

Position Paper Regarding Liability and Insurance Concerns Expressed During the May 22, 2022, Community 22, Council District 4 Neighborhood Meetings Regarding Potential Code Amendments to the Bell Canyon Acres Special Development Zone Permitting the Commercial Boarding of Horses

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Background

During the May 22, 2022, Community 22, Council District 4 neighborhood meeting regarding potential code amendments to the Bell Canyon Acres Special Development Zone, several individuals expressed concern during the public comment portion of the meeting that the adoption of an amendment which would allow for the commercial boarding of horses would enhance their civil liability exposure and negatively impact their homeowner's insurance coverage.

Liability Exposure

The liability exposure of a property owner in Bell Canyon Acres for horses ridden upon the bridle path that crosses one's property is determined by the condition of the bridle path not the boarding status of the horses being ridden. The law does not distinguish between privately owned and commercially boarded horses. A property owner's exposure to liability is the same regardless of the ownership or category of the horse being ridden upon the bridle path.

To protect oneself from liability, a property owner in Bell Canyon Acres must exercise the same degree of care in maintaining his or her property that an ordinarily prudent owner of property would exercise in the same circumstance.¹ To meet this standard, a property owner must maintain the bridle path that crosses his or her property in a reasonably safe condition and free of artificial conditions that would constitute a hazard. If they do so, arguably there is no grounds for imposing liability against them.

Insurance

Several individuals expressed concern over insurance issues during the neighborhood meeting, one of whom was a horse owner and resident of Bell Canyon Acres for 26 years. Chase Parker, spoke with this individual so as to understand the nature of his concerns. The individual stated that when he heard the city was considering a code amendment to the Bell Canyon Acres Special Development Zone that would allow for the commercial boarding of horses, he called his homeowners insurance agent at Bear River Mutual Insurance Company to determine what impact, if any, this may have upon his homeowner's coverage. He reported his agent told him

¹ See definition of Negligence at <https://www.utcourts/resources/glossary.htm>

that if the commercial boarding of horses in the neighborhood increased the number of riders who used the bridle path behind his home, then he faced an increased likelihood of an accident occurring on his property and a claim being filed against his policy. The agent also reportedly said that if such a claim were filed, after defending or settling the matter, Bear River Mutual Insurance Company would likely cancel his homeowner's insurance policy.

The individual stated he also spoke with an insurance agent from Markel Insurance Company, which provides commercial insurance to the owners of farms and ranches. When he informed the agent of the possibility that property owners in Bell Canyon Acres may be permitted to commercially board horses, the agent stated that such a change may negatively impact an insured's premium and/or coverage.

Mr. Parker asked the individual for the contact information of his insurance agent at Bear River Insurance and the agent he spoke to at Markel Insurance Company so he could gather additional information from them. However, the individual stated he did not want to publicly involve these agents in potential issues associated with the proposed rezone of Bell Canyon Acres and elected not to provide Mr. Parker with their contact information. Thus, he was unable to verify the representations made to the individual or ask additional questions.

Alternatively, Mr. Parker contacted a homeowner and property insurance agent with 40 years of experience with State Farm.² With regard to potential claims arising out of the recreational use of bridle paths located within Bell Canyon Acres, the agent stated liability coverage under State Farm policies would not vary based upon whether horses ridden upon the bridle path are privately owned or commercially boarded. Furthermore, based upon his experience, he expressed the opinion that insurance policies written by other commercial carriers also would not vary coverage based upon such a distinction. Finally, he stated if a claim was filed against a State Farm insured, State Farm would indemnify and defend the homeowner from the claim, and *would not* cancel coverage or raise the premium if the insured maintained the bridle path that crosses his or her property in a reasonably safe condition and free of artificial conditions that would constitute a hazard.

To assess whether their property insurance carrier would respond in a similar manner, it is suggested that property owners in Bell Canyon Acres contact their homeowners/property insurance agent and ask the following questions:

1. Would the insurance company increase their insurance premium or cancel their coverage if the commercial boarding of horses was permitted within the Bell Canyon Acres subdivision?

² State Farm is the largest provider of homeowners insurance in the U.S., with \$19.7 billion in direct premiums written in 2020. That figure is double the amount of the second-largest insurer, Allstate. State Farm is the top home insurance company in 39 states, including Utah.

2. Would the insurance company increase their premium if a claim was made by someone injured on the bridle path that crossed their property while riding a privately boarded horse in the neighborhood and the bridle path where the incident occurred was maintained in a reasonably safe condition and free from artificial conditions that constituted a hazard?
3. If the answer to the preceding question is "no," would the insurance carrier's answer change if the horse being ridden on the bridle path were commercially boarded within the neighborhood?

Conclusion

Utah law does not impose different standards of care upon property owners within the Bell Canyon Acres subdivision based upon whether horses being ridden upon the bridle path are privately owned by a resident of Bell Canyon Acres or are commercially boarded within the neighborhood. The standard of care to the rider of each category of horse is the same.

If homeowners in Bell Canyon Acres maintain the bridle path that crosses their property in a reasonably safe condition that is free of artificial conditions that would constitute a hazard, there is no basis for the finding of negligence against them based upon the condition of the property.

There are reputable insurance carriers within the community who will not raise insurance premiums or cancel coverages if the commercially boarding of horses is permitted within Bell Canyon Acres and the property owner maintains his or her property in a reasonably safe condition that is free of artificial conditions that would constitute a hazard.