

## REPORT AND CERTIFICATION OF PROTEST VOTE OBSERVERS

The undersigned, Bill Redkey, J.D., and Ted Browne, J.D., your duly authorized appointed protest count observers, hereby **Report** and **Certify** to the Jordanelle Fire Board pursuant to U.C.A. 11.42.203 as follows:

1. At its creation the Fire District did not segregate the assessment area into assessment zones pursuant to UCA 11.42.201(1)(b) to allow the District to later levy a different level of assessment or to use a different assessment method in each zone to reflect more fairly the benefits that property within the different zones is expected to receive.
2. The District provided us no predetermined means through a tax assessment roll, as protest count observers, to verify to which tier a protest would be attributed.
3. Current District Fire Fees billings do not distinguish between unimproved lots [Tier 3], unimproved lots with public or private infrastructure [Tier 2] and improved lots with structures [Tier 1].
4. The District created no discernible predetermined statutory method to distinguish between Tier 1, Tier 2 and Tier 3 ERUs, for the purpose of determining whether each or any of the proposed assessment tiers have timely protested the required 50% +1.
5. Since the protest period has closed, we have learned that the Fire District staff (on duty, paid firefighters) has been attempting to do an ad hoc physical recount of the unimproved lots, unimproved lots with public or private infrastructure, and improved lots with structures in the District.
6. We have been informed by the Fire District staff's that their investigation has led it to change the tier totals that were published by the District immediately prior to the assessment notice. We do not understand how the District could change the protest requirements after the fact and, for the purposes of this certification, have assumed that tier counts published prior to and in conjunction with the assessment notice, are accurate.
7. The District did not prepare an assessment roll for an objective observer to conclude whether a protest would be counted in a particular tier.
8. The Notice of Proposed Assessment Area Designation states that: "In order to be valid the protest must be in writing and must be filed by the deadline outlined above."
9. We have counted only such protests that meet the criteria identified in the Notice.
10. The Fire District has shown us, and we have observed and counted, more than **480** protests out of the total published number of **898** [Tier 1] improved lot ERUs.

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11. Our discussions with Fire District staff and our independent observation of the Jordanelle Foundation protest exhibit shows that the owner of 11 finished townhomes has protested, in addition to the 480 homes that have protested, yielding at least 491 of 898 improved lot ERUs in protest.
12. Attached is Janet Carson's widely-circulated email specifically authorizing or requiring group voting among owners of improved lots.
13. Fire District staff has not shown or made available to us any Tier 2 lot protests. However, the Jordanelle Foundation protest exhibit shows at least 172 improved lots/townhome pads. We are uncertain whether each townhome pad counts as an unimproved or an improved ERU, or some fraction thereof.
14. The Fire District has not shown or made available all of the protests necessary to allow us to count protests of owners of unimproved lots with public or private infrastructure [Tier 2] or from owners of any unimproved lots [Tier 3].
15. However, because one member of the Fire Fees Advisory Committee reported at the Fire District fee hearing that she had just delivered adequate protests to upset the assessment based on Tier 3 protests and because we physically observed her handing those protests to the Fire District Board prior to the expiration of the protest period, we inspected copies of the protests that she timely delivered, as well as independent verification that she produced regarding the accuracy of her ERU count and the comprehensive nature of her claim (including court orders with respect to ERU counts, county district filings in legal proceedings attesting to ERU counts, Fire District Billings, etc.).
16. Through this means, we have independently verified **that the owners of at least 2789** out of the total **5260** published number of [Tier 3] unimproved lots have protested. There may be more. To reach this number, we have assumed that the Jordanelle Foundation improved lots and townhomes referred to above count each as a full ERU (and not a fraction thereof) and have subtracted the Jordanelle Foundation developed and improved lots from 500 ERUs for which it is billed to achieve an unimproved lot ERU count for the Jordanelle Foundation of 362. It may actually be higher.
17. Because the Notice indicated that the assessment is defeated by a majority of protests in any of the three tiers and because the assessment was protested, in writing, by more than 2630 undeveloped ERUs, the assessment is also defeated by protests in Tier 3.
18. We have been advised and have independently verified that numerous property owners were not provided individual notice of the proposed ordinance and the right to protest as required by Utah Law. Although we do not know how many of these owners would have protested, we are concerned that the number is substantial.

Walter  
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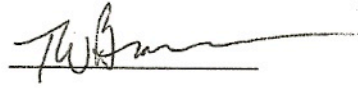


19. We also note that the Fire Board did not give 24-hour notice as required by Utah Law of its intent to consider the proposed ordinance at its meeting held September 1, 2011, despite informing representatives of property owners that such an ordinance would not be considered until resolution of outstanding litigation challenging the ability of the District to use an ERU based assessment.
20. Finally, we have been informed, that at least one owner of a substantial number of unimproved lot ERUs apparently was improperly influenced by Fire District staff to withhold its signed protest, literally a few hours before the protest period expired. This incident should be thoroughly investigated prior to the determination that any new assessment methodology be proposed or adopted.

Further, based on our best information and belief, we hereby **Report** and **Certify** as of the 3rd day of November, 2011, that the foregoing is true and correct.



Bill Redkey, J.D.



Ted Browne, J.D.