

## Frequently Asked Questions and Answers

### 2. Right of First Refusal (ROFR): Updated 6-9-18

**Q.** I need to get going on the ROFR. Can you please send the Owner list?

**A.** Up until August 2017, the Board was of the belief that neither they or MMM were at liberty to release contact details of Owners (names, addresses, e-mail, etc.) without their permission, and directed realtors to source the relevant information from Pitkin County records. However, it is now understood that, under CCIOA, the Board has an obligation to release the names and mailing addresses (but not e-mail, phone numbers, etc.) of Owners of record if requested by an Owner. Thus, in future, should a realtor require such a list, the Owner must request it from the Board or the Property Manager, and a current list will be provided.

Note that the Board and Property Manager maintains as up to date list as possible, but relies in part on Owners updating their information with the Association, and cannot guarantee that all information is completely accurate at the time it is provided. The names and addresses of Owners of SMC units can also be sourced on line via Pitkin County Assessor Records by doing the following:

Go to the Home Page of the Pitkin County Assessors Office, and click on the “Assessor Property Search” bar. This brings you to the Property Search page of the website. you can also use the link below:

<http://www.pitkinassessor.org/assessor/search.asp>

Scroll down this page to “Subdivision search” and select from the pull down menu (or type in) “Snowmass Mountain”. Enter “75” in the maximum number of properties to be displayed, and click “Search”. The results of the search provide the names of the Owners of each of the Units in Snowmass Mountain, and clicking on each individual account number provides the address of the particular Owner.

**Q.** I believe that email contact may be adequate at SMC, which would be considerably less expensive than mailing hard copies. Please advise.

**A.** Our declarations require that the ROFR be mailed to owners through US mail (some people choose to use Fedex or UPS, but this is not a requirement). It is your decision on how you address the ROFR requirement on behalf of your client, but the Board wishes to make you aware that this e-mail distribution is not in accord with our declarations, just in case someone challenges the ROFR process for the Unit in question at some point in the future. Neither the Board nor our Property Manager is at liberty to release the e-mail addresses of our Owners without their permission.

In August 2017 the Board agreed to look into the possibility of changing our declarations to allow e-mail execution of the RORF. This process is still ongoing, and at present the only path allowed by the Association Declarations is by mail.

**Note:** The relevant information is in our declarations (see article XVII) and also in a newsletter from Dec 2015, which includes a section on the last page on First Refusals, which could be sent to enquirers.

**Q.** The HOA declarations say that the HOA will certify in writing that the ROFR has been completed correctly – can you provide my realtor with a letter to this effect?

A. It is correct that our declarations say that the HOA will provide a “Certificate of Compliance” (Association Declarations Section 17.3). We obviously cannot attest that the ROFR documents were definitively mailed to every Owner on a given day (since we don’t do the physical mailing), but we can attest to a copy of the ROFR being mailed to the HOA on a given date and that, 20 days after that mailing, no Owner has informed the HOAS of their intention to exercise their ROFR. The text part of a form letter that we use in such circumstances is provided below.

ROFR “Certificate of Compliance” - SMC form letter Text:

With respect to the Right of First Refusal for Unit \_\_\_\_ of Snowmass Mountain Condominiums, the Association hereby certifies that

•       •\_notice of the Right of First Refusal was provided by Title company \_\_\_\_\_ to the Association. This notice was mailed on \_\_\_\_\_ and received by the Association on \_\_\_\_\_.

•       •\_as of the date of this letter, the Association has not received notice from any Owner that they intend to exercise their Right of First Refusal with respect to the sale of the Unit \_\_\_\_\_.

Assuming that the ROFR notices were mailed to all individual Owners of Snowmass Mountain Condominium Units at the same time as the above notice was sent to the Association, it would appear to the Association that the ROFR requirements of the Association Declarations have been met.