



Shady Oaks II Homeowners Association

RECORD RETENTION, PRODUCTION AND COPYING POLICY

WHEREAS, the Board of Directors of Shady Oaks II Home Owners Association, Inc., a Texas non-profit corporation (the Association) is charged with administering and enforcing those certain covenants, conditions, and restrictions contained in the *Declaration of Covenants, Restrictions and Easements* recorded in the office of the County Clerk of Tarrant County, Texas.

WHEREAS, Chapter 209 of the Texas Property Code was amended effective January 1, 2012, to add Section 209.005 ("Section 209.005") thereto;

WHEREAS, Section 209.005(i) of the Texas Property Code requires a property owners' association to adopt a records production and copying policy that prescribes the costs the association will charge for compilation, production and reproduction of information requested under Section 209 of the Texas Property Code;

WHEREAS, Section 209.005(m) of the Texas Property Code requires a property owners' association to adopt a records retention policy that prescribes the type and duration of retained records; and

WHEREAS, the Board has determined that in connection with producing and copying records, it is appropriate for the Association to adopt a records production and copying policy.

NOW, THEREFORE, the Board duly adopted the Records Production and Copying Policy set forth below. The Records Production and Copying Policy is effective upon recoding in the office of the County Clerk of Tarrant County, Texas, and supersedes any guidelines or policy for records production and copying which may have previously been in effect. The Records Production and Copying Policy is as follows:

1. Books and Records: the Books and Records described below shall be made available for inspection pursuant to the Request procedure described in this policy:
 - 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.
2. Restricted Records: Except as provided by Subsection (2.a) and to the extent the information is provided in the meeting minutes, the property owners' 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 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.

- a. The books and records described by Subsection (2) shall be released or made available for inspection if:
 - i. the express written approval of the owner whose records are the subject of the request for inspection is provided to the property owners' association; or
 - ii. a court orders the release of the books and records or orders that the books and records be made available for inspection.
3. Request for Books and Records: Copies of the Association's books and records will be reasonably available to all Owners or a person designated in a writing signed by the Owner as the Owner's agent, attorney, or certified public account ("Owners Authorized Representative") upon proper request and at the Owner's expense. A proper request:
 - a. Must be from an Owner or an Owner's Authorized Representative ("Requestor");
 - b. Must be sent by certified mail to the Association or the Association's authorized representative;
 - c. Must contain the following information as a minimum:
 - i. Name of Requestor;
 - ii. Documentation designating an Owner's Authorized Representative if applicable;
 - iii. Date of request;
 - iv. Phone, email, and/or address or other contact information of the Requestor;
 - v. Whether the Requestor is requesting to inspect or obtain copies of records. If the Requestor's purpose is to obtain copies, then the Requestor should specify the preferred medium in which to receive records;
 1. Hard copies
 2. Electronic copies (pdf, jpg, tif, etc.) on media (CD, DVD)
 - vi. Method by which the Association should contact the Requestor; and
 - vii. Sufficient detail to identify the books and records of the Association being requested ("Requested Records").
4. Association's Response: The Association shall respond to the Requestor's request in writing.
 - a. Request to Inspect: On or before the tenth (10th) business day after the date the Association receives the request, the Association shall send written notice of the 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.
 - i. The Requestor shall then contact the Association to arrange for a mutually agreeable time and location to conduct the inspection. Requestor shall be responsible for any

deposit or costs associated with securing an inspection location or computer access, if necessary.

- ii. If copies of the Requested Records are made at the inspection, the Association shall provide the Requestor with copies upon receipt of the cost thereof as described below.
 - b. Request for Copies: If a request for copies of Requested Records is made, the Association shall send written notice to the Requestor on or before ten (10) business days after the Association receives the proper request advising the Requestor of (1) the date that the Requested Records will be made available, and (2) the cost that must be received by the Association before the Requested Records will be provided. Upon receiving payment for the Requested Records, the Association will produce the Requested Records and send the Requested Records to the Requestor by U.S. Mail, return receipt requested, at the Requestor's address shown in the request. The Association may provide the Requested Records in hard copy, electronic format, or other format reasonably available to the Association.
 - c. Additional Time: If the Association determines it cannot comply with the request within ten (10) business days after receipt of the request by the Association, the Association shall send the Requestor a written notice within such ten (10) business day period that informs the Requestor that the Association is unable to produce the Requested Records on or before the tenth (10th) business day after request receipt and that the Requested Records will be produced for inspection, or copied and mailed (subject to receipt of payment as set forth herein), on or before fifteen (15) business days from the date the notice is mailed to the Requestor.
5. Costs: The Association hereby adopts the schedule of costs provided in the Texas Administrative Code (T.A.C.) Section 70.3. Below are costs for reference as of 1/1/2012:
- a. Hard Copies and Materials:
 - i. 8.5" x 11", 10 cents per page, §70.3.b.1, Each side that has recorded information is considered a page;
 - ii. 11" x 17" or greater, 50 cents per page, §70.3.b.2.L;
 - iii. Specialty paper (color, photograph, map, etc.), actual cost, §70.3.b.2.M;
 - iv. CD, \$1.00 each, §70.3.b.2.F;
 - v. DVD, \$3.00 each, §70.3.b.2.G.
 - b. Postage: Actual cost
 - c. Labor: \$15.00 per hour for actual time to locate, compile, and produce the records for any copy request of 50 pages or more. When confidential information is mixed with public information in the same page, a labor charge may be recovered for the time spent to redact, blackout, or otherwise obscure confidential information in order to release the public information.
 - d. Overhead: 20% of the total labor charge for any request of 50 pages or more.
 - e. Materials: Actual cost of labels, boxes, folders, and other supplies used in producing the records.

- f. Sales Tax: Pursuant to the Office of the Comptroller of Public Accounts' rules sales tax shall not be added on charges for public information (34 TAC, Part 1, Chapter 3, Subchapter O, §3.341 and §3.342).
- g. Example 1: A request to produce 55 pages, plus all electronic records on CD, mailed to the Owner as shown in Table I. In this example, the Requestor would be charged an additional \$ 3.00 to be paid within 30 days of receiving an invoice for the additional amount due or be added to the Owners next assessment.

Table I: Example of Request for Copies, estimated fees, and actual fees

Requested Item	Quantity	Unit Cost	Total Estimated Cost	Actual Cost
8.5"x11" copies	55	\$ 0.10	\$ 5.50	\$ 5.50
CD	1	\$ 1.00	\$ 1.00	\$ 1.00
Labor	1 hr	\$ 15.00	\$ 15.00	\$ 20.00 (1hr:20min)
Overhead			\$ 3.00 (\$15.00x20%)	\$ 4.00 (\$20.00x20%)
Mailing Materials			\$ 7.50	\$ 5.00
Postage			\$ 5.00	\$ 4.50
			<u>\$ 37.00</u>	<u>\$ 40.00</u>

- h. Example 2: A request to produce a hard copy of the Covenants (42 pages) with arrangements for the Owner to pick up the document from the Association's Secretary.

Table 2: Example of Request for document less than 50 pages

Requested Item	Quantity	Unit Cost	Total Estimated Cost	Actual Cost
8.5"x11" copies	42	\$ 0.10	\$ 4.20	\$ 4.20

- 6. Cost Reconciliation: If the estimated cost provided to the Requestor is more or less than the actual cost of producing the Requested Records, the Association shall, within thirty (30) days after producing the Requested Records, submit to the Requestor, either an invoice for additional amounts owed or a refund of the overages paid by the Requestor.
 - a. Additional amounts owed: If the final invoice includes additional amounts due from the Requestor, the additional amounts, if not reimbursed to the Association before the thirtieth (30th) day after the date the invoice is sent to the Requestor, may be added to the Owner's account as an assessment by the Association.
 - b. Refund of overages paid: If the estimated costs exceeded the final invoice amount, the Requestor is entitled to a refund, and the refund shall be issued to the Requestor not later than the thirtieth (30th) business day after the date the invoice is sent to the Requestor.

7. Quick Request: The Quick Request is in place to encourage open communication among Members of the Association and supply documents necessary to a homeowner while avoiding the costs associated with a formal Request for Books or Records.
 - a. The Quick Request provides:
 - i. Copies of an Association Declaration or Policy;
 - ii. Copies of permits or certificates pertaining to the Owner or Owner's property;
 - iii. Architectural Control Committee actions upon the Owner's property;
 - iv. Treasury information; or
 - v. Copies of receipts or contracts for an Association expense.
 - b. The Quick Request does not provide:
 - i. Copies of restricted information described in Subsection (2);
 - ii. Services to scan large quantities of hard copies and save as electronic documents;
 - iii. Preparation of certificates;
 - iv. Research services;
 - v. Administering complex requests to obtain documents from multiple locations; or
 - vi. Documents that require information to be redacted to protect another Owner's information.
 - c. Each Owner may request the following quantities of each items per year:
 - i. Any combination of up to ten (10) 8.5"x11" pages of hard copies or 8.5"x11"pages converted from hard copies to an electronic page; or
 - ii. Any quantity of existing electronic documents that can reasonably be supplied through an email.
 - d. An Owner may send a written request, include email, to the Association's Secretary with the following information:
 - i. Name of Requestor;
 - ii. Date of request;
 - iii. Phone, email, address or other pertinent contact information of the Requestor;
 - iv. Method by which the Association should contact the Requestor; and
 - v. Sufficient detail to identify the Requested Records.
 - e. The Association shall, within a reasonable time, respond to the request in one of the following ways:
 - i. Provide the Requested Records, either hard copy or electronic copy;
 - ii. Provide a written response to the Requester with a reasonable date when the Requested Records will be provided; or
 - iii. Provide a written response to the Requestor denying the request as well as the reason.

- f. Costs: The Quick Request is intended to take place through e-mail or Requestor pickup of Requested Records. There are no copying fees for Quick Request copies. The Requestor may be subject to Postage charges or may supply a self addressed envelope to avoid postage charges.

Shady Oaks II Homeowners Association, Inc.

Signed by Elizabeth McPherson, President, and Notarized
On February 29th, 2012 by Jimmy Sponseller,
Notary Public, State of Texas (Commission expires
July 23, 2014)

INDEXED – TARRANT COUNTY TEXAS
MARY LOUISE GARCIA – COUNTY CLERK

TO: SHADY OAKS II HOME OWNERS ASSN INC

INSTRUMENT	PRINTED DATE	TIME
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SHADY OAKS II HOME OWNERS ASSN INC
PO BOX 820573
NORTH RICHLAND HILLS, TX 76182