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April 16, 2021

Via Email: Bod@hidenvalleymammoth.com

Board of Directors
Hidden Valley Village Owners' Association, Inc.
Mammoth Lakes, CA

Re: Access to common area water valves

Dear Hidden Valley Board of Directors:

Board president Ruth E. Wheeler has asked that I write to you to inform you of the results of my research regarding the issue of accessing water valves in the subfloors of certain units at Hidden Valley. As detailed below, the board has the right to access such valves by way of the trap doors in these units, and the unit owners have no right to obstruct this access, at least not without first obtaining board approval.

There is no doubt that the subfloor and the plumbing facilities therein are a part of the common area (CC&R section 1.7).

Section 2.3(B) of the CC&R's gives the association (acting through its board of directors) "access rights...to inspect, maintain, repair or replace improvements or property located in the common area as described in Section 5.2(D)." Section 5.2(D) states that the agents or employees of the association "have the right to enter any unit or to enter any portion of the common area at reasonable hours...for the purpose of performing construction, inspection, maintenance, or emergency repair for the benefit of the common area or the owners in common."

CC&R section 2.3(C) gives the association the right to "install, maintain, repair or replace utilities as described in Article VI" of the CC&R's. Section 6.1(A) implicitly affords the board "reasonable access" in order to take timely action to repair or maintain common area utility facilities located within a unit. Section 6.2 gives the association the duty to "maintain all utility facilities located in the common area...".

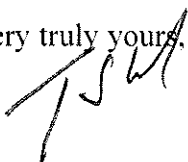
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There is no doubt the association, through the board, has the right to access the water valves by way of the trap doors within the units. Should the owner of one of these units for some reason refuse to grant access in a non-emergency situation, the board would have the option of filing a lawsuit against the owner for a court order granting access. The association, as the prevailing party in such a lawsuit, would also be entitled to a monetary judgment against the owner in the amount of its attorneys' fees and court costs incurred in the lawsuit. Alternatively, CC&R section 5.2(D) allows the board to access these units without permission, even by breaking into a unit if necessary, but the association would be required to repair any damage caused by such entry at its expense. This option would be the most practical in the event of an emergency requiring access to the water valves.

I understand the owners of one of the units with a trap door installed a new floor over the trap door, preventing access to it, without first obtaining the board's permission in accordance with the CC&R's. Section 7.10 prohibits owners from making any alteration that "impacts the common area" without prior board approval. Covering the trap door with a new floor is an alteration that "impacts the common area," as the subfloor and the water valves are common area and can no longer be accessed because of the new floor. Since the new floor was installed in violation of section 7.10, the board has the right to cure this violation by cutting a hole in the floor to allow access to the trap door in accordance with the procedure described in section 2.3(A). This procedure requires notice and a hearing, after which the owner is given thirty days to have the necessary work done before the board can have the work done. Section 5.1(A) allows the board to charge the owner for the cost of this work if the board has it done. See also section 7.13 of the CC&R's ("Liability of Owners for Damage to Common Area") and also a similar procedure described in section 2.4 of the CC&R's.

Finally, please note that CC&R section 10.7 authorizes the board to both discipline and sue owners for failure to comply with the CC&R's.

I hope this letter has been of assistance to the Board in deciding how to proceed in this matter. Please let me know if you have any questions.

Very truly yours,


Timothy B. Sanford

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