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## PRACTICE AREAS

- Governments Defense
- Governments
- Insurance Defense
- Land Use & Zoning
- Real Estate

## EDUCATION

- J.D., University of Utah, S.J. Quinney College of Law, 1986
- B.A., Brigham Young University, 1981

## ADMISSIONS

- Utah State Bar
- U.S. Court of Appeals, Tenth Circuit

## ABOUT

Robert Keller works closely with a wide range of municipal government clients throughout Utah in land use litigation, including vested rights, zoning issues and condemnation. An experienced litigator, he has 30 reported appellate decisions.

Robert's land use practice often includes defending municipalities against claims filed by developers who disagree with local regulations or their application, or against claims by neighbors or others who oppose municipal decisions.

A significant part of Robert's land use practice also involves assisting local governments with the use of eminent domain to acquire private property that is needed for public building projects. He served on the committee establishing the Model Utah Jury Instructions to be used in condemnation actions.

Robert's practice has also included the defense of municipalities against challenges to their sign ordinances – especially in the wake of the 2015 U.S. Supreme Court's decision in *Reed v. City of Gilbert*. Under this decision, which clarified when municipalities may impose content-based restrictions on signage, many existing ordinances are problematic – and some no longer enforceable.

Robert's philosophy of practice is to use listening and logical reasoning skills and experience to de-escalate contentious interactions and reach the best possible outcome for all parties – through negotiation or, if necessary, litigation.

## HONORS / AWARDS / UNIQUE RECOGNITION

- Rated by Martindale-Hubbell® Peer review as AV® Preeminent™ 4.9 out of 5

## REPRESENTATIVE MATTERS

### Eminent Domain

- *Hodgson, et al. v. Farmington City*, -- Fed. Appx. -- 2017 WL 83740 (10th Cir.) (successful defense of City's demolition of structure giving rise to claims the City violated plaintiffs' rights under 42 U.S.C. § 1983, the United States Constitution, and state and municipal eminent-domain laws);

### Land Use & Zoning

- *Timilsina v. West Valley City*, 121 F. Supp. 1205 (D. Utah 2015) (successful defense of City sign regulation and challenges based upon First Amendment constitutional theories);
- *Petersen v. Riverton City*, 784 F. Supp. 1234 (D. Utah 2011) (successful defense of City land use approvals)

- Gillmor v. Thomas, 490 F.3d 791 (10th Cir. 2007) (successful defense of County's land use regulation and zoning scheme against RICO and constitutional challenges);
- Petersen v. Riverton City, 243 P.2d 1261 (Utah 2010) (successful defense of City land use approvals)

#### **Government Defense**

- Washington Townhomes, et al. v. Washington County Water Conservancy District, 388 P.2d 753 (Utah 2016) (interlocutory appeal of successful defense of defendant district's level of service determination for purposes of establishing impact fees);
- Fuller v. Springville City, 355 P.3d 1350 (UT App 2015) (successful defense of City's administrative decision denying non-conforming use applications);
- Farmers New World Life Ins. Co. v. Bountiful City, 803 P.2d 1241 (Utah 1990) (successful defense of City against inverse condemnation claims, establishing appropriate standards);
- Sign ordinance upheld despite Constitutional challenge.

## **SIGNIFICANT CASE SUMMARIES**

- In 2013, the owner of a Big Daddy's Pizza restaurant placed an A-frame advertising sign in front of his establishment – but not on his property. When West Valley City asked him to remove it, the owner challenged the City's sign ordinance as a violation of his first amendment rights to free speech. In this 2015 case before the U.S. District Court, Robert Keller represented the City. The case took on additional complexity after the U.S. Supreme Court issued its landmark decision in Reed v. City of Gilbert. In spite of this, the City prevailed on summary judgment. The decision was not appealed.
- City defends SOB ordinance against challenge by business
- Doctor John's operates stores that sell "adult" products. After this company located a store in Roy City, the City passed an ordinance that subjected "sexually oriented businesses" to certain regulations. Doctor John's challenged this ordinance in Utah's Federal District Court as posing an unconstitutional restriction on speech. Robert Keller provided the City with a solid defense. On motion after discovery, the Court granted the City's motion for summary judgment – finding that the ordinance was constitutional in all respects. In addition, Robert successfully defended the District Court's decisions on two appeals to the 10th Circuit Court of Appeals.
- Utah Supreme Court clarifies applicable statute of limitation in local land-use decisions South Jordan City granted an application for development approval for an office building and associated parking. Various environmental groups opposed the decision. They sued the City, claiming that this approval violated its own ordinances. The challengers argued that their claim was an enforcement action, and therefore not subject to the 30-day limitations provision which would otherwise apply to any challenge to a City's land-use decision. Representing the City, Robert Keller obtained summary judgment in the City's favor, which the challengers appealed. In upholding the decision, the Utah Supreme Court clarified that even though the challengers characterized their action as an enforcement action (to which no express limitations provision applied) they were nevertheless required to comply with the 30-day limitations provision otherwise applicable to a City's land-use decision.

## **PRESENTATIONS AND PUBLICATIONS**

- Speaker, Persuasive Communication from the Inside Out, Annual Government Civil Practice Conference – St. George, October 2017