

February 16, 2023

DISCLOSURE STATEMENT
RE COMMON AREA CONSTRUCTION DEFECTS
CLAIM NOTICE

TO ALL MEMBERS
719 LARKIN OWNERS ASSOCIATION

Dear Homeowner:

A. BOARD OF DIRECTORS DUE DILIGENCE & FIDUCIARY DUTIES

The Board of Directors of the 719 Larkin Owners Association (the “Association”) has conducted a due diligence assessment of the community’s common areas and major building components in response to signs of multiple building standard violations and construction defects.

The Board of Directors has two fiduciary duties to Association members as it relates to common area building performance deficiencies. The first is a duty to maintain and repair the common areas. The second is a duty to timely investigate common area construction defects.

In conducting this due diligence assessment, the Association’s Board of Directors retained The Miller Law Firm as specialty construction defect counsel. The Miller Law Firm is working on a contingency fee basis and advancing all legal and experts cost so that the Association does not have to borrow from reserves.

The Miller Law Firm enlisted the assistance of independent and experienced construction consultants to evaluate how each major common area system and component is performing against established statutory building standards found in Civil Code Sections 896 and 897. The scope of the common area conditions at 719 Larkin and the cost to repair these deficiencies would be a significant burden to the Association. These repairs should not deplete the Association’s reserves, which are not intended to be used to fix original construction defects caused by the Builder.

B. NOTICE OF CLAIM SENT TO THE BUILDER: FEBRUARY 9, 2023

With authority from the Board, the Association, through The Miller Law Firm, sent a Notice of Claim (“Notice”) under California *Civil Code* Section 910 to the Builder entity 719 Larkin Street and General Contractor JS Sullivan (the “Builder”) on February 9, 2023. This Notice lists common area building standard violations found in *Civil Code* Sections 896 and 897.

The Builder is entitled to request an inspection of the common areas in order to evaluate the Association’s claims. **Please be advised this "Notice" is NOT formal litigation; rather, it is a mandated claims process that advises the Builder of these deficiencies and affords the Builder the right to make repairs to common area components.**

C. REPAIRS DURING THE CLAIM PROCESS

During this process, repairs to common areas will be temporary in nature in order to preserve evidence of the underlying violations of construction standards. Should you believe that repairs to your unit are necessary as a result of some common area deficiency or if you notice a problem in the common areas, please contact the Association's Community Manager, Alvin Donaire, *BanCal Property Management*, by email at alvin@bancalsf.com, and he will notify The Miller Law Firm to make arrangements to inspect, and, if necessary, conduct temporary repairs.

D. LEGAL REPRESENTATION OF THE ASSOCIATION, NOT INDIVIDUALS

The Board of Directors retained The Miller Law Firm to represent the Association in this action. Please be advised that the firm only represents the 719 Larkin Owners Association in the recovery of damages for defects to common areas and does not represent the individual members of the Association.

E. USE OF DISCLOSURE STATEMENT

If you are selling or refinancing your home, you should disclose that the 719 Larkin Owners Association served the Builder with a Notice of Claim. You may provide copies of this Disclosure Statement to prospective purchasers, listing agents and brokers, and escrow and financial institutions. You should consult your attorney to ensure that you comply with all applicable disclosure laws. The Notice of Claim to the Builder does not mean the Association has filed a lawsuit. It is strongly recommended that there be no publication of this document on Facebook or other social media sites.

F. THE MILLER LAW FIRM

Celebrating 40 years of practice, The Miller Law Firm continues to be California's construction defect authority and leading resource for San Francisco homeowners, Boards of Directors, and community management. Their legal treatise, *Handling Construction Defects*, now in its fourth edition, remains the definitive practice guide for lawyers, mediators, arbitrators, and judges. Their consumer guide *Home and Condo Defects: A Consumer Guide to Faulty Construction*, aids and assists homeowners, board members and association management companies in pursuing legitimate claims against builders and their insurance companies.

The Miller Law Firm has dedicated the last four decades to representing California homeowners associations with construction defect claims and has helped more communities rebuild their homes and restore their investments by skillfully guiding Boards of Directors in meeting their fiduciary duties, pursuing recoveries against builders' insurance policies, and reconstructing communities statewide. More information can be found at www.constructiondefects.com.

Homeowners
719 Larkin Owners Association
February 16, 2023
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We will continue to keep you updated about this claim as it progresses. Should you have any questions or comments in the interim, please do not hesitate to contact The Miller Law Firm.

Very truly yours,

THE MILLER LAW FIRM

A handwritten signature in black ink, appearing to read 'T.E. Miller', with a long horizontal line extending from the start of the signature.

Thomas E. Miller
Founding Partner & CEO



February 16, 2023

San Francisco
595 Pacific Avenue, 4th Floor
San Francisco, CA 94133
(415) 437-1800

CONFIDENTIAL HOA COMMUNICATION AND SURVEY

www.constructiondefects.com

TO ALL HOMEOWNERS
719 LARKIN OWNERS ASSOCIATION

Dear Homeowners:

The Board of Directors of the 719 Larkin Owners Association believes their responsibilities and duties to you, the association members, are extremely important. After great consideration and in exercising its fiduciary duties and interviewing several law firms, the Board has retained The Miller Law Firm to present the Association's common area construction defect claims to the Builder. The Miller Law Firm has, in turn, enlisted the assistance of independent and experienced consultants to evaluate how each of the major components of the building is performing against well-established industry and statutory standards.

California *Civil Code* Sections 896 and 897 provide detailed building performance standards that every builder must follow when constructing a residential community like yours. When independent experts find that these standards have not been met, the Association has the right to bring a claim under the terms set up in the Declaration of Covenants, Conditions and Restrictions. This claim process provides the opportunity for the builder to repair these deficiencies or as most builders do, turn this over to its insurance company that provides coverage. Either way, it is a way to engage the builder and its insurance companies to address these defects and compensate the Association for needed repairs so the building can be properly restored. These rights allow the Association up to ten years from the community's completion date to make this claim.

In order to help identify common area building deficiencies and resulting damage to your unit interiors, the Board is asking that each of you fill out and return the enclosed confidential owner survey to The Miller Law Firm, 595 Pacific Avenue, 4th Floor, San Francisco, CA 94133, in the self-addressed, stamped envelope provided, or email to Maly Thongphanith, Case Manager, at maly@constructiondefects.com. A link to an online Typeform survey will also be emailed for convenience, and you can complete the survey in your preferred method. If you have a tenant, please ask them to cooperate with you in filling out the survey. You do not need to complete both surveys.

This will significantly advance our efforts and give us substantial additional data to share with independent experts hired to assist. It is, therefore, very important that you take the time to provide this information to us by **March 9, 2023**.

Thank you very much for your cooperation.

Very truly yours,

THE MILLER LAW FIRM

Thomas E. Miller

Enclosure

**719 LARKIN OWNERS ASSOCIATION
CONFIDENTIAL HOMEOWNER QUESTIONNAIRE**

**Protected from Disclosure Pursuant to California Evidence Code Sections 912, 952-955, &
Seahaus La Jolla Owners Assn. v. Superior Court (2014), 224 Cal.App.4th 754**

Primary Address: _____
Unit Address: _____
Owner: _____
Telephone: Mobile: _____
 Home: _____
Email: _____

Occupant: _____
Unit Address: _____
Telephone: Mobile: _____
 Home: _____
Email: _____

PLEASE INSPECT YOUR UNIT CAREFULLY BEFORE RESPONDING.
CLEAR PRESENTATION OF OUR CLAIMS DEPENDS UPON ACCURATE RESPONSES.

Please take the time to review the questions below, make a visual inspection of the inside and outside of your unit, and complete the confidential questionnaire in its entirety, giving as much detail as possible. It is important that you fill out and return the questionnaire promptly and with as much detailed information as you can. If you have photographs depicting the problems you describe or invoices regarding repair work, please provide copies of such documentation.

Please scan and e-mail, or mail your completed questionnaire by March 9, 2023

The Miller Law Firm
595 Pacific Avenue, 4th Floor
San Francisco, CA 94133
Maly@constructiondefects.com

BACKGROUND

	<u>YES</u>	<u>NO</u>
(a) Do you own the unit?	_____	_____
(b) Did you purchase the unit from the Developer?	_____	_____
(c) When did you purchase the unit?	_____	

UNIT REPAIRS (Excluding remodeling and upgrades)

	<u>YES</u>	<u>NO</u>
(a) Have you had any repairs made to your unit or hired a contractor or repair person to do so?	_____	_____

If so, please describe the type of repairs made and when they were made. Please also forward all documents and photographs related to the repair work to this office.

(b) Has the developer or its agents made repairs to the unit? _____

If so, please describe the type of repairs made, if any, and when they were made. Please also forward all documents and photographs related to the repair work to this office.

Please complete as indicated.

WALLS-INTERIOR

Yes

No

1. Have you experienced/observed any leaks from the interior walls?
2. Any dampness or stains on the interior walls?
3. Mold, mildew or powdery substance on walls?
4. Any cracks on the interior walls?
5. Any bulges, unevenness or bows on the interior walls?
6. Please describe other issues regarding the interior walls, if any.

INTERIOR FINISH

Yes

No

7. Any drywall cracks?
8. Any nails popping?
9. Any peeling paint?
10. Please describe other issues regarding the interior finish, if any.

WINDOWS

Yes

No

11. Any water leaks through the windows?
12. Any stains or dampness around windows?
13. Any cracking, breaking or deterioration of sealants around window frames?
14. Any fogging between glass in double-paned windows?
15. Are your windows loose, broken or missing weather stripping?
16. Any discoloration or staining of the glass?
17. Any condensation forming on window glass?

- | | | | |
|-----|--|-------|-------|
| 18. | Any bubbles or blisters in the glass? | _____ | _____ |
| 19. | Any "melting" or discoloration of gaskets? | _____ | _____ |
| 20. | Please describe other issues with windows, if any. | _____ | |

FLOORS

- | | Yes | No | |
|-----|--|-----------|--|
| 21. | Any cracks in the slabs/floor? | _____ | |
| 22. | Any wet or damp carpets adjacent to windows or doors? | _____ | |
| 23. | Any gaps/separations at baseboard of floors/slabs? | _____ | |
| 24. | Any damaged flooring inside your unit? | _____ | |
| 25. | Please describe other issues regarding floors/slabs, if any. | _____ | |

DOORS (Sliding Glass/Balcony)

- | | Yes | No | |
|-----|--|-----------|--|
| 26. | Any water leaks from the doors (entry doors, sliding glass doors or any other exterior doors)? | _____ | |
| 27. | Any water entry at door sills? | _____ | |
| 28. | Any cracking, breaking or deterioration of sealants around door frames? | _____ | |
| 29. | Any door deterioration or corrosion? | _____ | |
| 30. | Any fogging between glass in double-paned glass? | _____ | |
| 31. | Any condensation forming on sliding glass door? | _____ | |
| 32. | Are your doors loose, broken or missing weather stripping? | _____ | |
| 33. | Any doors out of alignment/binding? | _____ | |
| 34. | Any doors difficult to open/close? | _____ | |
| 35. | Please describe other door issues, if any. | _____ | |

CEILINGS

- | | Yes | No | |
|-----|---|-----------|--|
| 36. | Any water leaks from ceilings? | _____ | |
| 37. | Any dampness or stains on the ceilings? | _____ | |
| 38. | Any mold or mildew on the ceilings? | _____ | |
| 39. | Any ceiling cracks? | _____ | |
| 40. | Any ceiling unevenness bulges or bows? | _____ | |
| 41. | Please describe other issues with ceilings, if any. | _____ | |

EXTERIOR WALLS (Outside Unit)

- | | Yes | No |
|-----|---|-----------|
| 42. | Any stains or dampness on the exterior walls (the walls located outside your unit)? | _____ |
| 43. | Any mold, mildew or powdery substance on the exterior walls? | _____ |
| 44. | Any cracks around windows of the exterior walls? | _____ |
| 45. | Any cracks around exterior door frames? | _____ |
| 46. | Any cracks in the exterior stucco? | _____ |
| 47. | Any staining on exterior stucco? | _____ |

- | | | | |
|-----|--|-------|-------|
| 48. | Any efflorescence on the exterior walls? | _____ | _____ |
| 49. | Any discoloration, blotches or mottling on the stucco walls? | _____ | _____ |
| 50. | Any loose or detached siding panels? | _____ | _____ |
| 51. | Any deformed or cracked siding panels? | _____ | _____ |
| 52. | Any efflorescence on siding panels? | _____ | _____ |
| 53. | Please describe other issues regarding the exterior walls, if any. | _____ | |

PLUMBING/FIRE SPRINKLERS

- | | Yes | No |
|-----|---|-----------|
| 54. | Any leaks from pipes or/and fire sprinklers? | _____ |
| 55. | Any back-ups/stoppage/sewage overflow? | _____ |
| 56. | Inadequate water pressure? | _____ |
| 57. | Rattling, knocking, vibrating or hammering pipes? | _____ |
| 58. | Any pipe corrosion? | _____ |
| 59. | Any problems with plumbing or fire sprinkler operating system? | _____ |
| 60. | Has your water heater been replaced? | _____ |
| 61. | Have you noticed any black sediment in the water (bottom of the tub)? | _____ |
| 62. | Have you experienced long waits for hot water? | _____ |
| 63. | Please describe any other problems you experienced with the plumbing system or/and fire sprinklers. | _____ |

MECHANICAL

- | | Yes | No |
|-----|--|-----------|
| 64. | Have you experienced/observed noisy heating/cooling system? | _____ |
| 65. | Heating/cooling not functioning in one or more room(s)? | _____ |
| 66. | Any overheating of rooms with windows? | _____ |
| 67. | Lack of adequate ventilation in the kitchen and bathrooms? | _____ |
| 68. | Any chemical odors? | _____ |
| 69. | Any musty odors? | _____ |
| 70. | Please indicate other air quality or/and ventilation issues, if any. | _____ |

ELECTRICAL

- | | Yes | No |
|-----|---|-----------|
| 71. | Shocks when operating? | _____ |
| 72. | Power surges? | _____ |
| 73. | Is exterior lighting in the common areas near your home inadequate? | _____ |
| 74. | Bath, kitchen, or outside outlets that don't function after a rain? | _____ |

- | | | | |
|-----|--|-------|-------|
| 75. | Mold, mildew, or water stains by outside light fixtures or at wall spaces in unit behind these fixtures? | _____ | _____ |
| 76. | Trips or falls in dark common areas? | _____ | _____ |
| 77. | Buzzing or cracking noises in walls at electrical panels? | _____ | _____ |
| 78. | Nuisance tripping of circuit breakers or main breaker during rains? | _____ | _____ |
| 79. | Other: _____ | _____ | _____ |

ADDITIONAL COMMENTS

Please provide any other information or observations you have concerning any existing or potential construction concerns or deficiencies either below or attach a separate sheet.

Thank you for your cooperation. If you have any further questions, comments, or additions, please feel free to contact this office at Maly@constructiondefects.com or (415) 437-1800.