

April 2010

# UEP Trust Beneficiary Update

*United Effort Plan Trust* (801) 328-2011

## The Questions of Distribution and Subdivision

The United Effort Plan Trust (UEP) Fiduciary is sending this newsletter to communicate information about UEP Trust land and management issues to Trust beneficiaries. Our goal is to create more open communications, so you understand the issues that may affect you. The information in this monthly newsletter will include current issues and events, as well as public notices. We invite your responses and suggestions on how to make it more useful.

### *This Month:*

Subdivisions

Fiduciary Message

**Why does the Fiduciary want or need to subdivide? Why does the Trust have to distribute the property to individuals? Why charge taxes and fees?**

These questions seem to be at the heart of many discussions about UEP Trust property. And as with most things involving the Trust, the answers are complex. In this newsletter the Fiduciary will give background and try to answer the questions above. Every single angle is not addressed, but rather the hope for this month's newsletter is to provide the broader perspective.

**Why does the Fiduciary want or need to subdivide?**

The call to subdivide is based on a solid legal need. The Towns of Hildale and Colorado City are both official municipalities in Utah and Arizona. As municipalities they are subject to basic state requirements, including land use and land documentation requirements. The UEP Trust land has needed to be subdivided for many years. For instance, the two County Assessors have been struggling with this issue for 20 years. The prior Trustees, along with the city officials bear the responsibility for these basic community development actions not been accomplished.

So the first major reason that the UEP Trust needs to subdivide, survey and document the property is to bring the Trust into legal compliance. What is required of UEP land is the same standard that EVERY private property owner is subject to, no more, no less. The UEP Trust years ago made the choice to buy land inside a municipality and then chose to structure the Trust using a legal entity (a Utah state charitable trust)...and must now accept the requirements of the laws of the land in which it exists.

One point that continues to be misrepresented - the Fiduciary IS NOT A DEVELOPER. There is no current wish or plan to develop property, only to bring it into compliance, through documentation and paying taxes, on current property.

The second reason for subdivision is to more accurately manage the Trust and its assets. When the court appointed Bruce Wisan there was no money for the Trust to operate. The Judge ordered the Fiduciary to inventory and manage the assets and make an accounting to the Court.

The third reason is that the Fiduciary believes one of the best outcomes for the Trust is to be dissolved and assets

distributed to beneficiaries. The distribution cannot occur without subdivision of the property.

**Why does the Trust need to distribute property to individuals?**

Trusts that are organized like the UEP have a group of people who are eligible to receive the benefits of what the Trust can provide; this group is the beneficiary class. The key word is eligible; these beneficiaries are eligible to receive benefits from the trust, but it is not a right. To use another example, let's say there was a trust to benefit dog owners, and the benefit of this trust is that the Trust provide free medical services for dogs. If you are a dog owner, you fit the description of the beneficiary class to apply for these benefits, but it doesn't mean that the trust has to give every dog owner these benefits... the trust can choose who can receive benefits.

The current law allows for individuals in the beneficiary class to apply for benefits of the UEP Trust.

Additionally the courts have ruled that only individuals qualify. So the Fiduciary has offered, as a benefit to

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## UEP Trust Special Fiduciary

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those who qualify, the opportunity to own property by giving beneficiaries the title to land within the UEP trust. By the way, after title is given, this property is no longer subject to the Trust. Seems like a great idea to many.

So why do some people have a problem with the individual property ownership benefit? Many of you (some who own property outside the Trust or have title to things like equipment and cars) feel that taking a deed from the UEP violates your interpretation of living your religion's United Order plan.

Well, the good news is the Fiduciary cannot tell you how to live your religion; but on property ownership the Fiduciary is bound to follow the rule of law. The Courts have ruled that it is not appropriate to give title to organizations. So while it is important to understand the Fiduciary will only act within the boundaries of the law and give property to qualified individuals in the beneficiary class who apply, it is also important to note, what one does

with the property after title is given is the individual land owner's business.

### Why charge taxes and fees?

Not big news...but the Trust has no cash. The Fiduciary has a basic responsibility as the manager of the Trust to make sure property taxes and other fees owed by the Trust get paid. The Trust beneficiaries have historically always paid the costs of the Trust.

When Bruce Wisan was appointed Fiduciary, many of you stopped paying these costs, but the costs have not gone away. As explained in the last newsletter, this has left the Trust in debt, and many tax obligations are not being met. If the beneficiaries choose not to pay their obligations, the only other alternative is to sell property to pay for these obligations.

As said before the Trust beneficiaries have always been asked to pay for the costs of running the Trust. And these expenses have always included things like: property taxes, engineering fees, attorney fees and administration (currently the Fiduciary). Before the

Fiduciary these assessments were done most often verbally through an FLDS Church leader. The Fiduciary has chosen to call these "occupancy fees" and send out notices or assessment letters. The Fiduciary believes it is still appropriate to charge the home occupants who use and benefit from the Trust property. If beneficiaries do not want to pay the costs associated with the Trust, the only other way to pay the debt is to sell the Trust's assets, which is land. But if the Trust beneficiaries pay the fees, the selling of land is not necessary.

This has been the case since the Trust began, and the fees have not changed significantly. Namely for the last couple of decades the Trust has always incurred high legal fees; this continues today. But what has changed is that now some beneficiaries of the Trust are the ones suing the Trust and the downside is that the only way to pay for those legal fights is with Trust assets. The rumor is that many would rather see all of the Trust assets spent, than work out an agreement with the Fiduciary. That is certainly not the Fiduciary's position.

### Message from Bruce Wisan – Special Fiduciary

As most residents don't know much about me, let me give a little history. I was born and raised in Salt Lake City. After high school I joined the Utah National Guard and was trained as a medic and operating room specialist. I graduated from the U of U with a BA in economics and with a MBA in business administration with a specialization in accounting. After college graduation I moved to Albuquerque for 5 years. I have worked as a certified public accountant all of my life and founded my firm in January 1, 1985. My wife and I have been married for 39 years and have four children. We have 6 grandchildren with two more coming in the next few months. My hobbies are working, golfing, jogging and reading.

*Bruce R. Wisan*