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243 Baker Lane
Erie, CO 80516

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Erie, CO 80516

September 20, 2004

LEGAL NOTICE TO LOT OWNER(S), Northridge Subdivision Filing No. 3
306 Baker Lane
Erie, CO 80516

On July 14, 2004, the attorney for the Town of Erie issued a legal memorandum to the Board of Trustees for the Town of Erie assuming that (1) all three filings for Northridge Subdivision are subject, or could be subjected, to what would effectively be a master homeowners association; and (2) that it would be the responsibility of the "Northridge Home Owners' Association" to maintain the trails and parks owned by the Town of Erie.

In response to the Town attorney's memo and to determine our actual legal and property rights we obtained legal counsel from a law firm specializing in homeowners associations and municipal law. We have enclosed our attorney's opinion which has been sent to the attorney for the Town of Erie.

1. **Filing No. 3 is separate from the other filings in the Northridge Subdivision.**
2. **The Town of Erie is responsible for maintenance of the Tot Lot and Trail in Filing No. 3** because they are Town-owned public property usable by anyone.
3. **We have legal remedies including but not limited to injunctive relief and claim for slander of title available against the Town of Erie and certain individuals** if they attempt consolidation of Filing No. 3 with other filings in Northridge Subdivision without ratification by agreement of Lot owners to which at least 67% of the votes *in each filing* are allocated. A 67% vote in a meeting of a limited number of various Northridge Lot owners does not meet this requirement.
4. **We have a Filing No. 3 Declaration *but we do not have a HOA*** and forming a HOA under the Filing No. 3 Declaration is unnecessary since Filing No. 3 Lot owners are not responsible for maintenance of the Tot Lot or Trail. Also there is a provision in the Filing No. 3 Declaration that whatever is legally allowed to property owners by the Town of Erie overrules the Declaration (see Article II, Section 1, Codes). Neighbors can't prevent you from doing anything with your property that is allowed by the Town of Erie. *There is no reasonable benefit to be had from forming a Filing No. 3 HOA.*

Now certain individuals in Northridge have sent us a letter calling a meeting on October 14, 2004, to illegally conduct business as a master HOA for all Northridge. **Please note that the Northridge Homeowners Association, Inc. articles of incorporation and by-laws they are using to call this meeting DO NOT apply to Filing No. 3** (see Article III of their articles of incorporation and the attached legal opinion). If these illegal actions continue lawsuits will be filed—this action could get very nasty and pit neighbor against neighbor. To avoid this mess those individuals should call off their meeting or restrict it to only the filing covered by their articles of incorporation. <u>If they feel they must try to form a master HOA, we ask them to conduct their efforts legally</u>. Our attorney's letter tells them what is required to avoid causing a lawsuit.

If we must go to court it could cost thousands of dollars. Each side will be obligated to pay its own court costs. The individuals trying to start the illegal master HOA will have to pay their own legal fees to defend themselves because we can get an injunction stopping them from trying to assess us for their fees and expenses. If they try to force us to pay master HOA legal expenses by initiating "spurious" documents in the form of assessments or liens on our property we can file for our attorney's fees—they could end up paying their own legal fees plus ours.

If the Town of Erie refuses to perform its lawful duty and maintain the public property in Filing No. 3 we can seek a legal judgment against the Town. However, we are confident the Board of Trustees of the Town of Erie will honor its duty under the agreements it has made.

We are freely providing you our attorney's opinion. Based on his opinion we believe the Town of Erie and certain individuals are overstepping their bounds and legal authority. *We invite you to have your own title company and your own attorney review our attorney's letter to the Town of Erie and make your own judgment.*

- We are calling on all of you who want to prevent this illegal action by the Town and certain individuals to join us in defending our legal and property rights. You can drop by our homes, call, or email us to join.
- We ask the individuals trying to form an illegal master HOA to cancel their meeting or restrict it to only the filing covered by their articles of incorporation so legal action won't be taken against them. If they feel compelled to try and form a master HOA we ask them to try it legally so we don't have to go to court.
- We call on the Town of Erie to recognize its obligations and stop trying to take money from us to pay for the maintenance of public property.

Sincerely,

Tim and Michelle Kelley
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P.S. If you are interested we can avoid this and future HOA problems by voting to terminate the Filing No. 3 Declaration. It requires a 67% vote of all of the Filing No. 3 Lot owners to do it. We have enclosed a ballot for you to vote for termination of the Declaration You may retract your vote any time prior to the filing of the termination.

A vote to terminate has to be ratified by the Declarant. The Declarant to our covenants was Northridge Dev LLC. That corporation was permanently suspended March 1, 1999, by the Secretary of State for failure to file the required reports. The individuals Morton and Norton who were its owners are personally responsible and personally financially liable for any actions they take in the name of the Declarant to our covenants. Morton administratively dissolved the Declarant on January 1, 2003, so Morton and Norton may no longer consider Filing No. 3 to have a Declarant or themselves to be involved in any way.

Remember, the Town of Erie is responsible for maintaining public property, not us. Also remember the Filing No. 3 Declaration does not allow imposing anything more on us than what is allowed under the "codes, policies and regulations of the Town of Erie" (see Article II, Section 1, Codes). We have existed over seven years as a nice neighborhood without any need for a HOA. Why ruin a good thing? We are voting to terminate.

Cut along this line and return to Tim Kelley or John Kelley.

I/we, owner(s) of _____, Erie, CO 80516, Filing No.3, Northridge Subdivision, hereby vote to terminate the Declaration of Covenants, Conditions and Restrictions for Northridge Subdivision—Filing #3, Town of Erie-State of Colorado.

I/we understand I/we will be notified when 67% or more of the lot owners have voted for termination and that this vote may be retracted by written notice to Tim or John Kelley any time prior to the filing of the termination with Weld County.

Date	Printed Name	Signature	Phone Number