

NOTICE OF APPEAL

Action Being Appealed: Decision - Excess Water Use Fee (Account #338337-25407, 1103 Wabash St)

Date of Action: 07/09/2021 **Decision Maker:** Lance Smith

FOR CITY CLERK'S
USE ONLY:

DATE FILED: 7/23/21

INITIALS: *llw*

Appellant/Appellant Representative (if more than one appellant):

Name: Brian Ball, Kathy Louderback

Phone #: (970) 223-5000

Address: 2850 McClelland Drive, Suite 1000, Fort Collins,
CO 80525-2576

Email: bball@touchstone-property.com

INSTRUCTIONS

For each allegation marked below, attach a separate summary of the facts contained in the record which support the allegation of no more than two pages, Times New Roman 12-point font. Please restate allegation at top of first page of each summary.

GROUND FOR APPEAL

The Decision Maker committed one (1) or more of the following errors (check all that apply):



Failure to properly interpret and apply relevant provisions of the City Code, the Land Use Code, and Charter. List relevant Code and/or Charter provision(s) here, by specific Section and subsection/subparagraph:

See attached

Failure to conduct a fair hearing in that:



(a) The Board, Commission, or other Decision Maker exceeded its authority or jurisdiction as contained in the Code or Charter. [New evidence not allowed]



(b) The Board, Commission or other Decision Maker substantially ignored its previously established rules of procedure. [New evidence not allowed]



(c) The Board, Commission or other Decision Maker considered evidence relevant to its findings which was substantially false or grossly misleading. [New evidence allowed]



(d) The Board, Commission or other Decision Maker improperly failed to receive all relevant evidence offered by the appellant. [New evidence allowed]



(e) The Board, Commission or other Decision Maker was biased against the appellant by reason of a conflict of interest or other close business, personal or social relationship that interfered with the Decision Maker's independence of judgment. [New evidence allowed]

NEW EVIDENCE


All new evidence the appellant wishes Council to consider at the hearing on the appeal must be submitted to the City Clerk within seven (7) calendar days after the deadline for filing a Notice of Appeal and must be clearly marked as new evidence. No new evidence will be received at the hearing in support of these allegations unless it is submitted to the City Clerk by the deadline (7 days after the deadline to file appeal) or offered in response to questions posed by Councilmembers at the hearing.


APPELLANTS

Parties-in-interest have the right to file an appeal.

A party-in-interest is a person who, or organization which, has standing to appeal the final decision of a board, commission or other decision maker. Such standing to appeal is limited to the following:

- The applicant.
- Anyone who owns or occupies the property which was the subject of the decision made by the board, commission or other decision maker.
- Anyone who received the mailed notice of, or spoke at, the hearing of the board, commission or other decision maker.
- Anyone who provided written comments to the appropriate City staff for delivery to the board, commission or other decision maker prior to or at the hearing on the matter that is being appealed.
- A City Councilmember.

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|--|---|
| Signature:  | Date: 07/23/2021 |
| Name: Brian Ball | Email: bball@touchstone-property.com |
| Address: 2850 McClelland Drive, Suite 1000, Fort Collins, CO 80525-2576 | Phone #: (970) 223-5000 |
| Describe how you qualify as a party-in-interest: Mountain Ridge Farm Community Association Manager, Touchstone Property Management | |

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|---|---|
| Signature:  | Date: 07/23/2021 |
| Name: Kathy Louderback | Email: klouderback@touchstone-property.com |
| Address: 2850 McClelland Drive, Suite 1000, Fort Collins, CO 80525-2576 | Phone #: (970) 282-2089 |
| Describe how you qualify as a party-in-interest: Managing Agent, Touchstone Property Management | |

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|---|-----------------|
| Signature: | Date: |
| Name: | Email: |
| Address: | Phone #: |
| Describe how you qualify as a party-in-interest: | |

ATTACH ADDITIONAL SIGNATURE SHEETS AS NECESSARY



PROPERTY MANAGEMENT LLC

2850 McClelland Drive, Suite 1000 Fort Collins, Colorado 80525-2576
Phone 970-223-5000 Fax 970-223-5282 www.touchstone-property.com

July 23, 2021

**RE: Protest to Water Billing Decision – Excess Water Use Fee
(Account #338337, 25407, 1103 Wabash Street)**

Mountain Ridge Farm is filing a protest in regard to City Code Section 26-721

There was an undercharge due to a City of Fort Collins billing error. The total of two taps was under the allocated amount.

Section (4) of this section entitled Meter Failure states as follows in (b)

“Customers who have been under billed for services received, will be re-billed, at no interest, for the actual or estimated services delivered based on utility service records or other information acceptable to the utility that verify previous billing statements **do not appropriately reflect action consumption.**”

Mountain Ridge had two taps and one of the backflows was turned off due to vandalism that we were not aware of at the time. If you add together the total for the two taps, the water consumption is lower than the regularly allotted total amount. **This does not appropriately reflect actual consumption.**

The staff at the City of Fort Collins has been very courteous and respectful during this entire process. We feel that they are bound by restrictive language that do not allow them to make a reasonable decision. Mountain Ridge has worked very hard over the years to be attentive to water conservation efforts and should not be penalized for this billing error. We would have shut off the water if the taps had higher than allocated numbers.

The association has two taps and this billing “does not appropriately reflect the actual consumption that they are entitled to have.

Your assistance and consideration are appreciated.

Sincerely,

A handwritten signature in blue ink that reads "Kathy Louderback".

Kathy Louderback
Managing Agent
Mountain Ridge Farm Homeowners Association