

<p>DISTRICT COURT, COUNTY OF LARIMER, STATE OF COLORADO Court Address: 201 LaPorte Avenue Fort Collins, CO 80521-2761 Phone Number: (970) 494-3500</p>	
<p>CITY OF LOVELAND, COLORADO, a municipal corporation, Plaintiff, v. HOLMAN HOMES, LLC, a Colorado limited liability company, and NORM JORGENSEN, an individual, Defendants.</p>	<p>▲ FOR COURT USE ONLY ▲</p>
<p>Attorneys for Plaintiff City of Loveland, a Municipal Corporation: Teresa Ablao, Assistant City Attorney, #17700 Laurie R. Stirman, Assistant City Attorney, #39393 Loveland City Attorney's Office 500 E. Third Street, Suite 330 Loveland, CO 80537 (970) 962-2544 <a href="mailto:tree.ablao@cityofloveland.org">tree.ablao@cityofloveland.org</a> <a href="mailto:laurie.stirman@cityofloveland.org">laurie.stirman@cityofloveland.org</a></p>	<p>Case Number: Courtroom:</p>
<p><b>COMPLAINT FOR INTERPLEADER</b></p>	

COMES NOW Plaintiff City of Loveland, Colorado, a municipal corporation (the "City"), by and through its undersigned attorneys, and submits its Complaint pursuant to Rule 22 of the Colorado Rules of Civil Procedure. In support thereof, the City states as follows:

**JURISDICTION**

1. The City of Loveland, Colorado (hereinafter the "City" or "Plaintiff") is a Colorado home rule municipality with an address of 500 E. Third Street, Loveland, Colorado 80537.

2. Defendant Holman Homes, LLC (hereinafter “Holman”) is a Colorado limited liability company with a principal office listed in the records of the Office of the Colorado Secretary of State as 3863 West County Rd. 16, Loveland, CO 80537.

3. Defendant Norm Jorgensen (hereinafter “Jorgensen”) is an individual with an address of 1450 N. Van Buren Ave., Loveland, CO 80538.

4. Jurisdiction is proper pursuant to Rule 22, C.R.C.P. and venue is proper in this Court pursuant to Rule 98(c), C.R.C.P.

### **GENERAL ALLEGATIONS**

5. Pursuant to Chapters 16.40 and 18.46 of the Loveland Municipal Code, certain improvements must be made to property prior to the issuance of building permits and certificates of occupancy for such property. A financial guarantee in the form of a cash deposit may be made in-lieu of installation of such improvements prior to issuance of building permits.

6. On July 2, 2015, the City entered into an “Agreement for Incomplete Development Improvements With Cash Deposit Agreement” (hereinafter the “Agreement”) with Defendant Holman. The Agreement is attached hereto as “Exhibit A.”

7. Upon information and belief, Holman was the contractor for Jorgensen with respect to the construction of certain improvements on properties known as 678, 684, 690 and 696 Callisto Drive in the City of Loveland (hereinafter collectively the “Property”).

8. The Agreement provides that the City would issue the permits and/or certificates of occupancy to Holman, as the contractor under the Agreement, for the Property in exchange for Holman’s payment of a cash deposit in the amount of \$29,528.95 (the “Deposit”) and Holman’s agreement to complete the required improvements on or before August 6, 2015. *See Exhibit A.*

9. The Deposit required under the Agreement was paid by Defendant Jorgensen. *See Page 7, Exhibit A.* The City currently holds the Deposit.

10. The Agreement provides that: “If Contractor constructs the improvements and upon inspection and acceptance of the improvement by the City, the City will refund Contractor’s Deposit, less any interest earned, to the Contractor.” *See Page 2, Paragraph 3, Exhibit A* (emphasis added).

11. The required improvements have been completed and the City is prepared to release the Deposit pursuant to the Agreement.

12. The City met with Jorgensen on March 11, 2016. At such meeting, Jorgensen informed the City that disputes had arisen between Jorgensen and Holman with respect to Holman's work on the Property.

13. Jorgensen has requested that the City refund the Deposit to him, rather than to Holman.

14. The City has not received any request from Holman for the release of the Deposit. However, pursuant to the Agreement, the City believes it is obligated to return the Deposit to Holman.

15. The respective potential claims of the Defendants to the Deposit are adverse and conflict.

16. The City is not able to resolve the competing claims of the Defendants and has filed this interpleader complaint to bring these claims before the Court.

### **CLAIM FOR RELIEF**

#### **Interpleader Pursuant to Rule 22, C.R.C.P.**

17. The City incorporates the preceding allegations set forth in Paragraphs 1 through 16 above as it fully set forth herein.

18. The City believes that one or both of the Defendants may have a claim to the Deposit being held by the City.

19. The City is not in a position to determine the validity or priority of the claims.

20. As a result of these multiple claims, the City is or may be exposed to multiple claims from one or more of the Defendants, which claims in combination may exceed the amount of the Deposit paid to the City.

21. The City is prepared to transfer the Deposit into the registry of the Court, and is filing a motion contemporaneously with this Complaint for permission to do so.

22. Pursuant to Rule 22, C.R.C.P., the City requests that the Defendants be required to assert their claims, if any, in this action only, and that all Defendants and claimants be enjoined from commencing or pursuing their claims in any other action or proceeding.

WHEREFORE, the City requests that the Court adjudicate the rights of the parties and enter an order regarding the release of the Deposit and for such other and further relief as the Court deems appropriate.

Respectfully submitted this 20th day of July, 2016.

CITY OF LOVELAND

*Original signature on file*

By: /s/ Teresa M. Ablao

Teresa M. Ablao, #17700

Assistant City Attorney

By: /s/ Laurie R. Stirman

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