

Taligusa Boothick  
County



**WHISPERWOOD HOME OWNERS' ASSOCIATION, INC.**

**RECORDS PRODUCTION AND COPYING POLICY**

WHEREAS, Whisperwood Home Owners' Association, Inc. (the "Association") constitutes a property owners association under the provisions of Chapter 209 of the Texas Property Code (the "Code");

WHEREAS, Section 209.005(i) of the Code requires the Association to adopt a records production and copying policy that prescribes the costs the Association will charge for the compilation, production, and reproduction of information requested by a member of the Association (hereinafter referred to as a "Member") in accordance with the terms of Section 209.005 of the Code; and

WHEREAS, the Board of Directors of the Association (the "Board") desires to adopt such a records production and copying policy as required under Section 209.005(i) of the Code.

NOW, THEREFORE, the Board hereby adopts the Records Production and Copying Policy (the "Policy"), as set forth below.

**1. Books and Records subject to Production**

Subject to the terms of this Policy and Section 209.005 of the Texas Property Code (and any amendment thereto), the Association will make its books and records, including financial records, to the extent such books and records are in the possession, custody, or control of the Association, open to and reasonably available for examination by a Member of the Association or a person designated in a written instrument signed by the Member as the Member's agent, attorney, or certified public accountant, in accordance with Section 209.005 of the Code (hereinafter referred to as the "Requesting Party"). A Requesting Party is also entitled to obtain copies of the information contained in the Association's books and records.

Except as provided by Section 209.005(d) of the Code, an attorney's files and records relating to the Association are not records of the Association and are not subject to inspection by a Requesting Party or subject to production in a legal proceeding.

In accordance with the provisions of Section 209.005(k) of the Code, and except as otherwise authorized or required pursuant to Section 209.005(1) of the Code, the Association shall not release or allow inspection of any books or records that identify the dedicatory instrument violation history of an individual Member, a Member's personal financial information, including records of payment or nonpayment of

amounts due to the Association, a Member's contact information, other than his or her address, or information related to an employee of the Association, including personnel files.

## **2. Procedures for Requesting Inspection and/or Copying of Associations Records**

### **(A) Request for Information:**

To inspect or obtain copies of the Association's records, a Requesting Party must submit a written request for information by certified mail to the Association at its or its designated representative's mailing address as reflected on the most current recorded management certificate for the Association.

The written request for information must describe with sufficient detail the Association's books and records being requested and contain an election either to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records to the Requesting Party without any advance inspection.

### **(B) Inspection of Association's Books and Records:**

If an advance inspection of the Association's book and records is requested, within ten (10) business days from the date the Association receives the written request for information, the Association will send to the Requesting Party a written notice specifying the location and alternative dates that such person may inspect during normal business hours the requested books and records to the extent those books and records are in the possession, custody, or control of the Association. The inspection of the requested books and records shall take place at a mutually agreed upon time during normal business hours.

The alternative inspection dates proposed by the Association will be within ten (10) business days from its receipt of the request for information, unless the Association is unable to produce copies of the requested books and records and make them available for inspection within ten (10) business days from receipt of the request for information. In such event, the Association's written notice to the Requesting Party will state that the Association is unable to produce the information within ten (10) business days from the date it received the request for information and it will specify alternative inspection dates that will occur no later than fifteen (15) business days after the date of the Association's written notice to the Requesting Party.

If the Requesting Party wants to obtain copies of any of the books and records produced for inspection, the Requesting Party must identify the books and records at

the inspection that the Association is to copy and forward to the Requesting Party.

**(C) Copying of Association's Books and Records:**

If copies of identified books and records are requested without an advance inspection of such books and records or are requested following an inspection of such books and records, within ten (10) business days from the date the Association receives the written request or the date of the inspection (as applicable), it will, to the extent such books and records are in its possession, custody, or control, produce copies of the requested books and records for the Requesting Party.

If the Association is unable to produce copies of such requested books or records within ten (10) business days from the written request or inspection, it will provide written notice to the Requesting Party of its inability to produce the requested books and records within ten (10) business days and will state a date by which such copies of such requested books and records will be produced to the Requesting Party, which may not be more than fifteen (15) business days after the date of such notice.

The Association reserves the right to produce copies of the requested books and records in hard copy, electronic form, or any other format reasonably available to it, and the manner of production shall be determined by the Association in its sole discretion.

**3. Responsibility for Records Production and Copying Charges**

A Member of the Association who, or whose designated representative, submits a request for information to the Association (the "Requesting Member") shall be responsible for the costs, expenses, and charges incurred by the Association in responding to such request for information from such member or his or her designated representative in accordance with the terms of the Texas Administrative Code Title 1, Section 70.3 (and any amendment, modification, update, or increase of such terms) (the "Production and Copying Charges"). As of the effective date of the adoption of this Records Production and Copying Policy, the allowable Production and Copying Charges under Texas Administrative Code Title 1, Section 70.3 are as follows:

**(A) Copy Charges:**

(i) *Standard paper copy.* Standard paper copy charges consist of the charges for reproducing requested information and records on standard size paper by means of an office machine copier or a computer printer. The charge for standard paper copies is \$.10 per page or part of a page. Each side that has recorded information is considered a separate page.

(ii) *Nonstandard copy.* Nonstandard copy charges consist of charges for the costs of materials, other than standard size paper, onto which requested information and records are copied (excluding any applicable additional charges that may be associated with a particular request, such as labor or overhead charges). The charges for nonstandard copies are:

- |                             |              |
|-----------------------------|--------------|
| (a) diskette:               | \$1.00;      |
| (b) magnetic tape:          | actual cost; |
| (c) data cartridge:         | actual cost; |
| (d) tape cartridge:         | actual cost; |
| (e) CD:                     | \$1.00;      |
| (f) DVD:                    | \$3.00;      |
| (g) JAZ drive:              | actual cost; |
| (h) other electronic media: | actual cost; |
| (i) VHS video cassette:     | \$2.50;      |
| (j) audio cassette:         | \$1.00;      |
| (k) oversize paper copy:    | \$.50;       |
| (l) specialty paper:        | actual cost. |

(B) Labor Charges:

Labor charges consist of the labor costs incurred in processing a request for information or records, and include the actual time to locate, compile, manipulate data, and reproduce the requested information or record. The charge for labor costs incurred in processing a request for information is \$15 an hour.

(C) Overhead Charge:

Whenever a labor charge is incurred in processing a request for information or records, the Association shall also charge a Requesting Member for any other direct and indirect costs incurred in processing a request for information, including an overhead charge to cover such costs as depreciation of capital assets, rent, maintenance

and repair, utilities, and administrative overhead. The overhead charge is computed at twenty percent (20%) of the labor charge made to cover any labor costs associated with a particular request. By way of example, if one hour of labor is expended in processing a particular request for information, the overhead charge would be \$3.00 (\$15.00 for one hour of labor multiplied by 20% or .20).

(D) Miscellaneous Supplies:

The Association shall also charge a Requesting Member for the actual cost of miscellaneous supplies, such as labels, boxes, and other supplies, used to produce the requested information to the Requesting Party.

(E) Postal and Shipping Charges:

The Association shall also charge a Requesting Member for any related postal or shipping expenses which are necessary to transmit the reproduced information to the Requesting party.

**4. Advance Payment of Production and Copying Charges**

The Association requires advance payment by the Requesting Member of the estimated amount of Production and Copying Charges to be incurred in responding to a request for information, which will be estimated by using the amounts prescribed by this Policy. Within thirty (30) business days from the date copies of the requested information are delivered to the Requesting Party, the Association will submit a final invoice to the Requesting Member for the actual amount of Production and Copying Charges incurred by the Association in responding to such request for information ("Final Invoice").

If the estimated amount of Production and Copying Charges exceeds the actual amount of such charges, as reflected in the Final Invoice, the Requesting Member shall be entitled to a refund of the excess amount, and the Association will send payment of such excess amount to the Requesting Member within thirty (30) business days from the date the Final Invoice is sent to the Requesting Member.

If the actual amount of Production and Copying Charges, as reflected in the Final Invoice, exceeds the estimated amount of such charges, the additional amount of Production and Copying Charges incurred by the Association must be paid by the Requesting Member within thirty (30) business days from the date the Final Invoice is sent to the Requesting Member. If the Requesting Member does not timely pay the Association the additional amount of Production and Copying Charges, such amount shall be added to the Requesting Member's account as an assessment.

**CERTIFICATION**

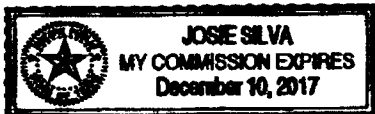
IN WITNESS WHEREOF, the undersigned, Jane Gault, as the duly elected, qualified, and acting Secretary of estates Home Owners' Association, Inc., a Texas corporation, hereby certifies on behalf of the Association that this Records Production and Copying Policy was duly adopted by the Board of Directors of the Association at a meeting of the Board held on 11/30, 2013, and shall take effect upon its recording in the Official Public Records of Lubbock County, Texas.

WHISPERWOOD HOME OWNERS' ASSOCIATION, INC., a Texas corporation

Jane Gault  
BY: Jane Gault  
ITS: ~~Secretary~~ Treasurer

THE STATE OF TEXAS        §  
COUNTY OF LUBBOCK       §

This instrument was acknowledged before me on the 16 day of January, 2014, by Jane Gault, Secretary of Whisperwood Home Owners' Association, Inc. Treasurer



Jane Gault  
Notary Public, State of Texas

AFTER RECORDING PLEASE RETURN TO:

Robert W. St. Clair  
Fargason, Booth, St. Clair,  
Richards & Wilkins, L.L.P.  
P.O. Box 5950  
Lubbock, Texas 79408-5950

**FILED AND RECORDED**



OFFICIAL PUBLIC RECORDS

Kelly Pinion

Kelly Pinion, County Clerk  
Lubbock County TEXAS

January 16, 2014 03:38:52 PM

FEE: \$41.00

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