

1990

American Tierra Corporation v. West Jordan : Unknown

Utah Supreme Court

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UTAH SUPREME COURT,

BRIEF

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City Attorney

24 May 1991

FILED

MAY 28 1991

**CLERK SUPREME COURT,
UTAH**

Mr Geoffrey J Butler
Clerk of the Court
Utah Supreme Court
332 State Capitol Building
Salt Lake City, Utah 84114

Re: American Tierra Corporation et al vs City of West Jordan, Utah
Docket No. 900186

Dear Mr Butler:

Pursuant to the provisions of Rule 24(j), Utah Rules of Appellate Procedure, by this letter I direct the Court's attention to its recent decision in the case of **Yearsley vs Jensen**, 144 Utah Advanced Reports 9 (Utah Supreme Court, 3 October 1990), which I believe to be a significant and pertinent authority in the disposition of the above-entitled case.

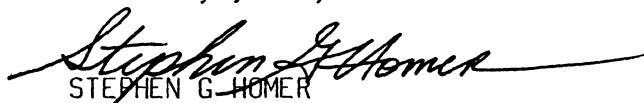
Yearsley was published following submission of the written briefs. The **Yearsley** decision, in which the Court denied recovery to the plaintiff attempting to litigate her claim under a different legal theory than specified in the "notice" of claim, is analogous to the case at hand: the only "notice of claim" arguably filed in behalf of the instant Plaintiffs not only failed to describe the Plaintiffs' claims---some of which had not even arisen at the time of the filing of the "notice"---but also failed to identify the specific legal theory upon which the Plaintiffs ultimately filed their litigation and seek to recover

Yearsley should be examined simultaneously with the other authorities and argument found at pages 12 and 13 of the RESPONDENT'S REPLY BRIEF

Oral argument in the case is presently scheduled for June 11th.

Please do not hesitate to contact me if you have questions in this regard.

Sincerely yours,


STEPHEN G. HOMER
City Attorney

cc: Wallace R Bennett (4 copies)