

**RESOLUTION OF THE BOARD OF DIRECTORS OF
HARBOR POINT PROPERTY OWNERS ASSOCIATION
CONCERNING BOOKS AND RECORDS**

The Board of Directors (the "Board") of the HARBOR POINT PROPERTY OWNERS ASSOCIATION (the "Association"), at a meeting of the Board on ~~November 7~~ 2016, at which a quorum of the Directors were present as required by the Bylaws of the Association, and after consideration, motion and vote, adopted by unanimous vote of the directors present, the following resolution concerning the procedures for examination and obtaining records of the Association is intended to set forth what personal information of the members is subject to disclosure, and the procedure for obtaining same. Accordingly, it is

RESOLVED that the Association's formal policy as to the examining of the books and records of the Association and obtaining copies of records examined, shall be as follows:

1. The Association shall 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 as the owner's agent, attorney, or certified public accountant, in accordance with this Resolution. An owner is entitled to obtain from the association copies of information contained in the books and records, as provided for by this Resolution, upon payment of the charges authorized by this Resolution and Section 209.005, Texas Property Code.
2. Except as provided by this Subsection an attorney's files and records relating to the property owner's association, excluding invoices requested by an owner under Section 209.008 (d), are not (a) not records of the association; and/or (b) are not subject to inspection by the owner or production in a legal proceeding. If a document in an attorney's files and records relating to the association would be responsive to a legally authorized request to inspect or copy association documents, the document shall be produced by using the copy from the attorney's files and records if the association has not maintained a separate copy of the document. This subsection does not require production of a document that constitutes attorney work product if that is privileged as an attorney-client communication.
3. An owner or the owner's authorized representative described by Section 1 above must submit a written request for access or information under Section 1 above by certified mail, with sufficient detail describing the Association's books and records requested, to the mailing address of the association or authorized representative as reflected on the most current management certificate filed under Section 209.004. The request must contain an election either (a) to inspect the books and records before obtaining copies, or (b) have the Association forward copies of the requested books and records.
 - (a) If an inspection is requested, the association, on or before the 10th business day after the date the association receives the request, shall send written notice of dates during normal business hours that the owner may inspect the requested books and records to the extent those books and records are in the possession, custody, or control of the association; and

- (b) if copies of identified books and records are requested, the association shall, to the extent those books and records are in the possession, custody, or control of the association, produce the requested books and records for the requesting party on or before the 10th business day after the date the association receives the request, except as otherwise provided by this section.
- 4. If the Association is unable to produce the books or records requested under Section 3 above on or before the 10th business day after the date the Association receives the request, the Association must provide to the requestor written notice that:
 - (a) informs the requestor that the Association is unable to produce the information on or before the 10th business day after the date the Association received the request; and
 - (b) states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the 15th business day after the date notice under this subsection is given.
- 5. If an inspection is requested or required, the inspection shall take place at a mutually agreed on time during normal business hours, and the requesting party shall identify the books and records for the Association to copy and forward to the requesting party.
- 6. The Association may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the Association.
- 7. The Association hereby incorporates by reference the provisions of 1 Texas Administrative Code, Section 70.3, entitled "Charges for Providing Copies of Public Information", a copy of the current Section 70.3 being attached to this Resolution as Appendix "A". The Association will charge for the compilation, production, and reproduction of information requested under this Resolution. The prescribed charges may include all reasonable costs of materials, labor, and overhead but in no event shall exceed costs that would be applicable for an item under 1 T.A.C. Section 70.3.
- 8. The record production and copying policy prescribed by this Resolution shall be recorded as a dedicatory instrument in accordance with Section 202.006, Texas Property Code.
- 9. An owner is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by the policy adopted under this subsection.
- 10. The Association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the estimated costs are lesser or greater than the actual costs, the Association shall submit a final invoice to the owner on or before the 30th business day after the date the information is delivered. If the final invoice includes additional amounts due from the owner, the additional amounts, if not reimbursed to the Association before the 30th business day after the date the invoice is sent to the owner, may be added to the owner's account as an assessment. If the estimated costs exceeded the final invoice amount, the owner is entitled to a refund, and the refund shall be issued to the owner not later than the 30th business day after the date the invoice is sent to the owner.
- 11. The Association must estimate costs under this section using amounts prescribed by the policy adopted under this Resolution.
- 12. Except as provided by this Resolution, and to the extent the information is provided in the meeting minutes, the Association is not required to release or allow inspection of any books or records that identify the dedicatory instrument violation history of an individual owner of

- an Association, an owner's personal financial information, including records of payment or nonpayment of amounts due to the Association, an owner's contact information, other than the owner's address, or information related to an employee of the Association, including personnel files. Information may be released in an aggregate or summary manner that would not identify an individual property owner.
13. The books and records described by paragraph 12 hereof shall be released or made available for inspection if:
 - (a) the express written approval of the owner whose records are the subject of the request for inspection is provided to the Association; or
 - (b) a court orders the release of the books and records or orders that the books and records be made available for inspection.
 14. The Association hereby adopts the following document retention policy that includes, at a minimum, the following requirements:
 - (a) certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;
 - (b) financial books and records shall be retained for seven years;
 - (c) account records of current owners shall be retained for five years;
 - (d) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;
 - (e) minutes of meetings of the owners and the board shall be retained for seven years; and
 - (f) tax returns and audit records shall be retained for seven years.
 15. As provided for by Section 209.005 (n), Texas Property Code, a member of the Association who is denied access to or copies of Association books or records to which the member is entitled under this section may file a petition with the justice of the peace of a justice precinct in which all or part of the property that is governed by the Association is located requesting relief in accordance with this subsection. If the justice of the peace finds that the member is entitled to access to or copies of the records, the justice of the peace may grant one or more of the following remedies:
 - (a) a judgment ordering the Association to release or allow access to the books or records;
 - (b) a judgment against the Association for court costs and attorney's fees incurred in connection with seeking a remedy under this section; or
 - (c) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Subsection (b) of this Section 15 from any future regular or special assessments payable to the Association.
 16. If the Association prevails in an action under paragraph 15, the Association is entitled to a judgment for court costs and attorney's fees incurred by the Association in connection with the action.
 17. On or before the 10th business day before the date a person brings an action against the Association under this Section 209.005, Texas Property Code, the person must send written notice to the Association of the person's intent to bring the action. The notice must:
 - (a) be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service to the mailing address of the

- Association or authorized representative as reflected on the most current management certificate filed under Section 209.004, Texas Property Code; and
- (b) describe with sufficient detail the books and records being requested.
18. For the purposes of this Resolution, "business day" means a day other than Saturday, Sunday, or a state or federal holiday.
19. Fees. The establishment of the attached "Fee Schedule" is intended to comply with this Resolution and with 1 Texas Administrative Code, Section 70.3 ("Section 70.3"). The charges in Section 70.3 (b)(2), are incorporated herein by reference and adopted as the policy of the Association by this Resolution.
20. The President, or his designee, for good cause, shall have the authority to waive any fees established by this resolution.
21. Under no circumstances shall the original books and records of the Association be allowed to leave the office of the Association with any member requesting examination and copying of the books and records.
22. It is the intent of the Board of Directors that this resolution comply with Article 1396-2.23, "Books and Records", and Article 1396-2.11B, "Voting Members' List for Meeting", Texas Non-Profit Corporation Act; Section 22.351, Texas Business Organizations Code; Section 209.005 of the Texas Property Code; and any applicable Bylaws of the Association."
23. This resolution is effective upon filing with the Trinity County Clerk.

Signed this 11th day of November, 2016.


LARRY MAHLER, President

ATTEST:


_____, Secretary

STATE OF TEXAS

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COUNTY OF TRINITY

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This instrument was acknowledged before me on the 7th day of November, 2016, by LARRY MAHLER, President, HARBOR POINT PROPERTY OWNERS ASSOCIATION, a Texas non-profit corporation on behalf of said corporation.



Ashley Vance Yancey
NOTARY PUBLIC, STATE OF TEXAS

FEE SCHEDULE

A. Copy charge.

- (1) Standard paper copy. The charge for standard paper copies reproduced by means of an office machine copier or a computer printer is \$.10 per page or part of a page. Each side that has recorded information is considered a page. HOWEVER, should an outside copy service be required, the actual cost charged for the copies shall be the cost for the copies.
- (2) Nonstandard copy. The charges in this subsection are to cover the materials onto which information is copied and do not reflect any additional charges, including labor, that may be associated with a particular request. 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) Rewritable CD (CD-RW) - -\$1.00;
 - (F) Non-rewritable CD (CD-R)- -\$1.00;
 - (G) Digital Video Disc (DVD)- -\$3.00;
 - (H) JAZ drive- -actual cost;
 - (I) Other electronic media- -actual cost;
 - (J) VHS video cassette- -\$2.50;
 - (K) Audio cassette- -\$1.00;
 - (L) Oversize paper copy (e.g.: 11 inches by 17 inches, greenbar, bluebar, not including maps and photographs using specialty paper- -See also §70.9 of this title)- -\$0.50;
 - (M) Specialty paper (e.g. Mylar, blueprint, map, photographic- -actual cost;
 - (N) Flash or Thumb Drive - - actual costs.

B. Labor charge for programming. If a particular request requires the services of a programmer in order to execute an existing program or to create a new program so that requested information may be accessed and copied, the Association may charge for the programmer's actual charges, to be itemized, but in no event to be more than \$28.50 per hour. The Association may require advance payment of a deposit for the approximate charge for the programmer's work.

C. Labor charge for locating, compiling, manipulating data, and reproducing public information.

- (1) The charge for labor cost incurred in processing a request for public information is \$15 an hour. The labor charge includes the actual time to locate, compile, manipulate data, and reproduce the requested information.
- (2) A labor charge shall not be billed in connection with complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied or located in:

- (A) Two or more separate buildings that are not physically connected with each other;
or
 - (B) A remote storage facility. For purposes of paragraph (2)(A) of this subsection, two buildings connected by a covered or open sidewalk, an elevated or underground passageway, or a similar facility, are not considered to be separate buildings.
- (3) A labor charge shall not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:
- (A) To determine whether the Association will raise any exceptions to disclosure of the requested information under Section 209.005, Texas Property Code; or
 - (B) To research or prepare a request for a ruling by the a court of competent jurisdiction.
- (4) When confidential information pursuant to a mandatory exception of the Texas Property Code is mixed with public information in the same page, a labor charge may be recovered for time spent to redact, blackout, or otherwise obscure confidential information in order to release the public information. A labor charge shall not be made for redacting confidential information for requests of 50 or fewer pages, unless the request also qualifies for a labor charge pursuant to this Fee Schedule.

D. Overhead charge.

- (1) Whenever any labor charge is applicable to a request, the Association may include in the charges direct and indirect costs, in addition to the specific labor charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If the Association chooses to recover such costs, a charge shall be made in accordance with the methodology described in paragraph (3) of this subsection.
- (2) An overhead charge shall not be made for requests for copies of 50 or fewer pages of standard paper records unless the request also qualifies for a labor charge pursuant to this resolution.
- (3) The overhead charge shall be computed at 20% of the charge made to cover any labor costs associated with a particular request. Example: if one hour of labor is used for a particular request, the formula would be as follows: Labor charge for locating, compiling, and reproducing, $\$15.00 \times .20 = \3.00 ; or Programming labor charge, $\$28.50 \times .20 = \5.70 . If a request requires one hour of labor charge for locating, compiling, and reproducing information ($\$15.00$); and one hour of programming labor charge ($\$28.50$), the combined overhead would be: $\$15.00 + \$28.50 = \$43.50 \times .20 = \8.70 .

E. Microfiche and microfilm charge.

- (1) If the Association already has information that exists on microfiche and microfilm and has copies available for sale or distribution, the charge for a copy must not exceed the cost of its reproduction. If no copies of the requested microfiche or microfilm are available and the information on the microfiche or microfilm can be released in its entirety, the Association should make a copy of the microfiche or microfilm. The charge for a copy shall not exceed the cost of its reproduction. If the Association does not have microfiche and/or microfilm reproduction capacities, then the actual cost for contracting such services shall be paid by the property owner requesting the records.
- (2) If only a master copy of information in microfilm is maintained, the charge is \$.10 per page for standard size paper copies, plus any applicable labor and overhead charge for more than 50 copies.

F. Remote document retrieval charge.

- (1) Due to limited on-site capacity of storage documents, it is frequently necessary to store information that is not in current use in remote storage locations. Every effort should be made by the Association to store current records on-site. To the extent that the retrieval of documents results in a charge to comply with a request, it is permissible to recover costs of such services for requests that qualify for labor charges under current law.
- (2) If the Association has a contract with a commercial records storage company, whereby the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), no additional labor charge shall be factored in for time spent locating documents at the storage location by the private company's personnel. If after delivery to the Association, the boxes must still be searched for records that are responsive to the request, a labor charge is allowed according to subsection (C)(1) above.

G. Computer resource charge.

- (1) The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some of all of the following: central processing units (CPUs), servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utilities.
- (2) These computer resource charges are not intended to substitute for cost recovery methodologies or charges made for purposes other than responding to public information requests.
- (3) The charges in this section are averages. The Association shall determine which category(ies) of computer system(s) used to fulfill the public information request most

closely fits its existing system(s), and set its charge accordingly. Type of System- -Rate:
mainframe- -\$10 per CPU minute; Midsize- -\$1.50 per CPU minute; Client/Server- -
\$2.20 per clock hour; PC or LAN- -\$1.00 per clock hour.

- (4) The charge made to recover the computer utilization cost is the actual time the computer takes to execute a particular program times the applicable rate. The CPU charge is not meant to apply to programming or printing time; rather it is solely to recover costs associated with the actual time required by the computer to execute a program. This time, called CPU time, can be read directly from the CPU clock, and most frequently will be a matter of seconds. If programming is required to comply with a particular request, the appropriate charge that may be recovered for programming time is set forth in subsection (d) of this section. No charge should be made for computer print-out time. Example: If a mainframe computer is used, and the processing time is 20 seconds, the charges would be as follows: $\$10 / 3 = \3.33 ; or $\$10 / 60 \times 20 = \3.33 .
- (5) If the Association does not have in-house computer capabilities, and it becomes necessary to contract with a private company for such services, the property owner requesting the records shall deposit sufficient funds to cover the estimated cost of such computer service.
- H. Miscellaneous supplies. The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge for public information.
- I. Postal and shipping charges. The Association may add any related postal or shipping expenses which are necessary to transmit the reproduced information to the requesting party.
- K. Miscellaneous charges: If the Association accepts payment by credit card for copies of Association information and is charged a "transaction fee" by the credit card company, the Association may recover that fee.

After Filing Return to:

Travis E. Kitchens, Jr.
Lawyer
P. O. Box 1628
Onalaska, Texas 77360

THE STATE OF TEXAS
COUNTY OF TRINITY

I hereby certify that the instrument was FILED on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Trinity County, Texas in the Volume and Page as noted hereon by me

Shasta Bergman
County Clerk, Trinity County

By: 



FILED
at 2:40 o'clock P M

NOV 07 2016

SHASTA BERGMAN
COUNTY CLERK, TRINITY CO., TEXAS

By:  Deputy