

June 2010

UEP Trust Beneficiary Update

UEP and Litigation: Why all the litigation?

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:

Litigation

Fiduciary Message

Currently the UEP Trust is involved in approximately twenty lawsuits. Several were initiated by the Trust, but a number were filed by individuals or entities under the direction of FLDS leadership. Even lawsuits filed by UEP are because former Trustees and FLDS leadership will not cooperate or comply with court orders. The case that has the most potential impact is being decided by the Utah Supreme Court right now. The basic issue is whether the intervention by the Court into the administration of the UEP Trust was appropriate or not. However, many of the cases filed against the Trust appear to be obstructionist in nature. The message seems to be that whatever the Trust does under the administration of the Special Fiduciary must be opposed, so lawsuits are filed in all manner of situations.

As a result, the UEP Trust is incurring several million dollars in legal fees, and of course FLDS leadership is incurring a comparable amount. Judge Denise Lindberg of the Third District Court has stated on the record that the liabilities of the Trust will be paid. Such

liabilities include the legal fees. As the Trust currently has a meager inflow of cash, it would appear that Trust property will have to be sold in order to pay for the administrative and legal costs being generated; the more fees generated, the more Trust property will need to be sold. Lawyers representing FLDS interests are apparently being paid from current FLDS member contributions and/or are incurring costs that will have to be paid in the future.

The bottom line is that a lot of legal expenses are being incurred by lawyers.

Special Fiduciary's Goal Regarding UEP Property

The stated goal of the Special Fiduciary governing the UEP Trust, under the direction of Judge Lindberg, is to distribute UEP Trust assets to beneficiaries of the Trust. Trust assets consist primarily of residential houses, some business properties and some vacant land.

The Trust has completed all surveying that needs to be done in Hildale to subdivide all of the residential and business property and has almost completed the needed

surveying in Colorado City. The goal, after the subdivision process is completed and approved, is to distribute deeds to houses and business properties to Trust beneficiaries.

The requirements for qualifying as a beneficiary of the Trust have been created and approved by the Court. A process has been set up and approved by the Court to petition for benefits. A form has been created to be filled out by those individuals seeking Trust benefits. A Housing Committee has been set up to make decisions on housing issues. The Housing Committee consists of current UEP Trust Advisors. Don Timpson is chairman of the Housing Committee. The Fiduciary is actively seeking FLDS adherents to serve as members of the Housing Committee to give nonbinding input to the Fiduciary.

Although nobody has a right to receive benefits from the Trust, the Reformed Trust indicates that a significant number of current FLDS residents may qualify to receive benefits from the Trust. Such benefits would be primarily in the form of deeds to houses and business properties. If the

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goal of the Trust is to distribute deeds to Trust beneficiaries, then why all the litigation?

FLDS Objections to Distribution

FLDS attorneys have told UEP Trust representatives that it would be against FLDS religious principles for FLDS members to petition for benefits. If any distribution were to occur, they indicated that new entities controlled by FLDS leaders should be created and the deeds to all property going to FLDS individuals who are qualified beneficiaries should be transferred to the new FLDS controlled entities and not to individual members. However, there are legal reasons why the Trust cannot distribute property to FLDS controlled entities but must distribute properties to individuals.

Several years ago when the concept of distributing deeds of Trust property to beneficiaries was taking form, the idea was considered that distributions of deeds to FLDS beneficiaries would be done in such a way that it would not be possible for FLDS beneficiaries to turn around and contribute such property back to FLDS leaders. That concept was scrapped a long time ago. Each and every individual receiving a deed to property would be free to contribute such property to any organization or individual they so choose. The property could be sold

immediately, ownership divided among family members, contributed to a church or just held as is.

Most FLDS members own cars, some own recreational vehicles, some own livestock, and so on. In other words, ownership of assets has and does occur. Do FLDS leaders just want to maintain control, or are there sincere religious reasons for not wanting FLDS members to take deeds to the homes and businesses? Millions of dollars in legal fees could be saved if FLDS members would accept deeds.

How to Stop Wasting Community Resources on Legal Fees

The Special Fiduciary fully believes a negotiation to end all litigation is possible. A distribution to Trust beneficiaries can be worked out. Some of the current petition processes and decision making may need to be revised (with Court approval), but details could be worked out. Last year an extensive and somewhat complicated negotiation process took place, but no agreement was reached among all of the parties. The Special Fiduciary would like to meet with the new FLDS leader, President Wendell Nielsen, to try to work out an agreement to end most or all of the current litigation. If an agreement in principle were reached, it would be presented to the Court for approval.

Message from Bruce Wisan – Special Fiduciary

As a CPA I see the financial statements of many companies. Many of our Salt Lake based companies that are not in the construction business seem to be doing as well or better in 2010 than they did in 2009. Our CPA firm works with a large number of construction companies, and unfortunately we see the 2010 revenue decreasing for most of our contractor clients. We don't see the construction business really improving until the latter part of 2010 or the first part of 2011. Our clients and contacts that we have in St. George are telling us the same thing. However, a St. George engineering firm recently told me they were very busy and in fact could hire another engineer. Engineers and architects have to get busy before the rest of the construction industry gets work, so that is a good sign. A St. George real estate broker told me he was starting to get busy again. I know the residents of Short Creek rely heavily on the construction industry and on the St. George economy. Economic recovery seems to be occurring in the St. George area, but it is happening slowly. I think we have seen the worst though, and we all hope for better times in the future.

Bruce R. Wisan