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August 16, 2012

ELECTRONIC-MAIL: tawkx4@msn.com

Mrs. Tanya L. Hawkins
861 Montclair Drive
Palisade, CO 81526

Re: Montclair Subdivision Home Owners Association, Inc.,
Delinquent April 1, 2009

Dear Mrs. Hawkins:

This correspondence is in response to the request of Randy Fay, acting in his capacity as president of the Montclair Subdivision Home Owners Association, Inc., with respect to specific obligations of the association for general repair and maintenance work on and off private properties within the subdivision.

A place to start would be that HOAs in Colorado are primarily created to deal with the complexities of the delivery, receipt, disbursement and return of irrigation water provided by river or canal with return ditch displacement. The secondary purpose is generally to improve and maintain the common areas within the subdivision, meaning all of the land within the subdivision not defined as a "Dwelling Unit" or a "Lot." See Article IV, Section 2, page 6, Article I, Sections 3, 6 and 8, Article V, Section 3, and Article VI, Sections 3 and 5.

The plat defines the parameters and boundaries of each lot. The lot boundaries run to the street, consequently, the sidewalks and all utilities, sewer line and walkways on each lot are the responsibility of the lot owner unless the declaration of the subdivision or the bylaws of the association state otherwise.

Streets and curb-gutter matters are usually the responsibility of the county or municipality in which the subdivision is located. Generally, the town of Palisade or Mesa County, if outside the town limits, will "accept" the streets and roadways a year or more after they have been built and approved as meeting the town or county standards and, consequently, become the obligation of maintenance and repair of the town or county. (Montclair Drive).

Mrs. Tanya L. Hawkins
Page Two
August 16, 2012

Of note, however, is the 18-foot "private" drives portrayed on the plat, presumably, accessing the rear or garage area of numerous lots, and the detention basin. As these areas are not dwelling units or lots, these areas would look to be common areas ("private drive") for which the association would have responsibility of maintenance and repair if the build out is as portrayed on the plat I downloaded off of the association's website.

As your subdivision requires uniformity and consistent maintenance and repair on the exterior of the dwelling units and improvements on the lots, your association does cross the line and have obligation for maintenance and repair benefitting individual owners but only to the extent required in Article VI, Sections 1, 2 and 3.

Your particular HOA has some of the attributes, duties and obligations often contained in declarations for town homes, condominiums and other "common wall" structures, as well as single-family homes.

I believe the obligation of the association is limited to the exterior of the dwelling units to assure uniformity as well as landscaping on each lot in addition to the common areas. The lot owners is otherwise charged with maintenance and repair of "their Lots, buildings and improvements" inclusive of sidewalks and home walkways (see Article VI, Section 2).

I hope this information answers the specific questions enumerated in Mr. Fay's electronic-mail message. If not, I would be happy to elaborate further on these issued.

Very truly yours,

C. JOSEPH CROKER, P.C.

By 
C. Joseph Croker

cmb
xc: Mr. Randy Fay ELECTRONIC-MAIL: randy@randyfay.com