



**BOUNTIFUL CITY**  
**ADMINISTRATIVE COMMITTEE AGENDA**  
**Monday, September 26, 2022**  
**5:00 p.m.**

NOTICE IS HEREBY GIVEN that the Bountiful City Administrative Committee will hold a meeting in the Planning Department Conference Room, Bountiful City Hall at 795 South Main Street, Bountiful, Utah, 84010, at the time and on the date given above. The public is invited. Persons who are disabled as defined by the Americans with Disabilities Act may request an accommodation by contacting the Bountiful City Planning Office at (801) 298-6190. Notification at least 24 hours prior to the meeting would be appreciated.

1. Welcome.
2. Review approval of meeting minutes for August 15, 2022
3. Review approval of meeting minutes for September 1, 2022
4. *CONTINUED TO A DATE UNCERTAIN* - 1440 Northridge Drive- Short-Term Rental Application, Richard Murray (Richard Delbert & Sarah Ann Murray – Trustees)
  - a. Review Application
  - b. Comments
  - c. Consider Approval
5. 211 North 800 East – Short-Term Rental Application, Jorge Morataya (Price is Right Properties, LLC)
  - a. Review Application
  - b. Comments
  - c. Consider Approval
6. Adjournment



1 **Draft Minutes of the**  
2 **BOUNTIFUL CITY ADMINISTRATIVE COMMITTEE**  
3 **August 15, 2022**  
4

5 Present: Committee members Francisco Astorga (Chair), Todd Christensen, and Scott  
6 Schlegel  
7 Assistant City Planner Nicholas Lopez  
8 Recording Secretary Hanna Welch  
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10  
11 **1. Welcome and Introductions**  
12

13 Chair Astorga opened the meeting at 5:01 p.m. and introduced all present. Committee Member  
14 Christensen Noted that the address listed on the agenda is transposed and the correct address  
15 is 667 West 3100 South.  
16

17 **2. 677 West 3100 South- Conditional Use Permit for a Detached Accessory Dwelling Unit,**  
18 **Charles Mendes, Applicant - Assistant City Planner, Nicholas Lopez presenting**  
19

20 Applicant, Charles Mendes was present. Assistant Planner Lopez presented the item.  
21

22 Proposed ADU is 400 sq ft and it can have up to 2 residents in the ADU. Because the lot is  
23 over the minimum size of 8,000 square feet, there is space for the ADU to stay 3 ft off the  
24 property lines and meet code on distance from the neighboring houses. The ADU is only 11 ft  
25 6 in in height. The shed that is on the lot now will be removed and the ADU placed on the lot  
26 using less than 10% of the total size of the parcel.  
27

28 Committee Member Christensen questioned if there are easements on the property and  
29 overhead power  
30

31 Assistant City Planner Lopez reported that there are not electrical easements on the property.  
32

33 Mendes described that the electrical company has been out to visit the property and that there  
34 is one electrical tower in the corner and that the company representative reported that it is up  
35 to the resident to decide how to run the electricity to the ADU  
36

37 Committee Members Schlegel, Christensen, and Assistant City Planner Lopez informed the  
38 applicant that only one meter is allowed for ADU's.  
39

40 Chair Astorga expressed that one drawing on page 18 is detailed a Manufactured unit has  
41 wheels, and that the wheels cannot remain on the unit.  
42

43 Mendes described that the wheels are only for transportation and that the structure is placed on  
44 pillars, once on the property. Applicant asked if he could change the building premanufactured  
45 ADU to another company's design.  
46

47 Committee Member Schlegel described that the Administrative Committee would permit other  
48 structures, if so desired.

1  
2 Chair Astorga noted that if the measurements are the same and the specifications are the same  
3 as the structure that is cited in the packet, then there would not be a need for further review,  
4 but the Building Department would need to be informed before any changed were made.  
5 Also so noted, that the meter would have to go through the house, and it cannot have a second  
6 meter on the lot.

7  
8 Chair Astorga asked for more questions and final comments.

9  
10 Public Hearing opened at 5:18 pm

11  
12 Resident made comment of off-street parking, which would be appropriate for the accessory  
13 dwelling unit, and that the character and nature of the building will fit in the neighborhood.  
14 The resident questioned if there are residential design standards in Bountiful City.

15  
16 Chair Astorga informed that the state has prohibited residential design standards, but there is  
17 no regulation on the accessory structures and the city treads lightly for establishing accessory  
18 structure design standards.

19  
20 Nothing further to add

21  
22 Public Hearing closed at 5:20 pm

23  
24 MOTION: Committee Member Schlegel made motion to APPROVE the Conditional Use  
25 Permit of a Detached Accessory Dwelling Unit at 677 West 3100 South as set forth with the  
26 conditions as written in the drafted form. Committee Member Christensen seconded the  
27 motion.

28  
29 Motion Passed (3-0)

30  
31 **3. Minutes from previous meeting April 25, 2022**

32  
33 MOTION: Chair Astorga meeting minutes. Committee Member Schlegel seconded the motion.  
34 Committee Member Christensen abstained due to absence of April 25, 2022, meeting.

35  
36 VOTE: The motion passed (2-0-1).

37  
38 **4. Minutes from previous meeting May 31, 2022**

39  
40 MOTION: Committee member Todd meeting minutes. Chair Astorga seconded the motion.  
41 Schlegel abstained due to absence of May 31, 2022, meeting.

42  
43 VOTE: The motion passed (2-0-1).

44  
45 Meeting Adjourned at 5:32 P.M.

**Draft Minutes of the  
BOUNTIFUL CITY ADMINISTRATIVE COMMITTEE  
September 1, 2022**

Present: Committee members Francisco Astorga (Chair), Brad Clawson, Dave Badham  
Assistant City Planner Nicholas Lopez  
Recording Secretary Darlene Baetz

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**1. Welcome and Introductions**

Chair Astorga opened the meeting at 5:02 P.M.

**2. Approval of Minutes for August 15, 2022**

Meeting minutes continued to the next meeting due to absence of Committee Members Scott Schlegel, and Todd Christensen.

**3. Approval of Minutes for August 22,2022**

MOTION: Committee Member Brad Clawson made motion to approve the meetings minutes.  
Chair Astorga Seconded the motion.

VOTE: Motion Passed. (2-0-1)

**4. 211 North 800 East – Short Term Rental Application, Price is Right Properties LLC (Jorge Morataya- Representative member) Applicant – *Assistant City Planner, Nicholas Lopez presenting***

Applicant, Jorge Morataya was present.

Short- Term Rentals are allowed in Single Family R-4 zone and permitted Short-Term Rentals are only allowed as Internal Accessory Dwelling Unit's. The Application for ADU was not approved by the committee, according to House Bill 82 Internal Accessory Dwelling Units are not required to be approved via committee. This is a single Internal Accessory Dwelling Unit, this is not a Conditional Use Permit, but there is an application process. There is only one STR being proposed, which in accordance with the Bountiful City Code. This lot was developed in 1960, Parking can accommodate roughly 3 cars on site without street parking, Code required that only one parking lot be required for STR unit. The applicant will post a memo on site about noise regulations, and other applicable code such as, parking and garbage. According to International Business Code the max occupancy is 10 individuals. (200 square feet for each occupant). This site meets all applicable building code including 14-14-124 concerning internal Accessory Dwelling Unit.

Staff recommends the approval of the application with the condition outlined herein:

1. This Short-term Rental permit is subject to the approved Accessory Dwelling Unit (internal, basement) Permit, including the deed-restriction requiring Jorge Morataya to

- 1 occupy either the principal unit (upstairs) or the accessory dwelling unit (basement) as his
- 2 permanent residence and at no time receive rent for the owner-occupied unit.
- 3 2. The site shall comply with the current parking limitations outlined in the Bountiful Traffic
- 4 Code regarding on-street parking.
- 5 3. The site shall comply with the current Noise Ordinance. The use of sound equipment,
- 6 sound related activities, and/or noise heard from the property line from 11:00 p.m. to 6:00
- 7 a.m. shall be prohibited.
- 8 4. After approval, the Planning Department will produce the notice outline applicable
- 9 regulations (parking, noise, occupancy restrictions, etc.) which shall be placed behind the
- 10 main door of the short-term rental. It is the property owner's responsibility to maintain the
- 11 notice, and to share applicable regulations with renters by other means utilized by the
- 12 property owner, such as onsite booklet, email communications, website, rental agreement,
- 13 etc.
- 14 5. Short-Term Rental Permits do not run with the land and are not transferable to future
- 15 property owners. Any transfer of ownership shall require a new application subject to all
- 16 laws, ordinances, rules, and regulations applicable at the time of application.
- 17 6. After approval of a Short-term Rental Permit, the property owner shall be responsible for
- 18 applying and maintaining a current business license with the City.
- 19
- 20

21 Chair Francisco Astorga asked staff for the regulations for the limitations for the internal  
22 accessory dwelling unit. Staff indicated that there are none and that this is a state regulation  
23 from House Bill 82.

24  
25 Member Brad Clawson noted that the primary owner's unit is not regulated by the city and  
26 cannot be regulated due to the same legislation.

27  
28 Opened Public Comment: 5:35 P.M.

29  
30 Ed Richardson *231 North 800 East*- The following violations are grounds revoke the  
31 application per 5-1-108B: continuing advertisement of short-term rental and without license,  
32 also the property owner must be living on the residence, and Mr. Morataya is only a member  
33 of the LLC. According to an internet search a member is not a stake holder in the business.  
34 Onsite parking in the past four months there have been instances where renters have been  
35 parking on the sidewalk, including a RV. This has been blocked resident's private driveway.  
36 Reported that in late May and June there was construction at the residence, but no building  
37 permits were pulled.

38  
39 Bea Glover *191 North 800 East* - feels that there are more people at the residents than the  
40 standards allow and that there are parties.

41  
42 Cacey Norman Bowen *196 North 800 East*- concerned that there were renovations done  
43 without a permit.

44  
45  
46 Josh Forwaller *750 East*- Agree with previous comments.

1 Spencer Loveless *739 East 200 North*- Second Comments, can hear parties on multiple  
2 occasions from personal residence  
3

4 Gary Johnson *688 E 200 South* – never heard parties at night but is concerned because there  
5 have been ordinances broken and can there be retroactive punishments for not abiding this  
6 ordinance.  
7

8 Joe Johnson *250 North*- worried about kids safety going to school in the neighborhood with  
9 the cars in the streets and the lack of safety in the cross walks. It is a detriment to the community  
10

11 Chris Brown *78 North 800 East*- Reported there has been car accidents due to the lack of  
12 parking and the number of cars at the residence.  
13

14 David Glover *191 North 800 East* - Respects Jorge as neighbors, issue with the purchasers of  
15 the house that turned it into an illegal duplex that the city had to stop. Believes this is not the  
16 intent of the City Council passing this ordinance. Seconds Comments. Rental in the basement  
17 is the problem. LLC member could be a legal member of the house. Members do not own the  
18 LLC property according to internet search. This should be under scrutiny.  
19

20 Allison Sorenson *187 North 780 East* -not directly impacted but thinks that is concerning that  
21 there are no background checks for short- term rentals.  
22

23 Camille Johnson- *688 East 200 South* – Agrees and hopes that the city gets this right, wants  
24 city to be accountable for the short- term rental.  
25

26 Teresa Hansen *47 North 800 East*- was aware due the number of cars on the street. In support  
27 of the previous comments.  
28

29 Kristina Richardson *231 North 800 East* – questions how many Air BnB’s are going to impact  
30 our neighborhood. Will the city propagate parking and noise problems. Is this something that  
31 Bountiful City wants to promote. Causes distress in the neighborhood  
32

33 Royce Rogers *150 North 750 East* - Farmington and Kaysville does not allow these why do  
34 we and what is the next thing to allow in Bountiful City. Agree with everything that has been  
35 said. Has a Ring doorbell and the traffic is all night long and routinely over the speed limit.  
36

37 Lenora Morataya *211 North 800 East*- today's is my daughter's birthday she is 12 years old,  
38 and has no safety concerns with the renters, for her walking to school, and really doesn't feel  
39 unsafe with the amount of traffic. It is a main road where cars are always going back and forth.  
40 I will be the most effected with the STR and I feel safe in the residence.  
41

42 Jorge Morataya *211 North 800 East*- listens to the comments and respects neighbors, does feel  
43 bad listening to the neighbors, doesn't feel that they had talked to him about these issues. He  
44 built a tall fence to help mitigate any issues that arise with David Glover and asks renters to  
45 move their cars. He is not an investor, but he is making a business by living on the property.  
46

47 Closed Comments: 6:12 P.M.

1  
2 Chair Astorga stated that the initial application was filed by Brady Price and that original  
3 application was withdrawn due to moving from the site. The ADU only works if the Owner  
4 lives on site. Mr. Price filed the paperwork to make Mr. Morataya would be a governing body  
5 of the LLC. The response was that the Price is Right LLC is an owner of the property and  
6 Morataya is a member of the LLC, and it has been determined with the IRS that a member of  
7 an LLC is an owner. Given that information, it was sufficient for the city to state that Mr.  
8 Morataya is a member and an owner. The ADU has been approved by the city, and the deed  
9 restriction has been signed by Mr. Morataya. It was also advised by the city attorney that a  
10 member is an owner of an LLC.

11  
12 Dave Bedham Member questioned if Morataya was receiving monetary compensation from  
13 the LLC. He is a member of the business. Bedham asked for visual confirmation that he was  
14 paid in the form of a paystub.

15  
16 Mr Morataya confirmed that he does receive dividends from the LLC.

17  
18 Dave Badham questioned if this was just a ploy to get a STR in the neighborhood without an  
19 owner living on the property. It seems to the committee member that it is a long-term rental on  
20 the first level and a short-term rental in the basement, however there is not rent being paid by  
21 the upstairs resident, Mr. Morataya a member of the LLC.

22  
23 Dave Bedham, asked that the city attorney look at the document submitted by Ed Richardson

24  
25 Nicholas Lopez stated that the IBC was for commercial use only, there is not an occupancy  
26 standard for short term rentals, but the city wanted to put standards on them as seen in the  
27 packet. This is a standard that was set by City Council and the building official.

28  
29 Chair Astorga, added that building code will add teeth for the city to regulate Short- Term  
30 Rentals. It is in place so that there are standards that the residents must maintain to receive and  
31 keep the short-term rental status. FA informed the committee of their responsibilities, and that  
32 they are not debating the interpretation of the code but administering the code. The code is  
33 already in place.

34  
35 Committee Member, Dave Bedham noted that the IBC code only allows 10 but the  
36 advertisement is for 16.

37  
38 Chair Astorga, described the code to the committee and the repercussions for breaking the  
39 standards are at works a Class C misdemeanor and depending on the violation would be a  
40 revocation of the business license and notice of use.

41  
42 Committee Member, Dave Bedham described his nostalgia for past times.

43  
44 Committee Member, Brad Clawson questioned that if a member of an LLC is not an owner of  
45 the property does that also extend to a situation in which Brady Price the creator of the LLC  
46 would not be able to run a STR with if he was to reside on the top level because his name is  
47 not on the parcel.



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Chair Francisco Astorga stated that he and the city cannot differentiate land use based on ownership.

Committee Member, Brad Clawson made note that the city residents have made their concerns know however there is not a way to retroactively change land use ordinance, especially because the approval of ordinance lies outside of the Administrative Committee.

Clint Drake, City Attorney, asked that the committee table the item till another date so that the committee can explore the items that have been put forth and their ramification on the city.

MOTION: Dave Badham made motion to table item number four till another date. In which time the city attorney as well as staff can further research the item. Seconded by Committee Member Brad Clawson.

Chair Astorga clarified that the date will not be set today, and the original posting requirements will be followed as a courtesy to the residents.

Committee Member Brad Clawson seconded the motion.

VOTE: Motion Passed unanimously (3-0).

**5. Meeting Adjourned at 6:45 PM**



# Administrative Committee Staff Report



**Subject:** Short-Term Rental Permit  
**Authors:** Nicholas Lopez, Assistant City Planner  
**Address:** 211 North 800 East  
**Date:** September 26, 2022

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## Background

Jorge Morataya, member of Price is Right Properties, LLC submitted a Short-Term Rental Permit for the property owned by Price is Right Properties, LLC at 211 North 800 East.

On September 1, 2021, the Bountiful City Administrative Committee reviewed the requested application, received public comment, considered the request, and continued the item to consider information presented at the hearing. Specifically, the item was continued to further research whether Mr. Morataya is a property owner for the purposes of this Application.

## Analysis

A short-term rental is an accessory dwelling unit rented for periods less than thirty (30) consecutive days. The site is currently owned by PRICE IS RIGHT, LLC. The certificate of Organization dated January 7, 2021, shows Brady Price as member of the LLC; however, an update was made on August 16, 2022, appointing Jorge Morataya as a Member of the LLC. Mr. Morataya submitted the updated application with Mr. Morataya listed as a Member of the LLC.

The Bountiful Municipal Code states that a short-term rental shall not be allowed unless a Short-Term Rental Permit is approved and is found in compliance with the following standards (Bountiful City Land Use Code § 14-14-127):

1. Short-term rentals are allowed within the Single-Family Residential (R) Zone, Residential Multiple-Family (RM) Zone, and Downtown (DN) Mixed Use Zone; and shall not be permitted in any other zone.
  - The property is in the Single-Family Residential (R-4) Zone.
2. Short-term rentals are only allowed within approved Accessory Dwelling Units. It is unlawful to allow, construct, or reside in a short-term rental within an entire single-family dwelling, duplex, or multi-family residential dwelling or property.
  - An Internal Accessory Dwelling Application was approved on August 29, 2022.
3. A maximum of one (1) short-term rental shall be permitted on a qualifying lot.

- Only one (1) short-term rental is being proposed.
4. It is unlawful to construct, locate, or otherwise situate a short-term rental on a lot or parcel of land that does not contain a habitable single-family dwelling.
    - The existing single-family dwelling was built in 1960, per Davis County Assessor Office.
  5. If an Accessory Dwelling Unit is approved as a short-term rental, the parking for the Accessory Dwelling Unit shall be governed by the Accessory Dwelling Unit Ordinance. The site shall comply with the current parking limitations outlined in the Bountiful Traffic Code regarding on-street parking.
    - The site currently can accommodate up to five (5) parking spaces and complies with the Accessory Dwelling Unit parking requirements.
  6. The site shall comply with the current Noise Ordinance. The use of sound equipment, sound related activities, and/or noise heard from the property line from 11:00 PM to 6:00 AM shall be prohibited.
    - The approval is subject to compliance with the Noise Ordinance and the 11:00 PM to 6:00 AM restrictions shall be adhered. The property owner is responsible for notifying all tenants of this restriction, see item 8 below.
  7. The site shall not exceed International Building Code (IBC) occupancy standards based on unit square footage.
    - The approved internal Accessory Dwelling Unit (basement) is 2,025 square feet. The IBC states (per the Bountiful City Building Official) that for every individual, 200 square feet is required. The proposed short-term rental area is limited to ten (10) occupants. The proposed short-term rental area is limited to one (family) consisting of up to ten (10) occupants (per IBC ratio) or up to four (4) unrelated individuals. See definition of a family:
      - i. An individual, or
      - ii. two (2) or more persons related by blood, marriage, or adoption, or
      - iii. a group of not more than four (4) persons (excluding domestic help) who are not related, living in a dwelling unit as a single housekeeping unit and using common cooking facilities and entrances.
  8. Prior to short-term rental occupancy the property owner shall place a notice behind the main short-term rental door to make occupants aware of parking standards and noise restrictions, etc. The Planning Department will produce the notice after approval. It is the property owner's responsibility to maintain the notice, and to

share applicable regulations with renters by other means utilized by the property owner, such as onsite booklet, e-mail communications, website, rental agreement, etc.

- The Applicant is aware that it is the property owner's responsibility to maintain the (door) notice, and make all tenants aware of restrictions regarding parking, notice, etc., via onsite booklet, e-mail communications, website, rental agreement, etc.
9. A short-term rental within an accessory dwelling unit shall meet all development standards found in Bountiful City Land Use Code 14-14-124 Accessory Dwelling Units, any applicable codes, etc.
- The site was found in compliance with Land Use Code § 14-14-124 Accessory Dwelling Units.
10. A short-term rental shall not be approved unless it is compliant with all State and local laws, ordinances, rules, and regulations. This includes all applicable zoning and building codes. A short-term rental shall be prohibited within a non-conforming use or non-compliant structure.
- The site was found in compliance with ordinances, rules, and regulations.

At the public meeting, it was noted that the subject property is owned by an LLC (Price is Right LLC). Members of the public asserted that because the property is owned by the LLC, Mr. Morataya does not own the property and therefore the short-term rental is not occupied by an owner. There was discussion regarding this topic during the public comment period and this item was continued to further research this assertion. After review of property records, various LLC incorporation documents, and applicable law, Staff found that the legal property owner of record is indeed the Price Is Right LLC. The original application documents stated that Mr. Brady Price was Member of the LLC. Subsequently, documentation was submitted to the City indicating Mr. Morataya was demonstrated to be a member of Price is Right LLC.

After review of the ownership records, the Utah Code, and applicable case law, the owner of record is Price is Right LLC, not Mr. Morataya or Mr. Price.

### **Staff Recommendation**

Based on the above findings, Staff recommends that the Administrative Committee deny the requested Short-Term Rental Permit at 211 North 800 East, based on the findings found in this staff report.

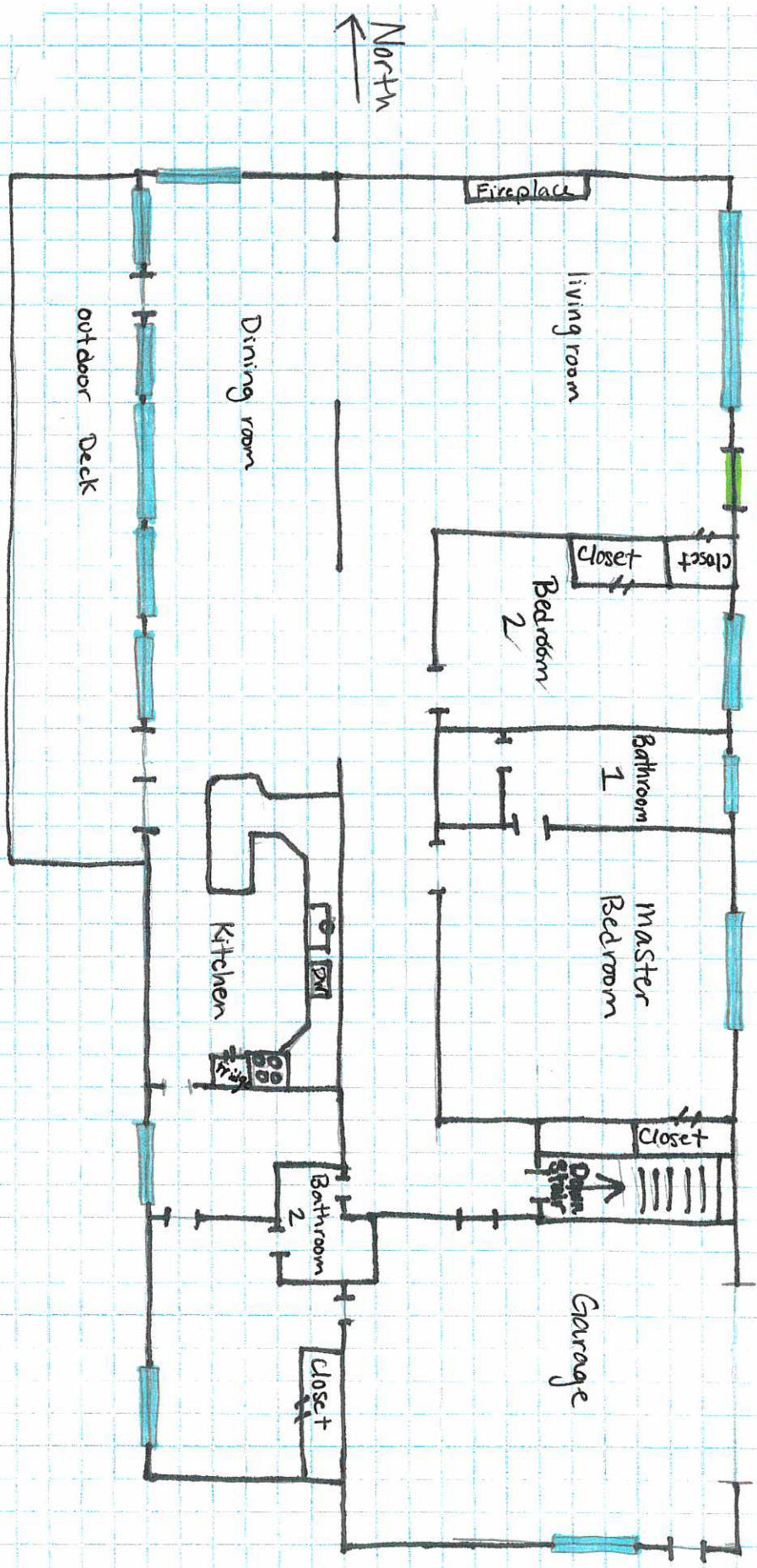
### **Attachments**

1. Aerial Imagery
2. Floor Plans

3. Site Plan
4. Certificate of Organization OF PRICE IS RIGHT, LLC dated January 7, 2021
5. Summary of Online Changes of PRICE IS RIGHT PROPERTIES LLC, dated August 18, 2022
6. Bountiful City Attorney Memo dated September 22, 2022



# Main level Floor Plan

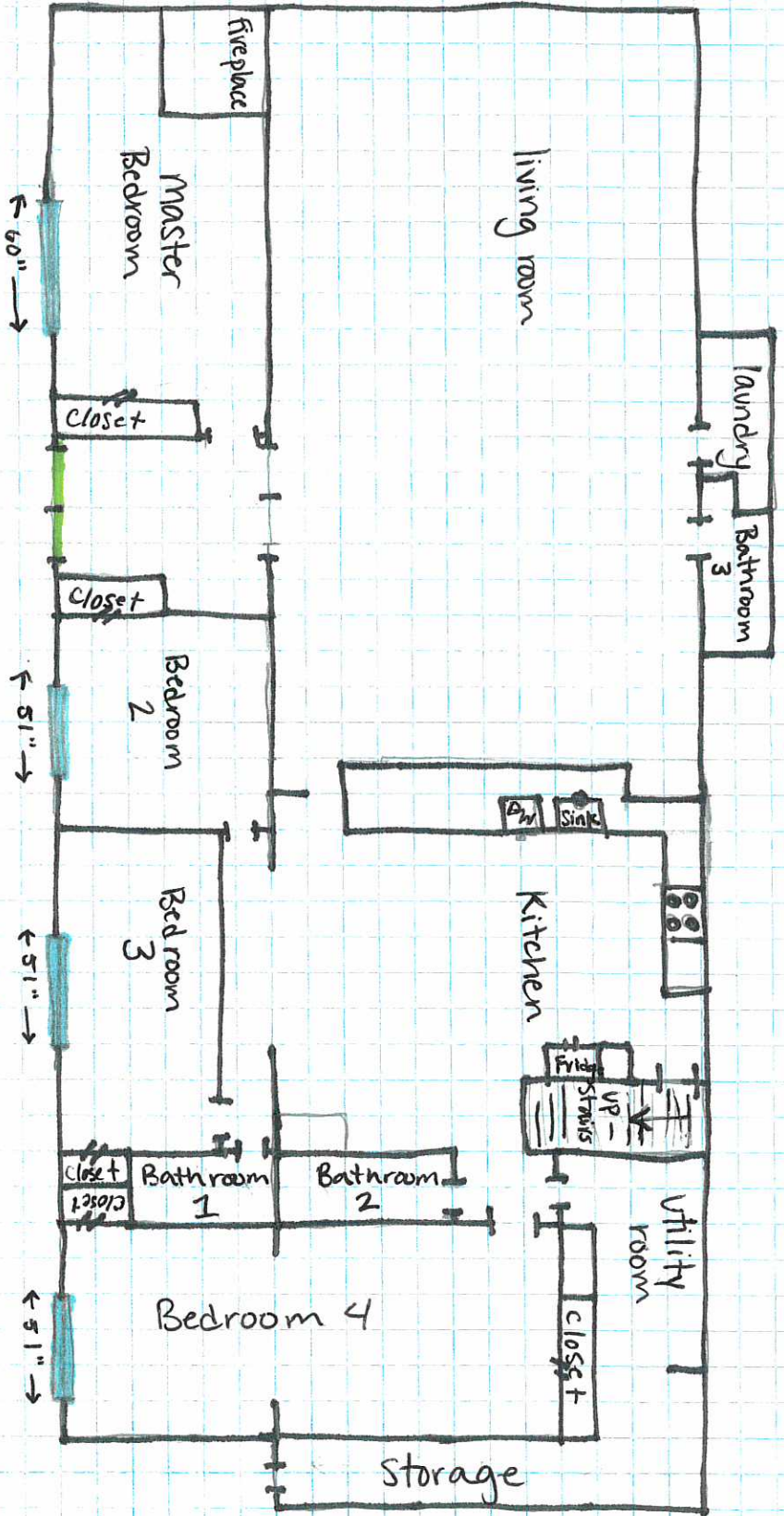


- Key -

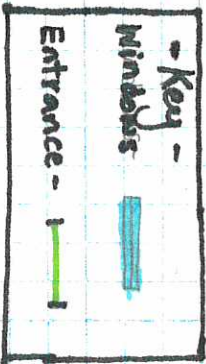
- Windows - [Blue shaded area]
- Entrance - [Green shaded area]

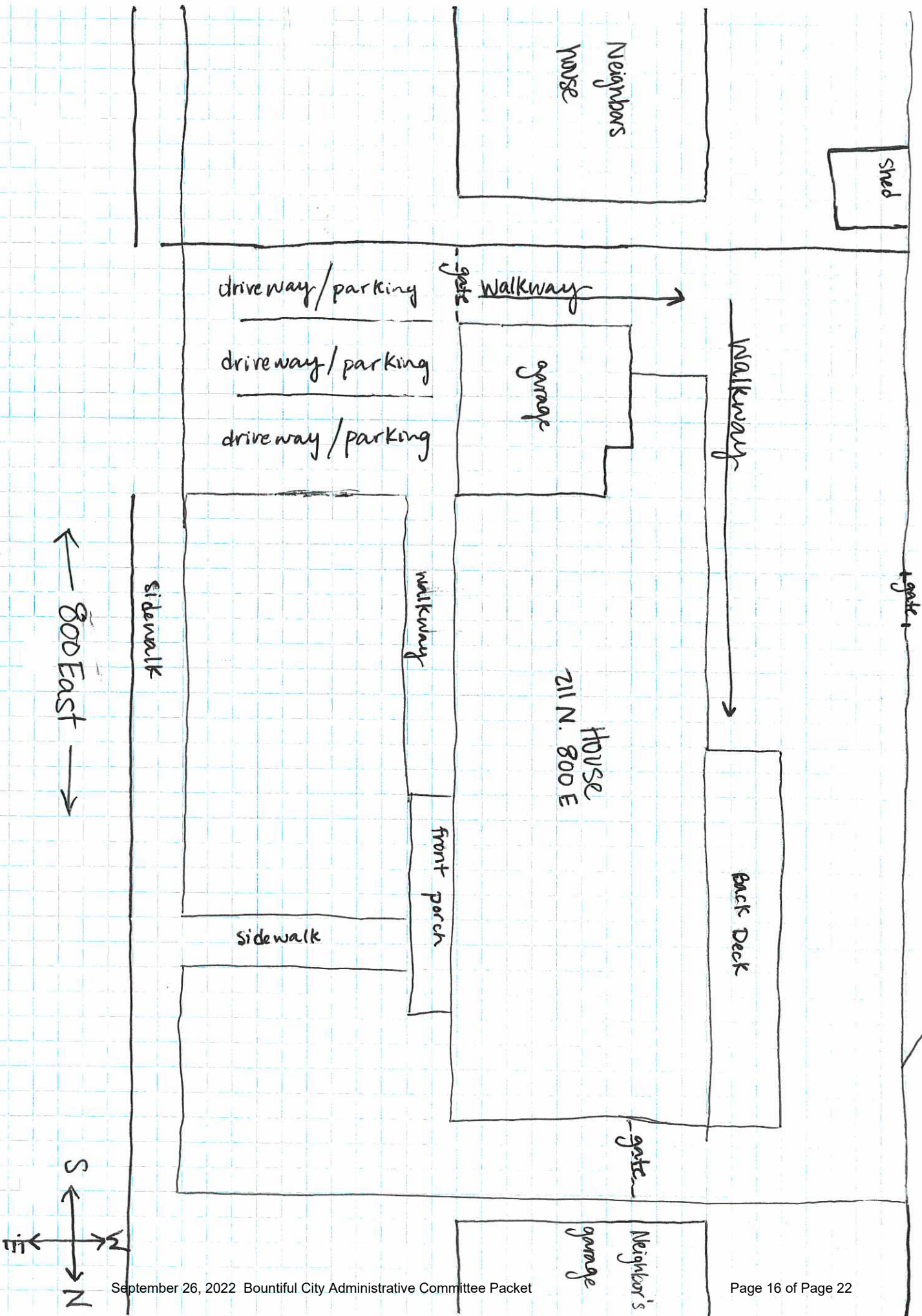


North

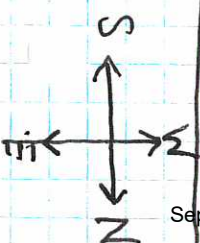


# Basement Floor Plan





← 800 East →



**LLC**  
**Certificate of Organization**  
**OF**  
**PRICE IS RIGHT PROPERTIES, LLC**

**The undersigned person(s) do hereby adopt the following Certificate of Organization for the purpose of forming a Utah Limited Liability Company.**

**Article I**

**The name of the limited liability company is to be PRICE IS RIGHT PROPERTIES, LLC**

**Article II**

**The purpose or purposes for which the company is organized is to engage in: RESIDENTIAL REAL ESTATE AND GENERAL BUSINESS MANAGEMENT**

**The Company shall further have unlimited power to engage in or to perform any and all lawful acts pertaining to the management of any lawful business as well as to engage in and to do any lawful act concerning any and all lawful business for which a Limited Liability Company may be organized under the Utah Limited Liability Company Act and any amendments thereto.**

**Article III**

**The Company shall continuously maintain an agent in the State of Utah for service of process who is an individual residing in said state. The name and address of the initial registered agent shall be:**

*(Registered Agent Name & Address)*  
BRADY PRICE  
51 W CENTER ST APT 307  
OREM, UT, 84057



## **Article IV**

*Name, Street address & Signature of all members/managers*

Member #1

BRADY PRICE

51 W CENTER ST APT 307

OREM, UT 84057

BRADY PRICE

Signature

Manager #1

BRADY PRICE

51 W CENTER ST APT 307

OREM, UT 84057

BRADY PRICE

Signature

**DATED** 7 January, 2021.

## **Article V**

Management statement

This limited liability company will be managed by its Managers

## **Article VI**

**Records required to be kept at the principal office include, but are not limited to the following:**

### **Article VI.1**

A current list in alphabetical order of the full name and address of each member and each manager.

### **Article VI.2**

A copy of the stamped certificate of Organization and all *certificates of amendments thereto*.

### **Article VI.3**

Copies of all tax returns and financial statements of the company for the three most recent years.

### **Article VI.4**

A copy of the company's operating agreement and minutes of each meeting of members.

## **Article VII**

**The street address of the principal place of business is:**

51 W CENTER ST APT 307

OREM, UT 84057

## **Article VIII**

**The duration of the company shall be 99**

**Under GRAMA {63-2-201}, all registration information maintained by the Division is classified as public record. For confidentiality purposes, the business entity physical address may be provided rather than the residential or private address of any individual affiliated with the entity.**

### Registered Principals

Name	Type	City	Status
PRICE IS RIGHT PROPERTIES, LLC	Limited Liability Company	OREM	Active

Position	Name	Address	
Member	JORGE MORATAYA	211 N 800 E	BOUNTIFUL UT 84010
Member	BRADY PRICE	51 W CENTER ST	OREM UT 84057
Registered Agent	BRADY PRICE	51 W CENTER ST	OREM UT 84057
Manager	BRADY PRICE	51 W CENTER ST	OREM UT 84057

If you believe there may be more principals, click here to [View Filed Documents](#)

Business Name:

## Memorandum from the Bountiful City Attorney



**To: Bountiful City Administrative Committee**  
**Re: LLC Real Property Ownership**  
**From: Clinton Drake, City Attorney**  
**Date: September 22, 2022**

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Bountiful City Administrative Committee,

I have been asked to review whether a member of a limited liability company (LLC) that is the record owner of a parcel is an owner of the said parcel of real property. Recently, the Administrative Committee received an application for a short-term rental on an internal accessory dwelling unit for property located at 211 North 800 East, Bountiful, Utah. According to the application and the Davis County Recorder's Office, Price Is Right LLC, is the record owner for the property. The application was submitted by Jorge Morataya, member of Price is Right LLC.

Bountiful Municipal Code § 14-14-128(D)(2) requires all short-term rentals to comply with the City Accessory Dwelling Unit Ordinance. It states, "Short-term rentals are only allowed within approved Accessory Dwelling Units. It is unlawful to allow, construct, or reside in a short-term rental within an entire single-family dwelling, duplex, or multi-family residential dwelling or property."

The Bountiful City Accessory Dwelling Unit Ordinance requires a property to be occupied by the property owner. Bountiful Municipal Code § 14-14-124(E)(6) states in part, "The property owner must occupy either the principal unit or the accessory dwelling unit as their permanent residence and at no time receive rent for the owner-occupied unit."

The Utah Revised Uniform Limited Liability Company Act ("the ACT") states that "a limited liability company is an entity distinct from its member or members". See Utah Code Annotated § 48-3a-104(1). The Act further states that LLCs are granted "the power to do all things necessary or convenient to carry on its activities and affairs". See Utah Code Annotated § 48-3a-105. In other words, under Utah law, an LLC is a separate legal entity that can do many of the same things as a person. For example, an LLC has the power to contract, file a lawsuit, and own property among other things.

In addition to the Utah Code, the Court of Appeals has noted that in the case of an LLC that owns real property, the LLC itself, not its members, owns the property. The Utah Court of Appeals, in *CFD Payson, LLC v. Christensen*, noted that "a membership interest in an LLC therefore does not give the member any interest in the real property owned by the company." 361 P.3d 145, 148 ¶ 9 (Utah App. 2015) citing *In re McCauley*, 520 B.R. 874, 882 (Bankr.D.Utah 2014). The Court reasoned that even though the plaintiff

was the sole member of the LLC, “he had no personal ownership interest” in the land itself because it was owned by the LLC. *See id. See also White v. White*, 402 P.3d 136, 142–43 (Utah App. 2017).

Accordingly, under the legal framework described above, when a parcel of real property is owned by an LLC, members of the LLC are not the property owner of the same parcel.

Sincerely,

/s/ Clint Drake .  
Clinton Drake  
Bountiful City Attorney