daily usage or will the courts defer to local legislative determinations with respect to the level of service? *See Washington Townhomes LLC, et al. v. Washington County Water Conservancy District*, Case No. 20150258-SC, awaiting decision after oral argument on May 4, 2016.

IV. EMINENT DOMAIN PROCEDURES FOR LOCAL GOVERNMENTS

- A. Be mindful of conditions precedent to the authorization and filing of eminent domain actions. *See Utah Code Ann. § 78B-6-504 & 505.*
- B. *Salt Lake City Corp. v. Evans Development Corp.*, 2016 UT 15. The condemning authority must maintain sufficient control over the project so that it is ultimately responsible for the construction of the public use.

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