

YOU HAVE QUESTIONS, WE HAVE ANSWERS SUGAR MILL HOA FAQ's

- 1. GENERAL SUGAR MILL HOA QUESTIONS**
- 2. SUGAR MILL ACC (DEED RESTRICTION) QUESTIONS**
- 3. GENERAL SUGAR LAND QUESTIONS**

1 GENERAL SUGAR MILL HOA QUESTIONS

WHAT IS YOUR SUGAR MILL HOME OWNERS ASSOCIATION (HOA)?

Your HOA is a non-profit business that is incorporated to operate within the State of Texas. Our purpose is to do everything we can to at least maintain if not improve the market values of all 1037 homes in the 10 sections that comprise the Sugar Mill HOA. (Read more) The affairs of the HOA are governed by a Board of Directors, which Board is responsible for adhering to the By-Laws, Articles of Incorporation and all other governing documents, the most important of which are the Deed Restrictions. The BOD is expected to operate in a financially responsible manner while bringing about our stated purpose.

TELL ME MORE ABOUT THE SUGAR MILL HOA GOVERNING DOCUMENTS.

As our HOA is a Texas non-profit corporation, we have three key governing documents that we must follow conducting the "business" of managing the activities of our HOA. We have a set of By-laws which define when and how our Annual meeting is to be held, how many SM residents need be present in person or via a written proxy to constitute a Quorum. They also define how many members the HOA BOD can have, the terms of office, and a good bit more info.

I PAY YEARLY MAINTENANCE FEES EACH YEAR. HOW ARE THEY SET AND WHAT ARE THEY USED FOR?

Your yearly maintenance fees are utilized to pay for the ongoing operation and maintenance of all the physical facilities that our HOA owns and operates. There are 2 swimming complexes, three tennis court complexes with 5 tennis courts, and about 30,000 LF of various types of fences and two play ground areas. It costs your HOA about \$60,000/month on average to operate. That information along with any planned increases for utility items is used to create the HOA yearly budget.

HOW ARE THE HOA YEARLY BUDGETS CREATED?

Starting in August of each year, the SM HOA BOD starts putting the yearly budget together using input from our various vendors' and suggestions from our various HOA Committees as to what we need to be doing to maintain/improve the availability of our various amenities to our residents. This is a multi-step process based on the various inputs to try and determine the most effective usage of the HOA's funds and once our budgets are finalized, we then set the yearly maintenance fees for all SM HOA members.

I AM CURIOUS, WHY I CAN'T ONLY PAY FOR THE HOA SERVICES THAT I UTILIZE?

Sugar Mill has 10 separate sections each having their own set of ACC restrictions. Each of those 10 sections has an ACC restriction calling out that our HOA has a "uniform rate" yearly maintenance fee structure.

HOW CAN SUGAR MILL RESIDENTS SEE ALL OF THE SUGAR MILL FINACIALS WHEN THEY WANT TO DO SO?

All Home Owner Associations in the State of Texas have to have a "Document Retention and Duplication policy on record and our HOA is using the standard form of that retention plan. Normal monthly financials are reproduced and available at each SM HOA monthly BOD meeting so that any residents who chose to attend one of those meetings can "follow along" with the discussion process during the meeting. (Read more) Those same documents can be obtained at no cost by any SM resident just by going by our HOA Management company's offices at 945 Eldridge Road, Sugar Land, Texas 77478. Lengthier, specialty financials such as the yearly audit report can be obtained by any SM resident by mailing a Certified Letter to API at the address already provided. This policy is in place to place reasonable controls on the process of SM residents of getting those documents from API. Please remember, our HOA Management company, API services over 40 different HOA's and they do not have the unlimited staff that would be required to constantly be having to search for and make copies of SM documents on a daily basis.

2 SUGAR MILL ACC (DEED RESTRICTION) QUESTIONS

WHY DO WE HAVE DEED RESTRICTIONS?

Purchasing a home can be one of the largest single financial investments that an individual/family can make. Obviously, protecting that investment over time is very important. Real estate Developers in Texas realized that and working with the State of Texas Legislature, created Texas legislation which gave the Developers the authority to create sets of community standards, called Deed Restrictions. (Read more) Those community standards/restrictions cover everything from minimum square footages for a home, to acceptable paint colors and many other specific items. The Legislature also gave HOA's the power to enforce those restrictions through legal action if necessary. If we did not have Deed Restrictions, residents could choose to paint their homes whatever color that they wanted and add whatever improvements that they desired to their homes regardless of what those improvements did to negatively impact their neighbor's ability to enjoy the usage of their homes. For example, residents could build fences all the way down to the sidewalks in front of their houses if they chose to even though it would block their neighbor's views. We could have bright yellow houses with big black polka dots all over them. With Deed Restrictions in place, our HOA has a clear set of standards as to what our individual homes will look like over time, and home owner's values are thus protected.

WHY CAN MY HOA BOD OR ACC COMMITTEE CHOOSE TO NOT ENFORCE THOSE ACC RESTRICTIONS THAT THE RESIDENTS DO NOT AGREE WITH? IT'S ALL ABOUT UNIFORMITY AND CONSISTENCY.

Under Texas real estate law that is called "Selective Enforcement" and that is the absolute worst choice that an HOA BOD or ACC committee might chose to make.

The way ACC restrictions work is that HOA's are required to enforce all ACC restrictions uniformly and consistently or they run the risk of not being able to enforce the ACC restrictions down the road. (Read more)

Our HOA has a well-defined written ACC policy on file with Ft. Bend County. That policy defines the number of ACC letters a resident will receive when a potential ACC violation is discovered. That policy also includes a provision that if the resident involved chooses not to take the necessary corrective actions requested in the ACC letter that they receive, that after a defined number of letters that the violation is eventual turned over to the HOA's attorney for further legal actions. Our attorney sends the resident (s) involved a series of certified letters requesting that they take the required corrective actions and if the residents involved still refuse to comply then a law suit may be filed, and the resident ends up having to defend they're not taking the necessary corrective actions in a Ft. Bend Court. The good news is that over 99% of SM residents chose to comply with the ACC violation letters that they receive, and the matter is closed.

The legal process takes time and by the time an actual court case is heard both parties (the individual SM home owner and the SM HOA) involved in the law suits have usually spent a several thousand dollars in legal fees and court costs.

If the residents involved retain the services of an attorney, that attorney will look at the other houses in the HOA and if they find that at least one other house appears to have the **same** ACC violation in place, they will then subpoena the ACC records for that HOA to determine if that HOA has taken any ACC corrective actions against the other home. If none have been taken, then the judge in that case has no choice but to find for the resident on the grounds of "Selective Enforcement".

An HOA in Houston had that happen to them two years back. They took one of their residents to court over an ACC violation. The residents attorney was able to prove that at least one other home in that HOA had exactly the same ACC violation in place for some time and absolutely no ACC violation notices had been sent to the other resident involved. That Houston HOA lost that case and had to "eat" the legal fees they had paid their attorney, pay the associated court costs plus the legal fees of the defendant's attorney. All told, they spent over \$50,000 and could not enforce that particular ACC restriction at all going forward. And that is why all ACC restrictions here in sugar Mill must be enforced uniformly and consistently.

OKAY, SO I WANT TO MAKE SOME IMPROVEMENTS TO MY HOME, DO I NEED TO HAVE THESE IMPROVEMENTS APPROVED BEFORE I IMPLEMENT THOSE UPGRADES? HELP ME UNDERSTAND THE PROCESS,

Basically, anything that you do to the exterior of your home that is visible to anyone walking/driving by your house must be approved before that improvement is started. This does include painting your home the “same color”, replacing the roof and adding landscaping to name just a few examples. (Read more)

Work done to the outside (roof, building additions, electrical work etc.), will also most likely need a City of Sugar Land Permit. It is YOUR responsibility to obtain all the necessary permits for work done to your home. Your contractor may or may not do that step in ensuring your repairs are legit, so you need to be the responsible party to ensure all work is done properly and within the constraints of the City. Please, get your permits!

Unfortunately, we have had two examples occur in SM just recently where in each case, the residents involved repaired a part of their homes and used “ exactly the same” materials as the original. In one case, the resident had their roof replaced with “exactly” the same color of roof. However, the roof was not heavy enough and did not meet the standards called out in our ACC restrictions. In the second case, a resident had to replace his wooden fence. He replaced it but never tried to get it approved by the ACC committee first. He is now having to replace that fence at his cost as he (1) chose to use some of the older materials and some new materials, (2) faced the fence with the support side facing out and (3) patched the support portion in several places. All three of those actions are against the ACC restrictions. Both of these problems could have been avoided had the residents involved taken the simple step of downloading the ACC application from the SM web site (www.sugarmillhoa.net), completing that application and submitted it to the ACC committee for approval and then followed the ACC’s requirements.

SO HOW DO I GET ACC APPROVALS FOR AN IMPROVEMENT?

Your HOA BOD tries to make this as easy as we can. You will need to obtain an ACC Application form from our web site (www.sugarmillhoa.net) and complete that form and submit it to our management company, MASC Austin Properties, Incorporated. (Read more) You can email that completed form to them at grodriguez@mascapi.com or mail it to them at MASCi API, Inc., 945 Eldridge Road. Sugar Land,, TX 77478 That document will be given to the Sugar Mill HOA ACC committee for their approval. They meet monthly on the second Tuesday of each month. At 7:00 PM in the Methodist Church, at 431 Eldridge Road, room 700. You are welcome to attend that meeting to provide the ACC Committee with your input should you wish to do so.

CAN OUR ACC RESTRICTIONS BE CHANGED?

The short answer is “yes they can” the long answer is that the Legislature of the State of Texas intentionally makes it a difficult process to change existing deed restrictions or create new ones. That being said, it can be done and in fact has been done 4 times in the past. Please remember, No one within the HOA leadership has the authority to change deed restrictions period. (Read more)

Also, please keep in mind that any existing federal, state of Texas or City of Sugar Land legal restrictions apply and take precedence over our ACC restrictions. Case in point, the State of Texas specifies that flags can only be displayed if mounted to a building or other permanent structure and can not be mounted to a tree in a resident’s yard.

Please remember that Sugar Mill HOA has 10 separate sections number 1-10 consecutively. If you do not know which SM section your home lies within, we have a map on our SM HOA web site. Please go to www.sugarmillhoa.net/documentw/maps to locate your home.

The only way that deed restrictions can be changed is if at a clear majority of the actual property owners of the specific Sugar Mill Section will undertake an expensive and time sensitive legal process to define the change they want to implement, and obtain the necessary properly notarized signatures of a clear majority of the actual property owners of a given SM HOA Section and submit them to our the Ft.. Bend County authorities for posting... the current “Clear Majority: is 67%.

As this is a legal process that is governed by the Texas Property Code laws, we strongly suggest that any property owners within Sugar Mill who want to change/modify our existing deed restrictions obtain the services of an attorney who practices Texas Real-estate law regularly.

IF I GET THE APPROVAL FROM THE CITY OF SUGAR LAND TO DO A PROJECT BY OBTAINING THE NECESSARY PERMITS, DO I STILL NEED TO GET APPROVAL FOR MAKING THAT CHANGE FROM THE SM ACC COMMITTEE?

Obtaining permits from the City of Sugar Land is often required for many home improvement projects, When the City issues those permits they are doing so based on a set of building standards that are designed to ensure that the structures being built are safe and will not pose a fire hazard among other construction related specifics. (Read more) As each deed restriction-controlled community in Sugar Land has its own set of restrictive covenants that are similar but not all the same, the City has no way of knowing what standards are in place within the community that the construction will be undertaken. Case in point, the City of Sugar Land requires that a permit be obtained before a roof is replaced. Sugar Mill, like most ACC controlled communities has some very specific standards as far as acceptable colors of roof materials, and only allows certain types of roofing materials to be utilized. Do your homework and make sure you have established a clear communications path with your HOA and our city.

3 GENERAL SUGAR LAND QUESTIONS

TRASH AND RECYCLING DAYS

The City of Sugar Land has set our trash pickup days to be as follows:

:

Monday- Trash and Green Waste;

Thursday- Trash and Recycle

Bulky Waste: First Monday of each month.

*Holiday schedules are determined by the City of Sugar Land

*For paint, and chemicals; Contact the City of Sugar Land to arrange a pick up. Fees may apply

TRASH CANS: WHEELS TO THE CURB

Please remember that all waste must be put to the curb after 7:00 pm, the night before a scheduled pick up day. This is not only a deed restriction, but a violation for the City of Sugar Land and they may enforce it with a fine.

All trash cans must be stored out of view and if you live on the lake, they must not be visible from both the front and back of your home. If not adhered to, you are in violation with the City of Sugar Land also.

HOLIDAY DECORATIONS

Christmas Decorations can be displayed at the beginning of December through the end of January.

-

ELECTION TO THE HOA BOD

Your Sugar Mill HOA BOD is composed of 5 elected members who all serve 3-year terms of office. This is spelled out in our By-laws along with the 5 specific BOD officers. Each year, one or two spots on the HOA BOD are up for election on a staggered basis so that the entire BOD is not replaced at one time. (Read more) A resident who is elected to the BOD is elected to fill a spot on the BOD and not elected to fill the spot held by the incumbent BOD member whose position comes up for election on a given year. Elections are held at each SM HOA Annual Meeting which is held the last Tuesday of March each year. At the very next BOD meeting after that election, the HOA BOD determines which BOD member will hold what specific BOD position for the remainder of that calendar year.

SUGAR MILL SUB DIVISION SECTIONS

The Sugar Mill Subdivision has 10 sections, and each have unique physical characteristics. Not all sections have the exact same deed restrictions. If you do not know what section your home is, check the map here (create a link to the map)

NEIGHBORLY INQUIRY: BIG PURPLE POLKA DOTS

If you feel your HOA has overlooked an infraction by one of your neighbors, please consider contacting Austin Properties (make link here) and never assume the issue is NOT being dealt with. We keep all ACC corrective actions confidential as a matter of policy. (Read more) So, just because you see another home in Sugar Mill where the owners of that home have undertaken a very similar improvement to their home that you want to undertake, please do not assume that this improvement can be allowed under our ACC restrictions. Rest assured, a home you have noticed that is painted a bright yellow with big purple polka dots all over it, may in fact have received notice from the SM ACC committee that their “beautification project” is not acceptable under our ACC restrictions.

HURRICANE HARVY CAME KNOCKING AND WE WERE READY

Up until about 15 years ago, the City of Sugar Land took no responsibility for drainage within the City of Sugar Land period. Our HOA BOD worked with the City over a 5 year period to get them to not just take that responsibility on but for the City to regularly conduct drainage studies across Sugar Land to make certain that the drainage systems within Sugar Land were capable of handling even heavy rains. (Read more) The City conducted drainage studies in Sugar Mill, Covington woods, and Sugar Creek along with several other parts of Sugar Land and funded several drainage improvement projects throughout the City. We have had three separate drainage projects completed within the SM HOA and the end result is that we have been blessed to not have any homes flooded within our HOA even during the 36+ inches of rain that we received in our section of Sugar Land during Hurricane Harvey just recently.