

OPEN RECORDS POLICY FOR
FOREST COVE SECTION II HOMEOWNERS ASSOC.

THE STATE OF TEXAS

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KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF GALVESTON

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WHEREAS, Forest Cove Section II Homeowners Assoc. (the "Association"), a Texas non-profit corporation, which is governed by its Board of Directors (the "Board") is charged with administering and enforcing those certain covenants, conditions and restrictions contained in the recorded Deed Restrictions for Forest Cove Section II (hereafter collectively referred to as the "Deed Restrictions") filed on February 6, 2004 under Galveston County Clerk's File No. GAC2004007813 and refilled on July 5, 2005 under Galveston County Clerk's File No. GAC2005044545, and is also a domestic non-profit corporation formed by the Secretary of State of Texas on June 7, 2005, as Forest Cove Section II Homeowners Assoc., under File No. 800502445; and

WHEREAS, Chapter 209 of the Texas Property Code was amended effective January 1, 2012, to amend Section 209.005 ("Section 209.005") thereto regarding open records procedures and to require property owners' associations to adopt and record open records policies consistent with the procedures set forth in the statute; and

WHEREAS, the Board desires to establish an open records policy consistent with Amended Section 209.005 and to provide clear and definitive guidance to owners; and

WHEREAS, the Board is duly authorized to enact this Open Records Policy for Forest Cove Section II Homeowners Assoc.

NOW, THEREFORE, the Board has duly adopted the following *Open Document Policy*.

POLICY:

It is the policy of the Association to make the books and records of the Association, including financial records, open to and reasonably available for examination by an Owner, or a person designated in a writing signed by the Owner or the Owner's agent, attorney, or certified public accountant (the Owner's Representative") in accordance with the following provisions:

1. **Request.** An Owner or the Owner's Representative must submit a written request for access or information. The written request must:
 - (a) Be sent by certified mail to the mailing address of the Association or to the authorized representative of the Association as reflected on the most current

Management Certificate of the Association filed of record in accordance with Section 209.004 of the Texas Property Code;

- (b) Describe with sufficient detail the books and records of the Association that are requested; and
 - (c) State whether the Owner or the Owner's Representative elects to inspect the requested books and records before obtaining copies or have the Association forward copies of the requested books and records.
2. **Election to Inspect.** If an inspection is requested, the Association shall send written notice to the Owner or the Owner's Representative of dates during normal business hours that the Owner or the Owner's Representative may inspect the requested books and records. Such written notice shall be sent on or before the tenth (10th) business day after the date the Association receives the request, unless the Association sends a notice to the Owner or Owner's Representative in accordance with Section 4 below.
 3. **Election to Obtain Copies.** If copies of the identified books and records are requested, the Association shall produce copies of the requested books and records on or before the tenth (10th) business day after the date the Association receives the request, unless the Association sends a notice to the Owner or Owner's Representative in accordance with Section 4.
 4. **Inability to Produce Records Within Ten (10) Business Days.** If the Association is unable to produce requested books and records on or before the tenth (10th) business day after the date the Association receives the request, the Association shall provide written notice to the Owner or the Owner's Representative that:
 - a. Informs the Owner or the Owner's Representative that the Association is unable to produce the requested books and records on or before the tenth (10th) business day after the date the Association received the request; and
 - b. States a date by which the requested books and records will be sent or made available for inspection, which date shall not be later than the fifteenth (15th) business day after the date such notice is given.
 5. **Extent of Books and Records.** The Association shall produce books and records requested by and Owner or an Owner's Representative to the extent those books and records are in the possession, custody or control of the Association.
 6. **Time of Inspection; Copies.** If an inspection of books and records is requested or required, the inspection shall take place at a mutually agreed upon time during normal business hours. At the inspection, the Owner or the Owner's Representative shall identify the books and records to be copied and forwarded. The Association shall

thereafter make copies of such books and records at the cost of the Owner or the Owner's Representative.

7. **Format.** The Association may produce books and records requested by an Owner or an Owner's Representative in hard copy, electronic or other form reasonably available to the Association.
8. **Costs.** The Association may charge an Owner for the compilation, production or reproduction of books and records requested by the Owner or the Owner's Representative, which costs may include all reasonable costs of materials, labor, and overhead. Costs will be billed at the rates established by Section 70.3 of the Texas Administrative Code, as same may be amended from time-to-time. As of the date of this Policy, the rates set forth below are established by Section 70.3 of the Texas Administrative Code. Should the rates set forth in Section 70.3 of the Texas Administrative Code ever be different than in this policy (either through amendment or error by the policy) the then current rates set forth in Section 70.3 of the Texas Administrative Code shall control.

Description	Costs
Labor for locating, compiling and reproducing records	\$15.00 per hour
Copies (8 ½ x 11 and 8 ½ x 14)	\$0.10 per page
Oversize paper copies (11 x 17, greenbar and bluebar)	\$0.50 per page
Specialty papers (blue print and maps)	Actual cost
Diskette	\$1.00
Magnetic tape or data or tape cartridge	Actual cost
CD	\$1.00
DVD	\$3.00
VHS video cassette	\$2.50
Audio cassette	\$1.00
Other	At the rate provided for in Section 70.3 of the Texas Administrative Code

9. **Advance Payment of Estimated Costs.** The Association shall estimate the costs of compiling, producing and reproducing books and records requested by Owner or an Owner's Representative on the basis of the rates set forth in Section 8 above. The Association may require advance payment of the estimated costs of compiling, producing and reproducing the requested books and records.
10. **Actual Costs.**
 - a. If the actual costs of compiling, producing and reproducing requested books and records are less than or greater than the estimated costs, the Association shall

submit a final invoice to the Owner on or before the thirtieth (30th) business day after the date the requested books and records are delivered.

- b. If the final invoice includes additional amounts due from the Owner, the Owner shall be required to pay the additional amount to the Association before the thirtieth (30th) business day after the date the invoice is sent to the Owner.
- c. If the final invoice indicates that the actual costs are less than the estimated costs, the Association shall refund the excess amount paid by the Owner not later than the thirtieth (30th) business day after the date the invoice is sent to the Owner.
- d. If the Owner fails to pay to the Association the additional amounts shown in the final invoice in accordance with Subsection a. above, the Association will levy the amount against the Owner as an Assessment.

11. Books and Records Not Required to be Produced.

- a. Unless an Owner whose records are the subject of a request provides express written approval to the Association or unless a court order is issued directing either the release of books and records or that books and records be made available for inspection, the Association is not required to release or allow inspection of books and records that:
 - (i) Identify the history of violations of dedicatory instruments of an Individual Owner.
 - (ii) Disclose an Owner's personal financial information, including records of payment or nonpayment of amounts due the Association.
 - (iii) Disclose an Owner's contact information, other than the Owner's address.
 - (iv) Disclose information related to an employee of the Association, including personnel files.
- b. The Association is not required to release or allow inspection of ballots cast in an election or removal of Directors, except as required by a recount procedure in accordance with Section 209.0057 of the Texas Property Code.

c. In addition, information may be released in an aggregate or summary manner that will not identify an individual property Owner.

12. **Business Day.** As used in this policy, "business day" means a day other than a Saturday, Sunday or state or federal holiday.

13. The Association adopts the following form of response to an Owner or an Owner's Representative who request to inspect the Association's Books and Records:

<p style="text-align: center;">Forest Cove Section II Homeowners Assoc.</p> <p style="text-align: center;"><u>RESPONSE TO REQUEST FOR ASSOCIATION RECORDS</u></p> <p style="text-align: center;">Date: _____</p> <p>Dear Homeowner:</p> <p>On ___ date of _____, 20___, Forest Cove Section II Homeowners Assoc. received your request to inspect the books and records of the Association. The books and records of the Association can be made available for you to inspect on regular business days, between the hours of ___ a.m. and ___ p.m., at (address).</p> <p>Please contact the Association's President or Secretary at (phone number) to arrange for a mutually agreeable time for you to come and inspect the books and records. Please be advised that if you desire copies of specific records during or after the inspection, you must first pay the associated costs before the copies will be provided to you. A schedule of costs is included with this response.</p> <p style="text-align: right;">Very truly yours, Forest Cove Section 2 Homeowners Assoc.</p>

14. The Association hereby adopts the following form of response to Owner or an Owner's Representative who request copies of specific records:

Forest Cove Section II Homeowners Assoc.

RESPONSE TO REQUEST FOR ASSOCIATION RECORDS

Date: _____

Dear Homeowner:

On ____ day of _____, 20__, Forest Cove Section II Homeowners Assoc. received your request for copies of specific Association records. We are unable to provide you with the requested records within ten (10) business days of your request. However, the requested records will be available to you no later than fifteen (15) business days after the date of this response.

In order to obtain the records you must first pay the Association the cost of providing the records to you. The estimated cost to obtain the records you requested is \$ _____. Upon receiving payment, the Association will mail the requested documents to you. You may also make payment and pick up the documents in person at (address) (phone number).

Very truly yours,
Forest Cove Section II Homeowners Assoc.

This Open Records Policy was approved by a majority vote of the Board of Directors and now appears in the books and records of the Association. This Policy is effective upon recordation in the Public Records of Galveston County, Texas and supersedes any policy regarding document retention which may have previously been in effect. Except, as affected by Section 209.005 and/or by this Policy, all other provisions contained in the Deed Restrictions or any other dedicatory instruments of the Association shall remain in full force and effect.

TO CERTIFY which witness my hand this 28th day of August, 2014.

FOREST COVE SECTION II HOMEOWNERS ASSOC.

BY: Elizabeth L. Conner
Elizabeth L. Conner
President/Director
Forest Cove Section II Homeowners Assoc.

THE STATE OF TEXAS

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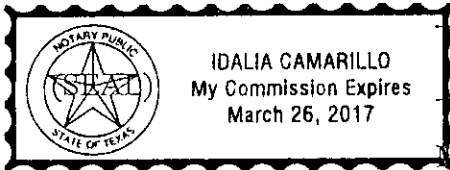
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COUNTY OF GALVESTON

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BEFORE ME, the undersigned authority, on this day, personally appeared ELIZABETH L. CONNER, President and a Director for Forest Cove Section II Homeowners Assoc. known to me to be the person whose name is subscribed to the foregoing document and being by me first duly sworn, declared that she is the person who signed the foregoing document in her capacity as President and a Director, and that the statements contained therein are true and correct to the best of her knowledge and belief.

GIVEN under my hand and seal of office this 28th day of August, 2014.



Idalia Camarillo

Notary Public, State of Texas

Idalia Camarillo

Notary's Printed Name

My commission expires on March 26, 2017

After Recording, return to:

Forest Cove Section II Homeowners Assoc.
P.O. Box 237
Dickinson, Texas 77539

FILED AND RECORDED

Instrument Number: 2014048939

FILED FOR RECORD

Recording Fee: 50.00

Number Of Pages: 8

Filing and Recording Date: 08/28/2014 12:44PM

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Galveston County, Texas.



Dwight D. Sullivan

Dwight D. Sullivan, County Clerk
Galveston County, Texas

NOTICE: It is a crime to intentionally or knowingly file a fraudulent court record or instrument with the clerk.

DO NOT DESTROY - *Warning, this document is part of the Official Public Record.*