

ARTICLES FOR 2-18-16 ROUNDUP

Why not listen to the experts?

Officials at all levels of Idaho government seemed to be afflicted with an aversion to advice from professionals.

This past week the expert staff working for Bannock County to assist the Planning and Development Board recommended it not move forward on approval of a concept plan for the proposed Deer Valley Reserve subdivision in the hills of the Mink Creek area.

There is a major conflict over the easement located next to the planned development of 13 residential lots — with individual sewer systems and culinary wells — south of Pocatello. The Mink Creek Utility Association claims its easement covers 10 acres of land next to the proposed subdivision. The developers, Dave and Emma Gebo, of Pocatello, assert the easement only covers about one acre of land where the utility association currently maintains a well, water storage tanks and a water line.

According to the staff for Planning and Development, county ordinances dictate that plans can't be approved until easement issues in a proposed development are settled.

Based on the statements from lawyers representing both the Mink Creek Utility Association and the Gebos during a hearing Wednesday night, the two parties are miles apart.

That didn't stop the county's Planning and Development Board from approving a concept plan for Deer Valley Reserve on a 4-1 vote.

It's likely the easement issue will eventually end up in front of a judge.

But it seems odd that the professional staff's recommendation to hold off on any decision was essentially ignored by the county board.

That seems to be the Idaho thing to do.

At the state level, the Idaho Legislature has often chosen to ignore the legal advice of the Idaho Attorney General's Office when it comes to the constitutional foundation for legislation ranging from the takeover of federal lands in Idaho to a host of strict abortion bills.

The lawyers working for Attorney General Lawrence Wasden are experts in determining applicable law and reviewing court decisions. They know when a law is dead on arrival if its legality is appealed. And their track record is good.

But often that reality conflicts with the political views of legislative leadership. Not only does the majority party in the Legislature choose to ignore the advice from Idaho's highest elected legal official, but the GOP is willing to shop for advice that fits a specific political agenda.

Republican lawmakers in the Legislature set up their own outside Legislative Legal Defense Fund three years ago so they could pay for legal advice that makes them feel good. As of last year, that taxpayer funded legal sidestep cost \$275,000, which was paid to private law firms. Another \$1 million was dumped into that legal fund last year.

The Idaho Attorney General's Office had a budget of \$22 million to provide the best legal advice in 2015. For some strange reason, Republicans in the Legislature don't want to listen to it.

Closer to home, the city of Pocatello remains under investigation by the Idaho Attorney General's Office over financial issues. One has to wonder if the city's legal department was better utilized and listened to before decisions were made, would City Hall have ever attracted the attention of the attorney general?

The entire mess involving city of Pocatello road crews performing paving projects in other eastern Idaho towns could have been avoided if Pocatello leaders had just asked the city's legal department for advice before moving forward. The city's lawyers would have suggested contracts be drawn up that spelled out conditions and payments. That's what lawyers do. They are the professionals.

If Idaho government continues to discount the importance of professional advice when it considers future actions, Idaho citizens are doomed to continue to pay for those mistakes.

Bills could silence attorneys who buck Utah lawmakers on fight with feds

BY PAUL ROLLY
THE SALT LAKE TRIBUNE

The Legislature's quest to transfer 31 million acres from federal to state control — and its possible approval of \$14 million to fund a lawsuit for that purpose — may hinge on attorneys' confidence Utah can win.

To that end, recently introduced bills could hinder state attorneys' independence when rendering a legal opinion, especially if the opinion is not what legislators want to hear.

Both measures are sponsored by Rep. Mike Noel, R-Kanab, a staunch proponent of Utah's efforts to win control of federal lands.

Noel already has unleashed HB276, a comprehensive plan for how Utah would manage the land if it comes under state control.

The other two bills, HB268 and HB123, deal with the Utah attorney general's office and could stifle its lawyers whose legal opinions don't jibe with the land-grab advocates.

A number of attorneys have rated Utah's odds of prevailing in such a lawsuit as slim to none. But New Orleans-based Davillier Law Group, which was paid nearly \$640,000 to conduct a feasibility study, concluded the state would have a good shot at winning.

Davillier, which is drafting a complaint for the Legislature if its plans move forward with a suit, could pocket a good share of that proposed \$14 million.

That might seem like a conflict of interest, but most lawmakers thus far have not appeared to be concerned.

Noel's legislation would protect against any conflict of interest that might be perceived from within the attorney general's office.

HB268 would exempt the attorney general's lawyers from the Career Service System, meaning their jobs would become more vulnerable because they no longer would be shielded as merit employees. The bill would affect 250 attorneys in the office who are currently merit employees, said attorney general's spokesman Dan Burton.

HB123 would require the attorney general to recuse a lawyer in his office from working on a matter if it is deemed that staffer has a conflict of interest or if the attorney's impartiality "might reasonably be questioned."

The bill doesn't say who could question an attorney's impartiality, but Burton said the attorney general's office did not request either of those bills.

So the Legislature has not questioned the impartiality of Davillier, whose opinion that the lawsuit could be successful could lead to a huge payday for that firm. But it wants to ensure that any state attorney can be taken off the case if that lawyer has an opinion that could raise questions about impartiality.

In other words, the bills seem to ensure the legislators have attorneys who tell them what they want to hear.

It's noteworthy that Davillier, which was hired by the Legislature's Commission for the Stewardship of Public Lands, refused to share the details of its analysis with the two Democrats on the panel.

The Legislature several years ago told its staff attorneys in the Office of Legislative Research and General Counsel that it no longer wanted constitutional notes attached to bills unless there was a high probability the measures would be found to be unconstitutional.

So it's a case of see no evil, hear no evil, speak no evil. prolly@sltrib.com

FTC Sues DeVry Education, Alleging Deceptive Ads

WASHINGTON—A federal consumer protection agency sued one of the nation's largest for-profit college chains Wednesday, accusing DeVry Education Group Inc. of deceiving prospective students about the employment success of its graduates.

The Federal Trade Commission—one of several federal agencies investigating the for-profit school industry—took aim at DeVry advertisements claiming 90% of its graduates who sought jobs found them in their field of study within six months of graduation. It accuses the school of including workers in low-paying retail jobs as finding work in their field of study, such as a business administration major working as a restaurant server.

In a suit filed in a California federal court, the FTC is asking a judge to provide monetary remedies to allegedly deceived students, including refunds and restitution. The lawsuit also seeks to permanently bar DeVry from using faulty statistics in its advertisements.

Illinois-based DeVry runs more than 55 campuses in 18 states, according to its website. It becomes the latest for-profit college company to face allegations about recruiting tactics. Corinthian Colleges Inc. liquidated in bankruptcy last year amid state and federal probes into similar allegations.

DeVry said in a written statement that the FTC's complaint "is without valid legal basis."

AG SOON TO ANNOUNCE CLAIMS PROCESS FOR LCD \$63 MILLION RECOVERY

SEATTLE — The Washington State Attorney General's Office (AGO) will soon launch a website for consumers to file claims for their share of the \$63 million LCD recovery. In the meantime, the AGO cautions consumers that a third-party agent has set up a website to file claims on behalf of consumers, but will charge one-third of the recovery money to do so. When the AGO claims website goes live, consumers can file their own claims for free.

The third-party agent is Financial Recovery Services (FRS). According to its authorization terms, "FRS shall determine based on the information provided by the client if he or she is eligible, and based on that determination will prepare and submit the client's claim." In addition, "for managing the claim client agrees to pay FRS 33% of each claim received."

The FRS website is not to be mistaken for the official Attorney General LCD claims website, which has not yet been launched.

From 1998–2006, consumers in Washington and throughout the world were significantly overcharged every time they bought a product with a liquid crystal display, or LCD, screen because of a conspiracy by the world's largest LCD manufacturers. For some products, this scheme may have increased the price consumers paid by as much as 20 percent.

In May of 2015 the AGO recovered over \$63 million from the nine LCD manufacturers, whose price-fixing conspiracy drove up prices consumers paid on items like TVs, laptops and cell phones. The bulk of the money recovered will be returned to consumers who purchased products containing LCDs.

The manufacturers include:

AU Optronics;
Chi Mei Optoelectronics;
Chunghwa Picture Tubes;
Epson;
Hitachi;
LG Display;
Samsung;
Sharp; and
Toshiba.

The LCD agreement is one of the largest recoveries for Washington by the Attorney General's Antitrust Division in state history.

AG WINS SUMMARY JUDGMENT AGAINST COMPANY SCAMMING HOMEOWNERS

SEATTLE — Attorney General Bob Ferguson prevailed today in his lawsuit against a California company that scammed new property owners into buying overpriced deeds.

Thurston County Superior Court Judge Mary Sue Wilson granted summary judgment today against Bellflower, Calif.-based LA Investors, LLC, which conducts business as "Local Records

Office.” The court found the company violated the state Consumer Protection Act at least 215,000 times by sending at least that many mailers.

Judge Wilson will issue a separate decision on restitution and penalties by March 16.

The company sent official-looking notices implying that consumers must buy their dramatically overpriced \$89 deeds. Deeds typically cost only a few dollars from a local county office, and many property owners can obtain a copy of their deed for free online.

“These scammers preyed on new property owners, who often face a challenging maze of paperwork and fees involved in buying their property,” Ferguson said. “My office will stand up for consumers and hold fraudsters accountable for deceptive business practices.”

Ferguson filed a lawsuit in November 2013, accusing the company of creating the impression that:

It is necessary for consumers to obtain copies of their real property deeds through the defendants;
The defendants are the equivalent of a county auditor or recording office;
A copy of their deed is needed in the event of a property dispute;
That \$89 is a necessary or appropriate fee for receiving the property deed;
The solicitation comes from a governmental agency; and
The solicitation is a bill or invoice the consumer is obligated to comply with and/or pay.
Local Records Office sends the solicitations in an envelope that says “IMPORTANT PROPERTY INFORMATION RESPOND PROMPTLY” on the front. The return address on the envelope is usually a mail drop or post office box located in the consumer’s state capital. This has led some consumers to believe that the letter is coming from a state government agency.

In Washington, deeds are filed in the county where the property is located. A person can obtain a paper copy of a deed for as little as \$1 per page from the auditor or county recorder where the property is located. In fact, the vast majority of property owners can obtain a copy of their deed for free online.

The scam is not a new one. In 2011, the AGO settled with State Record Retrieval Board, a company that sent deceptive notices to Washington residents, informing them that if they didn’t pay \$87 to obtain a copy of their deed, they would be charged an additional \$35 for missing the “deadline.”

The AGO Consumer Protection Division encourages anyone who paid money to a private company after receiving a letter like the one described above to file a complaint with the Attorney General’s Office at or call the office’s Consumer Resource Center at 1-800-551-4636.

- See more at: <http://www.atg.wa.gov/news/news-releases/ag-wins-summary-judgment-against-company-scamming-homeowners#sthash.fy7hEbHb.dpuf>

Attorney General Kamala D. Harris Convenes 21st Century Policing Working Group After First Year Anniversary of its Creation

SACRAMENTO – Attorney General Kamala D. Harris today convened the 21st Century Policing Working Group to mark the one-year anniversary of the group’s formation, report on accomplishments to date, and discuss future goals.

Attorney General Harris created the 21st Century Policing Working Group in January 2015 to improve peace officer training, promote data driven accountability, and build trust between law enforcement and the communities they serve.

The Attorney General met with the group of law enforcement leaders ahead of the release of OpenJustice 1.1. On February 11, 2016, OpenJustice 1.1 will give the public access to a variety of new features, data and information on the state's criminal justice system. The new data will include visual tools and interactive charts to allow users to compare and cross reference county and agency data sets against statewide averages, and local crime data.

OpenJustice is a first-of-its-kind criminal justice open data initiative that releases unprecedented data while being interactive and easy to use. The tool consists of two components: a Dashboard that spotlights key criminal justice indicators with user-friendly visualization tools and an Open Data Portal that publishes raw data from the California Department of Justice's statewide repository of criminal justice datasets.

OpenJustice embraces transparency in the criminal justice system to strengthen trust, enhance government accountability, and inform public policy. Recent events in California and across the nation have highlighted the need for an important conversation to take place between law enforcement & the communities we are sworn to protect.

The working group also discussed results of the Attorney General's course on principled policing and implicit bias, which was offered for peace officers statewide in November, and developed a set of shared principles around body worn cameras.

Attorney General Balderas Announces Partnership with National Center for Missing & Exploited Children to Train Elementary Students on Internet Safety

Albuquerque, NM – Today, Attorney General Hector Balderas announced a partnership with the National Center for Missing and Exploited Children (NCMEC) that will allow the Office of the Attorney General to use NCMEC resources and kid-friendly videos and educational materials to provide internet safety training. The Office of the Attorney General leads the New Mexico Internet Crimes Against Children (ICAC) Task Force and already works closely with NCMEC in this capacity. The first Cyber Safety presentation for elementary students was presented to 100 fifth graders at Painted Sky Elementary School in Albuquerque yesterday. (Photos attached) The Office of the Attorney General has already been providing internet safety trainings to middle school students, high school students and parents around New Mexico.

“We must all work together to protect our children and I am pleased that our expanded partnership with the National Center for Missing and Exploited Children will help us to provide age appropriate training to elementary students across New Mexico,” Attorney General Balderas said. “Most New Mexico elementary students use the internet or mobile phones each day, so it's critical we teach them how to protect themselves from predators.”

The new outreach partnership includes:

- NCMEC and the Office of the Attorney General (OAG) will work together to create awareness for internet crimes against children through coordinating posts on their respective social media pages and websites.

☐ The OAG utilize the educational resources produced by NCMEC. This includes age appropriate videos, work books and safety tips.

☐ NCMEC logo will be present on OAG visual internet safety presentation and promotional materials.

To schedule internet safety presentations, please contact Shaylyn Garcia-Roy at 505-221-7052 or by email at sroy@nmag.gov.