

From: Roosevelt Ridge BOD <rooseveltridgebod@gmail.com>
Sent: Thursday, June 17, 2021 5:01 PM
To: Roosevelt Ridge BOD
Subject: Fwd: Pre-sale Assessments

Dear RR Members,
Please see the message below from Jessica Miller regarding "Pre-sale Assessments".
For the Board.
Ted Bertele

----- Forwarded message -----

From: Jessica H. Miller <jessica@jhmillierlaw.com>
Date: Thu, Jun 17, 2021 at 12:43 PM
Subject: Pre-sale Assessments
To: Roosevelt Ridge BOD <rooseveltridgebod@gmail.com>, Ted Bertele <tbertele@msn.com>, Lee Mayberry <lwmayberry@hotmail.com>

Dear Board,
It is my understanding that there are around ten (10) lots that: (1) were owned by the Declarant; (2) where annexation was accomplished/attempted by the Declarant prior to the sale to a buyer; (3) there was a period after the accomplished/attempted annexation prior to the sale to a buyer where the Declarant did not pay assessments; and (4) then, the Declarant sold the lot to a buyer. The Association has inquired about the collectability against non-Declarant owners of these types of lots related to the assessments unpaid by the Declarant for the period after annexation but prior to the sale to the buyer.

Any lot where the buyer purchased title insurance, the title insurance company should have requested information from the Association whether the lot was in arrears on any amounts due to the Association. The title insurance company should have only gone forward to close the transaction and issue insurance if the Association had represented in writing to the title company that the lot was current. This is the process usually required by a title company's underwriting department, and I cannot confirm that the title insurance company complied with the typical process in all cases here with the information I have available. However, where the Association issued a statement confirming that the lot was current upon the title insurance company's request, these owners may use Declaration, Section 5.24, equitable estoppel, and §38-33.3-316(8) as a defense.

I am concerned about the age of these assessments the Association seeks to collect. The statute of limitation for the statutory lien for unpaid assessments is six years after the full amount of assessments become due. C.R.S. § 38-33.3-316(5); § 13-80-103.5.

Finally, with lots 18-22, the Association is going to have to specially analyze those lots' obligations for assessment since there were issues with the original annexation of those lots by the Declarant. The failure to be properly annexed into a homeowners association in compliance with § 38-33.3-210(1) was held as a defense to the payment of past due assessments in *Ryan Ranch Community Association, Inc. v. Kelley*, 380 P.3d 137 (Colo. 2016).

Let me know if you have any questions.

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Sincerely,

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