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IN THE FIFTH JUDICIAL DISTRICT
IN AND FOR WASHINGTON COUNTY, STATE OF UTAH

Richard E. Frost; Steve R. Brazell; and Michael Major, individual lot owners in The Ledges, Plaintiffs, v. The Ledges of St. George Master Owners Association, Inc., a Utah nonprofit corporation; Valderra Development, LLC; an administratively dissolved Utah limited liability company; Valderra Development, LLC, a Utah limited liability company; Valderra Land Holdings, LLC, a Utah limited liability company; Charlene Huber; Christina Moore; Lynn Padan; and Jared Hanson. Defendants.	**EX-PARTE MOTION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, AND IMMEDIATE RECORDS-COMPLIANCE RELIEF** Case No.: 260500300 Judge: Keith Barnes

Plaintiffs Richard E. Frost, Steve R. Brazell, and Michael Major (collectively "Plaintiffs"), by and through the undersigned counsel, and pursuant to Utah R. Civ. P. 65A, hereby respectfully submit this *Ex Parte* Motion for Temporary Restraining Order, Preliminary Injunction, and Immediate Records-Compliance Relief ("Motion"), seeking to enjoin Defendants The Ledges of St. George Master Owners Association, Inc., (the "Association"), Valderra Development, LLC

("Valderra Development I"), an administratively dissolved limited liability company, Valderra Development, LLC ("Valderra Development II"), a Utah limited liability company, Valderra Land Holdings, LLC ("Valderra Holdings"), a Utah limited liability company, Charlene Huber ("Huber"), Christina Moore ("Moore") , Lynn Padan ("Padan"), and Jared Hanson ("Hanson"). In support thereof, Plaintiffs state as follows.

INTRODUCTION AND RELIEF REQUESTED

The Ledges at St. George ("The Ledges") is a master planned community located in Washington County, Utah. The Ledges is under declarant control. After being wrongfully subjected to declarant control for several years, Plaintiffs, as individual residents of the Ledges, brought this action seeking declaratory relief, injunctive relief, governing-document enforcement, records access, open-meeting compliance, declarant-control duties, and equitable accounting.

Plaintiffs seek immediate emergency relief to prevent the imminent and irreversible depletion of Association funds. Within days, on April 17, 2026, the Association intends to proceed with a costly, non-emergency project involving a surface-level treatment. The Association previously performed similar asphalt maintenance work in approximately 2021 at a cost of approximately $136,000. *See* Statement of Material Facts ("SMF"), ¶ 39. Given the similarity of the proposed work and current market conditions, the present project is reasonably expected to involve a substantial expenditure of Association funds. Despite the absence of any safety or structural need and without providing homeowners the basic financial and project information required by law, Defendants intend to proceed immediately. Once these funds are expended, they cannot be recovered, and the Association's limited reserves, already below fully funded level, will be materially impaired, leaving homeowners exposed to increased financial risk for future necessary repairs. Without immediate intervention, Defendants will irreversibly alter the status quo and render any subsequent relief meaningless.

Plaintiffs have and will continue to suffer irreparable harm. Injunctive relief is appropriate given the circumstances. Plaintiffs are not asking the Court to take over the Association's ordinary operations. Rather, Plaintiffs ask the Court to preserve the status quo while this dispute is adjudicated, by stopping a discrete category of disputed spending, preserving evidence, compelling compliance with the owner-records statute, and preventing new governance changes that could deepen the challenged structure.

Therefore, to preserve the status quo of current Association funds, Plaintiffs are requesting immediate relief from the Court as follows:

a. Restrain the Defendants from authorizing, approving, and/or allowing a surface treatment project to be performed on community roadways as scheduled to occur on or about April 17, 2026;

b. Restrain the Defendants from authorizing, approving, paying, or reimbursing any company or individual to perform an asphalt maintenance project as scheduled to occur on April 17, 2026;

c. Restrain Defendants from authorizing, approving, paying, or reimbursing any non-budgeted expenses, including capital expenditures not approved by Association members.

d. Restrain Defendants from authorizing, approving, paying, or reimbursing any legal fees or litigation expenses from Association funds for legal work concerning the ownership, control, use, registration, licensing, enforcement, or defense of "The

Ledges" name, trademark, trade name, brand, or related commercial-identification rights.

e. Restrain Defendants from authorizing, approving, paying, or reimbursing any legal fees or litigation expenses to the extent that such work primarily benefits the Declarant's or an affiliate's private commercial interests rather than a distinct and legitimate Association purpose;

f. Restrain Defendants from using Association funds to pay or reimburse legal fees or litigation expenses incurred in defense of this action to the extent such expenses primarily benefit the Declarant, individual Board members, or other non-Association interests, or relate to claims alleging misuse of Association funds, breach of fiduciary duty, or other improper conduct.

g. Require the Association and all Defendants to preserve all paper and electronic documents, invoices, billing records, ledgers, emails, texts, board materials, contracts, and communications relating to the challenged trademark/branding dispute, the challenged legal expenditures, and the challenged governance amendments, approvals, or board actions;

h. Require the Association to immediately comply with Utah Code § 57-8a-227 by producing the records identified in Plaintiffs' written records requests and notices as identified in the supporting Declarations and the Verified Complaint;

i. Require the Association to provide, within 10 days, all documents related to the asphalt maintenance project, which is scheduled to begin April 17, 2026, including documentation evidencing the total anticipated costs, the project specifications and details, the Association's efforts to obtain additional, competitive estimates/bids for the asphalt maintenance project, whether alternatives were considered, and how the Association plans to pay for the asphalt maintenance project;

j. Require the Association to provide, within 10 days, an interim accounting identifying each payment made from Association funds for legal work, each payee, each invoice date and amount, the matter description used internally or by counsel, and the board action or authorization relied on for each payment; and

k. Restrain Defendants from adopting, recording, implementing, or enforcing any new amendment or governance change that alters voting rights, board composition, or declarant approval rights pending the preliminary-injunction hearing and further order of the Court.

These requests require immediate Court intervention because of the actions taken by Defendants even after this lawsuit was filed.

STATEMENT OF MATERIAL FACTS

The Ledges and Its Continued Declarant Control

1. The Ledges is a master planned community in Washington County, Utah. Declaration of Steve R. Brazell ("Brazell Decl."), ¶ 3; Declaration of Michael Major ("Major Decl."), ¶ 3; Declaration of Russell J. Mauer ("Mauer Decl."), ¶ 3.

2. Plaintiffs reside in the Ledges, and are members of, the Association. Brazell Decl. ¶ 3; Major Decl. ¶ 3; Verif. Compl. ¶¶ 6-8.

3. The Ledges was developed by one or more declarants that recorded governing documents establishing the Association. Brazell Decl. ¶ 7.

4. The governing documents include a declaration of covenants, conditions, and restrictions, bylaws, and related governance instruments. *Id*.

5. During the development phase, the governing documents reserved certain declarant rights and powers. Declaration of Kevin Allen ("Allen Decl.), at ¶¶ 3, 10, Ex. D-1, D-8, D-10.

6. In or about July 15, 2010, Valderra Development I was assigned the rights to be the Association's first declarant. *Id.* at ¶ 3, Ex. D-1.

7. Over time, homes were sold to individual lot owners, and governance was expected to transition from developer control to owner-accountable governance. Brazell Decl. ¶ 4.

8. The last declarant-controlled sale of property within The Ledges, was sold on or about October 30, 2015. Allen Decl. ¶ 4, Ex. D-2.

9. Valderra Development I was administratively dissolved in June 2018. *Id.* at ¶ 5, Ex. D-3.

10. A new entity named Valderra Development, LLC ("Valderra Development II") was created and registered with the Utah Division of Corporations and Commercial Code, in September 2021. *Id.* at ¶ 6, Ex. D-4.

11. Valderra Development I did not execute an assignment of declarant rights to Valderra Development II. Verif. Compl. ¶ 36; Allen Decl. ¶ 9.

12. As alleged in the Complaint, on information and belief, Valderra Development II assumed control over the Association. Verif. Compl. ¶ 23; Brazell Decl. ¶¶ 7-8.

13. Valderra Development II maintained control over the Association until May 6, 2025. Allen Decl. ¶ 7, Ex. D-5.

2025 Changes to Utah's Community Association Act Related to Prolonged Declarant Control

14. During the 2025 Utah legislative session, HB217 and HB68 were passed and signed into law. *Id.* at ¶ 8.

15. HB86 was sponsored by Rep. Walter Brooks and was directed to helping homeowners trapped in situations where declarant control continued long after they ceased to own or offer property for sale and directly impacted Utah Code § 57-8a-502. *Id.*

16. Effective May 7, 2025, Utah Code § 57-8a-502 states:

> (1) Unless otherwise provided for in a declaration and subject to Subsection (2), a period of administrative control terminates 60 days after the day on which 80% of the lots that may be created in the association are conveyed to lot owners other than a declarant.
>
> (2) Notwithstanding Subsection (1) the period of administrative control terminates no later than the earlier of: (a) the day on which the declarant no longer owns any lot and no longer possesses any development right; or (b) seven years after the day on which a declarant has ceased to offer lots, including lots that may be created, for sale in the ordinary course of business.

Utah Code § 57-8a-502(1), (2); Verif. Compl. ¶ 34.

Defendants' Actions to Usurp The Community Association Act's Protections

17. On or about May 6, 2025, anticipating the effectiveness of Utah Code § 57-8a-502's declarant termination addition, Valderra Development II assigned its declarant rights to Valderra Holdings. Allen Decl. ¶ 7, Ex. D-5.

18. The following documents were also executed on May 6, 2025:

a. May 6, 2025 executed Declaration of Annexation made pursuant to Article 12 of the Amended CC&Rs was executed by Valderra Holdings;

b. May 6, 2025 executed Declaration of Annexation made pursuant to CC&Rs;

c. May 6, 2025 executed Amendment to the Bylaws of the Association;

d. May 6, 2025 execution of Easement to Valderra Holdings;

e. May 6, 2025 executed Amendment and Restatement of the Master Declaration of Covenants, Conditions, and Restrictions of The Ledges;

f. May 6, 2025 executed Declaration of Annexation made pursuant to Article 12 of the Amended CC&Rs was executed by Valderra Holdings; and

g. May 6, 2025 executed and amended Declaration of Annexation made pursuant to Article 12 of the Amended CC&Rs was executed by Valderra Holdings.

Allen Decl. ¶¶ 10(a)-(g), Exs. D-6-D-12.

19. The assignment to Valderra Holdings was recorded with the Washington County Recorder on May 7, 2025. Allen Decl. ¶ 7.

20. The assignment to Valderra Holdings was done without prior notice or input of The Ledges property owners and Association members. Brazell Decl. ¶ 8.

21. Plaintiffs allege that governance actions were taken that preserved, extended, or restored Declarant-aligned influence within the Association. Verif. Compl. ¶ 41; Brazell Decl. ¶¶ 16, 24.

22. Plaintiffs further allege that Association funds derived from homeowner assessments were used to pay legal fees or litigation expenses concerning "The Ledges" name, trademark, branding, or related commercial-identification rights. Verif. Compl. ¶ 42; Brazell Decl. ¶¶ 9-11.

Continued Lack of Association Transparency

23. With growing concerns for the Association's management, Plaintiffs and other homeowners provided Defendants with repeated written notice of the noncompliance underlying this action, including concerns regarding governance practices, unequal enforcement, financial opacity, and the use of Association funds. Mauer Decl. ¶¶ 10-17; Brazell Decl. ¶¶ 17-18.

24. In or about December 2025, homeowners demanded transparency regarding approximately $160,000 in legal expenditures paid from Association funds and objected to the use

of homeowner assessments for such purposes absent adequate disclosure or justification, requesting supporting records and information. Mauer Decl. ¶¶ 7-17.

25. On information and belief, that legal work primarily benefited the Declarant's or affiliates' private commercial interests, not a distinct and legitimate Association purpose. *Id.*; Major Decl. ¶¶ 9-11.

26. In or about February 2026, additional written communications from homeowners questioned and challenged the reasonableness and propriety of Association expenditures, including legal fees and other significant expenses, and again demanded explanation and accountability. Mauer Decl. ¶¶ 10-17.

27. These communications were directed to Association management, Board members, and/or Declarant representatives and provided Defendants with repeated, specific notice of the issues raised in this action, as well as multiple opportunities to investigate, respond, and cure. *Id.*

28. Despite these repeated written notices and demands, Defendants failed to provide adequate responses, failed to produce requested records, and failed to take corrective action, and the challenged conduct has continued. *Id.* at ¶¶ 17-18.

29. Additionally, Plaintiffs sent a written records request to the Association, serving the 10-day notice required by Utah Code § 57-8a-227. Brazell Decl. ¶ 12.

30. Again, the Association's written response was wholly deficient. Brazell Decl. ¶¶ 14-15; Allen Decl. ¶¶ 11-12.

31. At the time of filing, the requested records have not been fully and timely produced, and the challenged expenditures and governance risks remain ongoing. Brazell Decl. ¶¶ 14-15; Allen Decl. ¶¶ 11-12.

Impending Expensive Asphalt Maintenance Expected to Further Dwindle Association Funds

32. In early April 2026, the Association provided written notice to residents, taped to garage doors, regarding planned asphalt maintenance work within The Ledges. Brazell Decl. ¶¶ 21-24. The initial notice advised that roads would be closed on a rolling basis, beginning as early as April 14, 2026, with additional closures scheduled for April 17, April 22, April 24, and April 30, each lasting approximately 24 hours beginning at 7:00 a.m. *Id.* at ¶ 24.

33. The Association subsequently issued a revised schedule confirming that the project would proceed beginning April 17, 2026. *Id.* at ¶¶ 25-27.

34. The proposed work is not full asphalt replacement or structural repair. Instead, it consists of a surface-level asphalt treatment (commonly referred to as HA5 or similar products), designed to seal pavement, reduce oxidation, and extend pavement life. *Id.* at ¶¶ 28-31. This type of work is preventative in nature and is not intended to address structural failure or emergency conditions.

35. On April 14, 2026, just three days before the scheduled commencement of work, Plaintiff Brazell personally inspected the roads and documented their condition. *Id.* at ¶¶ 32-38. The roads showed no potholes, no structural failure, and no safety concerns, and remained smooth and intact. *Id.* at ¶ 35.

36. These conditions are consistent with the Association's own 2021 Reserve Study, which reflects that the asphalt pavement was in generally fair condition, exhibiting normal aging and no advanced deterioration, with remaining useful life extending several years beyond 2021. *Id.* at ¶¶ 41–44.

37. The Association has also performed recent maintenance, including crack sealing in December 2025, which is intended to extend pavement life and delay the need for further treatment. *Id.* at ¶¶ 39-40.

38. Despite this, the Association has elected to proceed immediately with a non-urgent, preventative maintenance project without providing homeowners with basic information regarding cost, scope, competitive bids, or funding. *Id.* at ¶¶ 48–50.

39. The Association previously performed similar asphalt maintenance work in approximately 2021 at a cost of approximately $136,000. *Id.* at ¶¶ 38–40. Based on the similarity of the proposed work and current market conditions, the present project is reasonably expected to involve a substantial expenditure of Association funds.

40. The Association's financial condition further underscores the significance of this expenditure. As of February 28, 2026, the Association reported approximately $730,000 in reserve-related accounts. *Id.* at ¶¶ 46–47.

41. The Association's own Reserve Study reflects that the Association is not fully funded and remains within a range where future special assessments are a recognized risk. *Id.* at ¶¶ 43–45. The Study contemplates careful preservation of reserve funds to address long-term capital needs, including roadway maintenance and other infrastructure obligations.

42. In this context, the decision to proceed with a substantial, non-urgent maintenance expenditure further reduces an already limited reserve cushion intended for future necessary expenditures.

ARGUMENT

Under Rule 65A, a restraining order or preliminary injunction may issue upon a showing that:

1) there is a substantial likelihood the applicant will prevail on the merits of the underlying claim;

2) the applicant will suffer irreparable harm unless relief is issued;

3) the threatened injury outweighs whatever damage the proposed order may cause the restrained party; and

4) The order would not be adverse to the public interest.

Utah R. Civ. P. 65A(f).

Rule 65A also requires security unless the Court finds no party will likely suffer wrongful-restraint damages or some other substantial reason exists to dispense with security. Utah R. Civ. P. 65A(d), (e). Here, for the reasons set forth below, Plaintiffs have shown that they are entitled to the relief and no security is needed. Plaintiffs are merely asking that the status quo be maintained to avoid a meaningless victory after they have prevailed on their claims.

I. Immediate Injunctive Relief is Necessary to Preserve the Status Quo and Prevent Irreparable Harm.

"Courts are empowered to issue preliminary injunctions to prevent 'irreparable harm,'… which is harm that 'cannot be adequately compensated in damages or for which damages cannot be compensable in money,'" *League of Women Voters of Utah v. Utah State Legislative*, 2024 UT 40, ¶ 148, 559 P.3d 11 (citing *Hunsaker v. Kersh*, 1999 UT ¶ 9, 991 P.2d 67). "A preliminary injunction is 'an anticipatory remedy purposed to prevent the perpetration of a threatened wrong or to compel the cessation of a continuing one.'" *Hunsaker*, 1999 UT at ¶ 8 (citing System Concepts v. *Dixon*, 669 P.2d 421, 428 (Utah 1983)). "It further serves to 'preserve the status quo pending the outcome of the case.'" *Id.* (citing *Tri-State Generation & Transmission Ass'n v. Shoshone River Power, Inc.*, 805 F.2d 351, 355 (10th Cir. 1986)).

Immediate injunctive relief is necessary to preserve the status quo and prevent irreparable harm. The harm facing Plaintiffs arises from two distinct but related sources. The first is the imminent and irreversible expenditure of Association funds on a non-urgent asphalt maintenance project scheduled to begin April 17, 2026. The second is the ongoing and opaque use of Association funds for disputed legal expenditures tied to the trademark and branding dispute.

First, the Association is poised to expend substantial funds on a non-emergency, preventative asphalt maintenance project within days. Brazell Decl. ¶ 51. This project is not a structural repair and is not required to address any safety or failure condition. As recently as April 14, 2026, Plaintiff Brazell personally inspected every road in the community and documented their condition with photographs. *Id.* ¶¶ 29–35. The roads were smooth and intact, with no potholes, no structural failures, and no safety hazards requiring immediate action. *Id.* These observations were made just three days before the scheduled start of the project, confirming that the expenditure is discretionary and not urgent.

Once the project begins, Association funds will be immediately and irreversibly expended. Those funds consist of mandatory homeowner assessments and, once paid to contractors, cannot be recovered without additional litigation, and in many cases may never be fully restored. This type of financial harm is not adequately compensable by damages because it alters the Association's financial position in real time and diminishes the pool of funds available for future necessary repairs.

That harm is compounded by the Association's financial position. The Association maintains a finite reserve fund, which its own Reserve Study indicates is not fully funded and is intended to address long-term capital needs. Brazell Decl. ¶¶ 41–47. By proceeding with a non-urgent expenditure now, Defendants reduce the Association's financial capacity and increase the likelihood that future necessary expenditures will require special assessments or deferred maintenance. This constitutes irreparable harm to Plaintiffs as members of the Association.

This case is not about second-guessing routine maintenance decisions. It is about preventing the immediate and irreversible use of homeowner funds for a non-urgent project, under circumstances where those same decision-makers are alleged to have misused Association resources and continue to operate without transparency or accountability.

Second, Plaintiffs face ongoing irreparable harm from the continued use of Association funds for disputed legal expenditures tied to the trademark and branding dispute. These expenditures are not isolated. They are ongoing, lack transparency, and, on information and belief, primarily benefit the Declarant's or affiliated entities' private commercial interests rather than a distinct and legitimate Association purpose. SMF ¶¶ 23–31.

Plaintiffs and other homeowners have repeatedly requested records and information regarding these expenditures, including invoices, authorizations, and the basis for the spending. Despite these requests, Defendants have failed to provide meaningful responses or comply with statutory records obligations. Brazell Decl. ¶¶ 12–15. As a result, Plaintiffs are unable to determine the full scope of past expenditures or whether additional payments are pending.

This lack of transparency is itself a source of irreparable harm. Without access to the required records, Plaintiffs cannot monitor or prevent the continued use of Association funds for disputed purposes. The harm is therefore not limited to past expenditures. It is ongoing and will continue unless restrained by the Court.

Third, Plaintiffs face irreparable harm from the risk that Defendants will use Association funds to finance their own defense in this action. Plaintiffs have asserted claims against the Declarant entities and individual Board members based on alleged misconduct, misuse of Association funds, and breaches of fiduciary duty. Because those same Defendants currently control the Association's bank accounts, there is a substantial risk that they will use mandatory homeowner assessments to fund their own defense in this litigation.

This creates an inherent conflict of interest and threatens immediate and irreparable harm. If Association funds are used to defend conduct that is alleged to be improper or outside the scope of legitimate Association purposes, those funds will be depleted for the personal benefit of Defendants and cannot be recovered in a meaningful way. Absent injunctive relief, Plaintiffs and other homeowners will be forced to finance both sides of this litigation without consent or oversight.

Together, these harms demonstrate the need for immediate relief. Absent an injunction, Defendants will both irreversibly expend Association funds on a non-urgent project and continue to use those funds for disputed purposes without transparency or accountability. Once these actions occur, the status quo cannot be restored.

II. The Balance of Harms Weighs in Plaintiffs' Favor.

The requested relief is narrow and targeted. Plaintiffs do not seek to interfere with routine Association operations, including ordinary maintenance, management, assessment collection, insurance, landscaping, utilities, or other day-to-day functions. Instead, Plaintiffs seek to temporarily restrain two discrete categories of disputed conduct. The first is a non-urgent, high-cost asphalt maintenance project scheduled to begin imminently. The second is the continued use of Association funds for disputed legal expenditures tied to the trademark and branding dispute, without transparency or statutory compliance.

First, Plaintiffs seek to pause the Association's planned asphalt maintenance project. The record demonstrates that this project is a non-emergency, preventative surface treatment, not a structural repair, and is being accelerated without necessity. SMF ¶¶ 32–42. The roads show no visible potholes, rutting, or structural failure, and the pavement remains smooth and intact. *Id.* ¶ 35. There are no safety hazards requiring immediate action. As recently as April 14, 2026, just days before the scheduled start, Plaintiff Brazell personally inspected and documented the roads, confirming their good condition. *Id*. There is no evidence of accelerated deterioration or any condition requiring immediate intervention. *Id.*

The Association has also recently performed maintenance in December 2025, which was intended to extend pavement life, and its own Reserve Study contemplates a longer timeline for major work. *Id.* ¶¶ 37-38. Despite this, Defendants intend to proceed immediately with a substantial expenditure, without providing homeowners meaningful information regarding cost, scope, competitive bids, or funding. *Id.* ¶ 38. Temporarily delaying this non-urgent, preventative project poses minimal risk to Defendants. Allowing it to proceed will result in the immediate and irreversible depletion of reserve funds intended for future necessary expenditures.

Second, Plaintiffs seek to restrain the continued use of Association funds for disputed legal expenditures tied to the trademark and branding dispute. These expenditures are ongoing, lack transparency, and, on information and belief, primarily benefit the Declarant's or affiliated entities' private commercial interests rather than a distinct and legitimate Association purpose. *Id.* ¶¶ 23–31. Plaintiffs and other homeowners have repeatedly requested information regarding these expenditures, including invoices, authorizations, and the basis for the spending, but Defendants have failed to provide meaningful responses or comply with statutory records obligations. Id. This lack of transparency prevents homeowners from determining whether additional improper expenditures are pending or ongoing.

Plaintiffs also seek to prevent Defendants from using Association funds to finance their personal defense in this litigation. This request is similarly narrow and appropriate. Plaintiffs do not seek to prevent the Association from defending legitimate Association interests. Rather, Plaintiffs seek to prevent the use of homeowner-funded Association resources to defend individual Defendants or Declarant-controlled entities against claims alleging misuse of those very funds.

Allowing Defendants to use Association funds in this manner would force homeowners to involuntarily finance the defense of conduct they have challenged as improper. By contrast, temporarily restricting such expenditures imposes minimal burden, as Defendants remain free to fund their own defense or seek appropriate authorization through lawful and transparent processes.

Unlike the asphalt project, which presents an immediate and irreversible depletion of funds, these legal expenditures represent a continuing and potentially expanding drain on Association resources. Without injunctive relief, there is a substantial risk that Association funds will continue to be spent on disputed purposes without oversight, documentation, or accountability, compounding the harm to homeowners.

The burden on Defendants is minimal. The requested relief preserves the status quo, allows all ordinary operations to continue, and simply requires Defendants to pause disputed expenditures and comply with existing legal obligations.

Denying relief, however, risks ongoing and compounding harm. The Association will immediately deplete reserves through the asphalt project, continue opaque legal spending, and further erode homeowner rights to transparency and lawful governance. Utah law expressly protects lot owners' rights to records access and imposes duties on declarants during periods of control. Enforcing those protections through narrowly tailored interim relief serves the public interest in lawful HOA governance, transparency, and proper stewardship of homeowner funds.

III. Granting Plaintiffs' Motion Would Not be Adverse to the Public's Interest.

Utah has expressly granted lot owners direct statutory rights to records access and open-board-meeting compliance, and it has imposed specific duties on declarants during administrative control. Enforcing those rights and duties serves the public interest in lawful HOA governance, transparency, and proper stewardship of assessment funds.

IV. Plaintiffs Will Likely Succeed on the Merits of Their Claims.

In order to be entitled to a temporary restraining order and preliminary injunction, Plaintiffs "must demonstrate 'a substantial likelihood that [they] will prevail on the merits' of at least one of its claims." *Planned Parenthood Ass'n of Utah v. State*, 2024 UT 28, ¶ 40, 554 P.3d 998 (Sup.Ct.) (citing Utah R. Civ. P 65A). Here, Plaintiffs can show that they are likely to succeed on at least one of their claims because Defendants' actions violate statutory obligations governing association transparency and the Board's fiduciary duties to the Association and its members.

The Board's actions are inconsistent with its own financial planning framework. The Association's Reserve Study reflects a structured approach to managing long-term capital needs and emphasizes the importance of maintaining adequate reserves. By accelerating a discretionary expenditure ahead of projected need, without transparency and despite not being fully funded, the Board has acted outside the bounds of reasonable business judgment.

a. Plaintiffs are likely to succeed on their Fifth Cause of Action.

Plaintiff's Fifth Cause of Action is for Defendants' violation of owner rights to access records. Utah Code § 57-8a-227 requires an association to keep and make available to lot owners specified records, including governing documents, approved minutes, the most recent budget and financial statement, reserve analysis, insurance certificates, board minutes from the previous three calendar years, and profit-and-loss and balance-sheet records for the previous three fiscal years.

The statute permits limited redactions for Social Security numbers, bank account numbers, and privileged communications. It also authorizes injunctive relief, $1,000 or actual damages, fee shifting, and a motion procedure for immediate compliance after notice and hearing.

Here, the declarations and attached notices show that Plaintiffs requested records concerning the challenged legal expenditures and related board actions, served the statutory notice, and did not receive full compliance. Plaintiffs are therefore likely to prevail, at a minimum, on their Fifth Cause of Action.

b. Plaintiffs are likely to succeed on their Fourth Cause of Action.

Plaintiffs' Fourth Cause of Action is one for breach of governing documents/owner enforcement. Utah Code § 57-8a-212.5 permits, in a proper case, an aggrieved lot owner to maintain an action for damages or injunctive relief based on noncompliance with the governing documents. Plaintiffs allege that Defendants used Association funds for a purpose outside legitimate Association purposes, limited owner participation, and took or implemented governance actions inconsistent with the governing documents' allocation of authority.

At this stage, Plaintiffs need not prove every detail of the merits. They need to show a substantial likelihood of prevailing on a direct enforcement theory. The present record satisfies that standard.

c. Plaintiffs are likely to succeed on their First and Second Causes of Action.

Plaintiff has two separate declaratory relief causes of action: the First and Second Causes of Action. Actual controversies exists over whether (1) Association funds may lawfully be used for legal work that primarily benefits private declarant branding or trademark interests, (2) whether challenged governance actions are lawful, (3) whether Defendants complied with the owner-records and open-meeting statutes; (4) whether Valderra Holdings' declarant rights terminated on or about November 6, 2022.

Declaratory relief is especially appropriate here because the dispute is ongoing and prospective. Without a declaration, Plaintiffs face repeated expenditures and continued governance uncertainty.

d. Plaintiffs are likely to succeed on their Seventh Cause of Action.

Utah Code § 57-8a-502 governs the period of administrative control and imposes specific obligations on a declarant during that period, including establishing a sound fiscal basis, maintaining records and accounting for the association's financial affairs from inception, complying with the declaration, and disclosing material facts affecting the association's financial condition, including the interests of the declarant and affiliates in association contracts or agreements.

Utah's appellate decisions also recognize that a developer exercising control over an HOA owes a limited fiduciary-type duty in that role. *See Davencourt at Pilgrims Landing Homeowners Ass'n v. Davencourt at Pilgrims Landing, LC*, 2009 UT 65, ¶¶ 37-40, 221 P.3d 234 ("While the developer thus should not be a fiduciary in the broadest sense, we are nonetheless convinced that the developer's control in this nonprofit association requires certain interests of the members and the association be protected. *See id*. This is achieved by the limited fiduciary duty."); *Gables at Sterling Village Homeowners Ass'n v. Castlewood-Sterling Village I, LLC*, 2018 UT 4, ¶ 50, 417 P.3d 95.

Plaintiffs allege that the Declarant Defendants exercised control or retained influence and used or benefited from Association-funded legal work tied to private branding interests. That is sufficient to support interim relief aimed at preserving funds and records until the facts are adjudicated.

V. Ex Parte Relief is Appropriate.

Ex parte relief is warranted because immediate and irreparable harm will occur before Defendants can be heard. The Association has scheduled the project to begin April 17, 2026, and has already initiated implementation through a rolling schedule of road closures affecting multiple areas of the community. SMF, ¶¶ 32–42.

The timing of the project leaves no practical opportunity for Plaintiffs to obtain relief through a regularly noticed motion before the harm occurs. Moreover, because Defendants have already mobilized the project and provided notice to residents, there is a substantial risk that, upon receiving notice of this application, Defendants will proceed with or accelerate the work before the Court can intervene.

Under these circumstances, immediate ex parte relief is necessary to preserve the status quo and prevent irreparable harm. As such, pursuant to Utah R. Civ. P. 65A(b)(1), *ex parte* relief is appropriate.

VI. Plaintiffs Should Not Be Required to Post Security or Security Should Be Set at a Nominal Amount.

Rule 65A requires security unless the Court finds a substantial reason to dispense with it. Here, the requested order preserves the status quo, carves out ordinary Association operations, and targets only disputed non-routine legal spending plus statutory compliance and record preservation. Defendants will not incur cognizable wrongful-restraint damages from being required to comply with statutory obligations, preserve documents, and refrain from paying disputed non-routine expenditures from Association funds pending hearing.

Plaintiffs therefore request that security be waived or set at a nominal amount, such as $100.

CONCLUSION

Plaintiffs respectfully request that the Court enter a Temporary Restraining Order immediately preserving the status quo and preventing irreparable harm. Specifically, Plaintiffs request that the Court enjoin Defendants from proceeding with the scheduled asphalt maintenance project set to begin April 17, 2026, from expending Association funds on that project, and from using Association funds for disputed or non-Association purposes, including legal expenditures that primarily benefit Declarant or individual Defendants in this action.

Plaintiffs further request that the Court order immediate compliance with Utah Code § 57-8a-227, require preservation of all relevant records, and prohibit the adoption or implementation of any governance changes that would further entrench the challenged control structure pending a hearing.

Plaintiffs request that the Court set a prompt hearing on the requested preliminary injunction and grant such further relief as the Court deems just and proper to protect the Association and its members.

DATED: April 16, 2026.

PIA HOYT, LLC

/s/ Kevin Allen
Kevin Allen
Joseph G. Pia
Ciera A. Kimmerer

ATTORNEY VERIFICATION

I, Kevin Allen, attorney of record for Plaintiffs in the above-entitled caption, hereby certify pursuant to Utah R. Civ. P. 65A(b)(1)(B) that I have made efforts to notify Defendants of this *Ex Parte* Motion for Temporary Restraining Order, Preliminary Injunction, and Immediate Records-Compliance Relief through an email sent on April 16, 2025 to Lewis P. Reece of the law firm, Snow Jensen & Reece, P.C., who has represented he is authorized to accept service of the Verified Complaint on behalf of Defendants the Association, Valderra Development I, Valderra Development II, Valderra Holdings, Charlene Huber, Christina Moore, and Lynn Padan. Additional means of service are further described in the certificate of service below.

DATED: April 16, 2026. *<u>/s/ Kevin Allen</u>*

CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2026, I served a true and correct copy of the foregoing upon the following parties:

Via Email and E-filing to:

Lewis P. Reece
SNOW JENSEN & REECE
912 W. 1600 S., Suite B200
St. George, UT 84770
T: (435) 618-3688
Lewlreece@snowjenson.com

Counsel for Defendants The Ledges of St. George Master Owners Association, Inc.; Valderra Development, LLC (I); Valderra Development, LLC (II); Valderra Land Holdings, LLC; Carlene Huber; Christina Moore; and Lynn Padan

Via Personal Service upon:

Jared Hanson
Cadence Homes
2801 N Thanksgiving Way, Suite 100
Lehi, UT 84043
(801) 616-6629

/s/ Melanie Buervenich
Licensed Paralegal Practitioner