

Office of the Huerfano County Attorney



MEMO

TO: Huerfano County Board of County Commissioners
Jess L. Gries for Hummingbird Ranch, LLC
Sky Tallman, Huerfano County Land Use Director

FROM: Lisa Powell-DeJong, Huerfano County Attorney

DATE: March 13, 2023

Question Presented: As a matter of law, is the assembly contemplated in Hummingbird Ranch, LLC's application for a night of camping on June 14, a prohibited extension of the 4-day Sonic Bloom Festival?

Discussion:

Huerfano County Zoning Regulation 1.13.02 reads in part:

Assembly means a company of persons gathered together at any location at any single time for any purpose.

Assemblies over four (4) days length, not including set-up and take-down, are prohibited. Assemblies will not occur more than twelve (12) times per calendar year or two (2) times per month on any property.

Sonic Bloom Festival occurs over a period of 4 days, June 15 through June 18. Hummingbird Ranch would like to host a night of camping on June 14, one day prior to the Sonic Bloom Festival to allow patrons of the festival to arrive to the festival event early.

Factors that would suggest the night of camping and the Sonic Bloom Festival are two separate assemblies are:

1. The Sonic Bloom Festival website sonicbloomfestival.com currently has camping tickets for sale with a start date of June 15. The Applicant indicates the camping being offered for June 14 will be purchased through a separate online app unrelated to the Sonic Bloom Festival. There is no link for that separate app located on the Sonic Bloom Festival website, suggesting patrons must purchase a June 14 camping ticket separate from camping tickets for June 15 through June 18.

2. The June 14 day of camping will not include musical performances, art displays, workshops, aerialists, dance troops, food vendors, or craft vendors.
3. The festival venue within Hummingbird Ranch will be closed to the June 14 campers. The June 14 campers will only have access to a portion of the campground on Hummingbird Ranch.

These are differences, however, without any real or meaningful distinction.

To make the point of the assemblies being separate, Hummingbird Ranch, LLC argues that the night of camping and the Sonic Bloom Festival can be compared to Harlem Globetrotters and Home & Garden Show happening just one day apart at the Colorado State Fair Grounds. The argument is that they are governed by two different entities and are separate and distinct events even though they are on the same parcel of land and likely many of the same people attend both.

This comparison fails for several reasons.

- If we accept the argument that the Harlem Globetrotters and the Home & Garden Show would “likely” draw many of the same people, which is in and of itself highly debatable, not all patrons of the Harlem Globetrotters would be attending the Home & Garden Show. In contrast, all patrons of the June 14 night of camping will be attending the Sonic Bloom Festival.
- The purpose of the June 14 night of camping, is the very same purpose of the camping on June 15 through June 18, which is to attend the Sonic Bloom Festival. June 14 merges into the festival camping. In contrast, the Harlem Globetrotter patrons are not attending that event in order to attend the Home & Garden show. One does not merge into the other.
- Although it is a very small amount of time, the Harlem Globetrotters and the Home & Garden show do have 1 entire day between them in which patrons are not present on the fairgrounds. However, the camping patrons have no such break in time and are present on the Hummingbird Ranch grounds the entire 5 day time period.
- The Harlem Globetrotters and the Home & Garden Show are governed by two different entities whose membership is likely numerous and not one and the same. The night of camping and the Sonic Bloom Festival are put on by separate entities as well, however, both the Sonic Bloom Festival LLC and the Hummingbird Ranch LLC are single member LLCs, with the same single member in ownership of both. The entities are not mutually exclusive and have the same interests.

Huerfano County Zoning Regulation 1.13.02 prohibits assemblies over four days in length. Patrons of the June 14 camping are coming for the purpose of staying the following four days for the Sonic Bloom Festival. There is no required departure of the June 14 camping patrons between the camping and the Festival. Additionally, all patrons who come for the June 14 camping will be staying for the festival.

Conclusion: The June 14 day of camping and the Sonic Bloom Festival are one and the same, thus extending the festival to a period of 5 days which is prohibited by the Huerfano County Zoning Regulations. The June 14 day of camping permit should be denied.