

Terry Miller
Joelle Miller
30279 Chalet Circle
Pine CO 80470
(303)842-8421
joelle@goinghigh.com

Tom Wickman
Frisco Police Chief
PO Box 4100
Frisco, CO 80443

April 2, 2012

Subject: Illegal Entries/break-ins
units D-317, E-279, G-206
MountainSide Condos

Dear Chief Wickman;

We have been informed today (cf. Document #2 attached) that an unauthorized entry into our condo units, D-317 and E-279, occurred on December 6, 2011.

On September 3, 2011, the Board of Director reiterated that the HOA "cannot enter units without owner permission except in case of emergency" (cf. Document #1 attached)

On November 7, 2011, we provided the Management Company, Mountain Managers, Phil Wells, President, PO Box 647, Frisco, CO a written notice informing the company not to enter our units without prior permission (cf. Document #3 attached).

Mr. Will Woodard, on-site property manager at MountainSide, knocked on the front door of our unit D-317 on December 6, 2011 and asked to enter our condo in order to conduct a code violation inspection. We verbally told him that we had notified the HOA via Phil Wells on November 7, 2011 (cf. Document #2 attached) that they no longer had permission to enter any of our properties unless there was a documented emergency. Mr. Will Woodard indicated that he had not been told so by the Management Company and was just going down the list provided. We didn't let him in. We also emphasized to him that he was not to enter our other units without our written permission (E-279 and G-206). He replied that he needed to note this on his list, and after doing so, appeared to leave.

The notice regarding denial of entry for non-emergencies that we sent on November 7, 2011 (cf. Document #3 attached) was provided to the HOA because of a previous event that occurred sometime in August of 2011 where Mr. Will Woodard, under false pretense, entered

another of our condos, G-206, without any notice while our guests were present. He told our guests that his supervisor, Mrs. Susan Witkowski had instructed him to enter our unit right away in order to conduct a search for code violations. Our guests stopped him from entering further and asked him to leave at once. He complied. The guests left for the day and upon returning, notified us immediately as it was obvious to them that someone had been in the condo during their absence. (cf. Document #4). When questioned, the HOA later acknowledged that indeed someone returned to our condo during the guest's absence and conducted a search. No violations were found.

We wish to make a formal written complaint against the Mountain Managers who clearly intends to ignore our privacy, the privacy of our guests and trespass on our private property at any time and for any reasons.

We would like for the Frisco Police to investigate and determine which individual(s) from the Mountain Managers entered our unit on the afternoon of 6 December, 2011 despite our expressed written and verbal denial of entry so that we can file trespassing charges as deemed appropriate for the circumstances. We would like the Frisco Police to also investigate the practice that Mountain Managers has adopted regarding entering condos at will, for any reasons and without the knowledge of guests or owners.

Mountain Managers clearly intends to flagrantly ignore private property rights and trespass at will and these activities need to be stopped.

Thank you in advance for your help in this matter.

Joelle Miller
Terry Miller
Owners, D-317, E-279, G-206

cc. Barry Meinster, esq.

Encl.:

- Document #1: Letter from Mountain Managers, Agent for Mountain Side Condo HOA, dated November 9, 2011 stating their intent to enter our condo units, letter unsigned and letter dated April 2, 2012 acknowledging entry in D-317 and E-279.

- Document #2: Minutes from the Board of Director meeting dated September 3, 2011 acknowledging the need for the HOA to receive permission to enter units during non-emergency situations.

- Document #3: Letter and email from owners of D-317, G-206 and E-279, dated November 7, 2011 and addressed to Phil Wells, President, Agent for Mountain Side Condo HOA, Mountain Managers, stating that Mountain Managers, their staff, their agents or contractors do not have our permission to enter our private property without our express written permission except in an emergency.

- Document #4: email from owners of D-317, G-206 and E-279, dated October 21, 2011 and addressed to Phil Wells, President, Agent for Mountain Side Condo HOA, Mountain Managers, addressing the illegal entry that occurred around August 25, 2011 and acknowledgment from Phil Wells that indeed unauthorized entry was performed by on-site Mountain Side Manager.

At the Annual meeting, Lyn Pierce requested that a notice be sent to owners asking how many people are interested in having a washer/dryer installed. Everyone will be interested until they know the cost. This needs to be a part of the notice. Compiling results and the follow up will create a ton of additional work for Mountain Managers' staff. It was decided that it would be up to Lyn and she will be the contact person.

It was noted that there are probably some units that have installed washer/dryers without permission and in fact, may have done so after permission was expressly denied. There are also some units that have installed additional bathrooms. It was resolved to inspect units in all buildings (except I & J) to look at plumbing. Units that are on the security check list have already given permission for staff to enter the unit. **We cannot enter units without owner permission except in case of emergency.** Notice will need to be sent to owners before entering units. The notice will state that there have been code violations and unit bathrooms and hot water heaters will be checked.

D. Bill noted that he received one complaint from an owner in C building that came up in May. Their security sheet was checked off but both toilets were dry. Mountain Managers will ensure that toilets are flushed during security checks.

E. Lawsuit: The Town and Developer came back with motions last week: Mountain Side requested a stay which was approved without hearing from the other side. A motion to stop the stay was entered and granted. They are now free to permit all they want. Mountain Side did not delay work and should not have to worry about a lawsuit for lost work and/or wages. The developer has always been free to continue work on the units that were not a part of the original stay order.

5. **Schedule Next Board Meeting:** The meeting was previously scheduled for the last Saturday of October (10/29/11). This meeting is a budget meeting – revised budget/MCR with 9 months actuals and 2 months estimated. E.J. will be reviewing the MCR and will get changes to Phil. He does not anticipate any changes on the Clubhouse side but there will be some for the Condos. No dues increase should be required for 2012 unless something unexpected comes up.

6. **Adjournment** was at 2:10 p.m.

Respectfully submitted:

Judy Freese, Recording Secretary (Minutes prepared from a tape recording of the meeting).

APPROVED:

Approved via e-mail

10-18-11

Jim Whiteley, President, Combined Boards

Date



November 9, 2011

To: Mountain Side Condo Owners (Buildings A, B, C, D, E, F,
G, and H)

From: Mountain Managers for the Mountain Side Board of Directors

Re: Unit Inspection

It has been brought to our attention that there have been some washers/dryers and additional bathrooms installed in Mountain Side condominium units without authorization. The Board of Directors has instructed us to inspect every condominium unit for code violations. The inspection will take several days and we will be entering each unit on December 6, 7, or 8, 2011 for the purpose of conducting this inspection. Should a violation be found to exist, owners will be notified.

Thank you in advance for your cooperation.

MOUNTAIN MANAGERS
Agent for Mountain Side

March 31, 2012

Terrance Miller
30279 Chalet Circle
Pine, CO 80470

Re: Mountain Side, Units 317D and 279E

Dear Mr. Miller,

Per the letter dated 11/9/11, all condo units were inspected for code violations. The following items were noted:

Unit 317D: Washer/Dryer installed in unit
Bathroom installed in loft area.

Unit 279E: Washer/Dryer installed in unit

In accordance with the Rules and Regulations for Mountain Side, any modification requires Board approval. The procedure for obtaining approval is outlined in the Rules as follows:

Procedure for Architectural Approval for Modifications to Units. In order to obtain approval of modification plans, there must be Board review of the following:

- A. Copies of all applications for building permits and inspection for code compliance.
- B. Evidence of Builder's Risk Insurance.
- C. Personal letter of request for modifications by actual owner.
- D. Personal guarantee by owner stating that all work performed will be completed satisfactorily.
- E. Upon completion of modification, an inspection by Board members and/or the Managing Agent will be conducted. Owner will be contacted prior to this inspection.
- F. Owner must have written or e-mail approval signed by three Board members before beginning modification.

In addition, the rules specifically prohibit installation of washers and dryers except in buildings that were originally plumbed for a washer and dryer. The Rules state, "Installation of washers and dryers is permitted only in units that were originally plumbed for a washer and dryer (specifically "I" and "J" buildings. All installations must be accomplished in accordance with current codes. Any installation must be approved by the Board of Directors prior to the commencement of any work. Installation of washers and dryers in any other unit is prohibited, except for any washers or dryers that were installed before 1991. Any damage or expense which results from water flow shall be the liability and responsibility of the Owner of the Unit where the water originated."

There is no record on file of approval being granted for these installations or that the appropriate Town of Frisco permits were obtained. It is always possible that these have been lost over time and on behalf of the Board of Directors we are asking owners to provide copies of any approval letter or applicable permits. Please supply this information as soon as possible but not later than April 17, 2012. Copies should be sent to:

Via Mail: Mountain Managers Property Management Department
P.O. Box 647
Frisco, CO 80443

Via Fax: 970-668-5616

Via E-mail: susan@mountainmanagers.com or
judy@mountainmanagers.com

Please be sure to include your name and unit number on any correspondence.

If you have any questions regarding this matter, please contact us at 970-668-3174 (press "5" to be connected to Property Management). We will be happy to forward your comments/questions to the Mountain Side Board of Directors.

Sincerely,

MOUNTAIN MANAGERS (for the Mountain Side Board)
Agent for Mountain Side

cc: Mountain Side Board of Directors

From: joelle miller <joelle@goinghigh.com>

Date: Fri, Oct 21, 2011 at 9:34 PM

Subject: Illegal entries at MountainSide by Mtn Managers employees, lack of/inconsistent communication with owners, absence of adequate advance notification, payment of dues

To: phil@mountainmanagers.com, Jim Whiteley <oldrockhound@q.com>

Hello,

1) Unit G-206 is managed by Summit County Holidays LLC. A guest who resided in this unit in August has requested a full refund invoking 'invasion of privacy'. The guest has reported that a person wearing a Mountain Managers shirt opened the unit and walked in on them one morning as they were getting ready for the day. The guests asked the employee for credential before letting him proceed as well as a reason for his unexpected and unannounced visit. The employee didn't provide either but indicated that he had been asked by his supervisor to come and check that unit that day. The guests asked him to leave and call the owners to arrange such a visit. The employee allegedly then arrogantly replied as he walked out: "I don't need your permission as I have keys and can come back anytime I want". The guests eventually left for the day but were convinced that the employee did indeed just as he told them and returned when they were out of the unit. Nobody from Mountain Managers ever contacted us, the owners, to discuss the need of entering this unit.

I understand that Mountain Managers employees are authorized to enter units without prior authorization in case of an emergency. However, this incident greatly concerns us. Therefore, we would like to ask you to investigate this report and let us know immediately

a) what emergency prompted a manager to dispatch an employee to this unit?

b) If there was indeed an emergency, why were we as an owner not immediately notified?

We also would like to receive a copy of your activity log with regards to this work order.

The guests resided in this unit between August 18 and August 26, 2011 so the entry (ies) occurred during this time period. They are repeat guests who have been coming to MountainSide for the past 3 years.

2) Lisa, from Mountain Manager, contacted us on 10/18/11 to let us know that the routine chimney sweep scheduled for unit E-279 would have to be rescheduled to December 9, 2011. We weren't aware of any prior appointment so we asked her for further information.

She informed us that it had originally been scheduled in May but that the work could not be completed and would therefore be completed on the new appointment. We never received such a notice. Lisa explained that emails were sent to owners in May, 2011. She checked and told us that we were not on the recipient list. We routinely receive emails from Mountain Managers **so how is it possible that we are no longer on the mailing list?**

In the conversation, I asked about the chimney sweep in the two other units we own at MountainSide. She said 'oh, these were done as scheduled last May'. **AS AN OWNER, WHY WERE WE NOT INFORMED OF THIS?** As far as we know, Mountain Managers must notify and seek permission from each owner prior to entering a unit unless it is an emergency. In addition, we were not even notified of the need for such work to take place in May. **Again, why weren't we notified so that we could 1) notify any potential guest (if the unit was occupied when the work was scheduled to take place) OR 2) coordinate with your office so that it wouldn't interfere with the guest's presence?**

3) Lack of/inconsistent communication with owners

Last February, I have asked Susan, your employee in charge of the property management and HOA, to include this item onto the next agenda meeting. As of today, I still have not seen this items on the agenda. This is a very important item that needs to be discussed and resolved ASAP. The way your office staff communicates with owners is very unreliable. We receive notices via snail mail, email, flyers posted on building's wall but have no way of ensuring that we are indeed receiving all the needed information. We apparently didn't receive the notice regarding the chimney sweep to be conducted in May, neither did we receive the very important email regarding the Peak 1 development sent out last May. Why not use ONE single effective method when communicating with owners? There are lots of tools available to achieve this and neither requires additional work or the manual maintenance of an unreliable mailing list. Owners could subscribe to such tool and get notices automatically and consistently as soon as they are drafted by your employee(s). An up-to-date calendar of activities would also be helpful even though each owner understands that scheduled activities may have to be rescheduled. This would especially be helpful when it comes to building staining, painting, parking lot resurfacing, clubhouse maintenance etc...A owner could consult such calendar at will and could plan around it without having to rely on an email that may or may not be sent out or may be sent out without adequate notice.

Example: As an owner, we were informed 3 days prior that the staining in Building G would occur. Had we access to such master calendar, we would be able to know a lot further in advance and plan accordingly. Why not provide such information to owners?

The timeline used to share the the board meeting minutes with owners is also inadequate. Why does it take almost 2 months to receive copies of minutes? There should be a way to receive them as soon as they have been written and approved.

I would like to request that the board discusses and brain storms new ideas regarding information sharing/exchanges with owners at the next scheduled meeting. If you need a volunteer to gather information regarding existing tools and even assist in such implementation once a new communication method has been selected, I would gladly volunteer to help. This would be a great benefit for all the owners.

4) payment of dues.

We have been paying our dues via our bank bill pay for well over two years without any problems. In May of 2011, most of our bank issued checks were no longer being forwarded to your accounting department and numerous checks were 'lost'. We have been working with Tricia Welton-Hinkle since May in order to bring us back to a current status. I had to cancel numerous bank issued checks, request refunds and reissue checks on numerous occasions. **Why are we experiencing such difficulties now when payments via the same method worked flawlessly in the past?** Tricia informed us that checks could no longer be mailed to the address listed on the coupons but should be sent directly to her in Frisco. **Why such a sudden change?** We have now started to do that instead and Tricia has indicated that she has now received most of our bank issued checks although we still have 3 checks that are unaccounted for. Once checks are received in your office, they often take up to 1 month to be recorded and cashed. Why such a long delay?

Thank you for your time and we hope to hear back from you soon,

Terrance Miller

Joelle Miller

D-317, E-279, G-206

cc. Jim Whiteley HOA President

Terry Miller and Joelle Miller
P.O. Box 432
Frisco, CO 80443

November 21, 2011

Mountain Managers
Mr. Phil Wells, President
1121 Dillon Dam Road
Frisco, CO 80443

Dear Mr. Wells,

My name is Terry Miller. My wife Joelle and I own Mountain Side condominiums D-317, E-279 and G-206. We are in receipt of Mountain Managers unsigned letter dated November 9, 2011, see attached, and are advising as follows.

Referenced Real Property: Mountain Side Condominiums G-206, E-279 and D-317

As the owners of the above referenced Real and contained Personal Property, we are advising you, as the President of Mountain Managers, that permission to enter the above referenced Real Property is denied to Mountain Managers, the Mountain Side Condominium Home Owners Association, their respective officers, directors, agents, employees , designees and contractors.

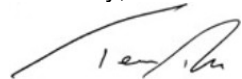
Entry is allowed only as provided for under the "Rules, Regulations and Policies of Mountain Side Condominium Association", "Condominium Declaration for Mountain Side Condominium" and "Colorado Revised Statute 33.3 Real and Personal Property" your understanding of which is recorded in the "Mountain Side Board of Directors Meeting Minutes" Dated 9/3/2011", which states as follows:

"9. **Entry of Units.** In the case of emergency originating in or threatening any Units, regardless of whether the Owner is present at the time of such emergency, the Association or anyone authorized by it, as well as fire, police and other emergency personnel, shall have the right to enter such Unit for the purpose of remedying or abating the cause of the such emergency, and such right of entry shall be immediate..."

Although you have chosen to remain mute with respect to our most recent communications regarding illegal entry and our demand for a report of past entry to the above referenced Real Property by Mountain Managers, you are invited to contact us directly, any time of day, as follows with any questions.

Terry: tmiller@transportrisk.com; Phone: 720-933-0244
Joelle: joelle@goinghigh.com Phone: 303-842-8421

Sincerely,



Terry and Joelle Miller

Cc: Mountain Side Condominium HOA President: Jim Whiteley

Hard copy follows by mail

November 2, 2011

Summit County Holidays LLC
E-Mail: summitcountyholidays@gmail.com

Re: E-mail of October 21, 2011 (printed at the end of this letter)

Entry into unit 206G: This unit was entered by the Mountain Side Resident Manager after we were informed of a violation to the Rules and Regulations regarding another of Joelle Miller's units. We do not make a practice of entering units for routine matters but there were some extenuating circumstances surrounding this decision:

On or about August 26, 2011, the Resident Manager was approached in the clubhouse by a guest who told him the washer was not working in unit 279E. The Resident Manager is aware that washers and dryers are not allowed in these units and reported it to the office. He was then asked to check unit 206G. This action was prompted by the fact that Joelle Miller had previously requested permission to install a washer and dryer in 279E in October of 2010. The request was denied and this was acknowledged by Joelle Miller. Due to her blatant disregard for the Rules and Regulations and the fact that she ignored the Board's denial to install a washer and dryer in 279E, the Resident Manager was asked to check unit 206 as well. No washer and dryer was found in this unit.

The Board has now directed us to inspect all Mountain Side condominium units for unauthorized washers and dryers. When a date is set for this inspection, owners will be notified. Joelle can expect to have her units entered again when the inspection is done.

Chimney/fireplace inspections: This is a service that is performed every year at HOA expense. Due to the potential fire hazard, inspections are mandatory at Mountain Side. All units are posted with notices prior to inspections. We apologize if Joelle did not receive e-mail notification this year. We have checked our records and her e-mail is on the distribution list so it should not happen again. Once inspections are completed, owners are notified if there were any problems noted. The Millers received letters in 2007 and in 2010; this is not something new.

Owner communication: We strive to communicate with owners whenever work is scheduled at the complex or in individual units. Owners with e-mail receive notification by e-mail. Certain items are required to be mailed via regular mail as well (i.e. meeting notices, etc.). In addition, notices are posted at the complex whenever work will be done that affects the units (i.e. painting, parking lot work, clubhouse closures, fireplace inspections, etc.). This allows renters/guests to receive notification in addition to owners. In an attempt to keep postage/ mailing costs down we maintain e-mail distribution lists for each of the HOA's we manage and use this form of communication whenever possible.

We sincerely hope this has answered the questions you have raised.

Thank you.

MOUNTAIN MANAGERS
Agent for Mountain Side

cc: Joelle Miller (E-mail: joelle@hoinghigh.com)
Jim Whiteley, President, Mountain Side Board

From: phil [mailto:phil@mountainmanagers.com]
Sent: Monday, November 21, 2011 3:16 PM
To: Terry Miller
Cc: oldrockhound@q.com; susan
Subject: Re: Denial of Permissive Entry to D-317, E-279, G-206

Mr. Miller,

The association has the express right under CCIOA to enter any unit “If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the common elements or any unit through which access is taken”. There is also an implied right to enter units to inspect for violations of the condominium documents, association rules or code violations.

One of your tenants informed the resident manager that the washer and/or dryer in the unit was not working. Under that circumstance the HOA has every right to enter and inspect your units. We will be doing the inspection on the date(s) in your notice.

Phil Wells,
As agent for Mountain Side HOA

Terry Miller and Joelle Miller
P.O. Box 432
Frisco, CO 80443

November 22, 2011

Mountain Managers
Mr. Phil Wells, President
1121 Dillon Dam Road
Frisco, CO 80443

Referenced Real Property: Mountain Side Condominiums D-317, E-270 and G-206

Dear Mr. Wells,

We have consulted our Attorney and have been advised as follows.

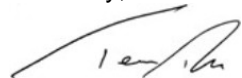
There is no damage inflicted, nor a strong likelihood that it will be inflicted, on the common elements.

“Unclean Hands” on the part of Mountain Managers and the Mountains Side Home Owners Association does not constitute probable cause nor a strong likelihood that damage will be inflicted on the common elements. Therefore, neither Mountain Managers nor the Mountain Side Condominium Home Owners Association, their respective officers, directors, employees, agents or contractors have probable cause to illegally break and enter our Real Property and homes referenced above.

The Colorado Common Interest Ownership Act does not, in fact, convey or imply the right to Mountain Side Home Owners Association, Mountain Managers, their respective officers, directors, employees, agents or contractors to illegally break and enter my Real Property.

Because your response to my denial of permissive entry was essentially that you will enter regardless of that denial of permissive entry, I am making a formal demand that the names of all Mountain Side HOA Board Members, Mountain Managers employees, officers, directors, agents or contractors that will be illegally breaking and entering my Real Property in order that we may identify them to the Summit County Sheriff's Department when reporting the crime.

Sincerely,



Terry and Joelle Miller

Cc: Mountain Side Condominium HOA President: Jim Whiteley
Barry Meinster, Esq.

Hard copy follows by mail