

OMEGA BAY IMPROVEMENT COMMUNITY, INC.
ACC DENIAL LETTER AND APPEAL HEARING POLICY

STATE OF TEXAS §
 §
COUNTY OF GALVESTON §

WHEREAS, Omega Bay Improvement Community Association, Inc. (the "Association"), is the governing entity for all sections of Omega Bay according to the maps or plats thereof, recorded in Map Records of Galveston County, Texas, along with any amendments and re-plats thereto, and any additional real property brought within the jurisdiction of the Association(the "Community"); and,

WHEREAS, the Board of Directors of the Association is authorized to administer the affairs of the Association and provide for the health, safety and welfare of the members and property within the Association and this ACC Denial Letter and Appeal Hearing Policy is applicable to the Community and Association; and,

WHEREAS, all terms used herein that are defined in Chapter 209 of the Texas Property Code shall have the meaning as defined in the statute; and,

WHEREAS, Section 209.00505 of the Texas Property Code was added to provide hearing procedures that property owners associations must follow with respect to informing an owner of a denial of an application submitted to the architectural review authority for the Association as well as providing for a hearing process to enable an owner receiving such a denial to appeal the denial; and,

WHEREAS, to the extent this policy conflicts with any existing governing document of the Association or Community, this policy shall be controlling inasmuch as existing governing documents are pre-empted by State law; and,

WHEREAS, this Dedicatory Instrument constitutes Restrictive Covenants as those terms are defined by Texas Property Code §202.001, et. seq, and the Association shall have and may exercise discretionary authority with respect to these Restrictive Covenants;

NOW THEREFORE, in view of the foregoing and in compliance with the Texas Property Code, the Association hereby adopts and imposes on the Community and the Association the following policies, rules, and regulations:

1. A decision by the architectural review authority denying an application for request by an owner for the construction of improvements in the Community may be appealed to the Board.
2. A written notice of the denial must be provided to the owner by certified mail, hand delivery, or electronic delivery.
3. The denial notice must:
 - a. describe the basis for the denial in reasonable detail and describe changes, if any, to the application or improvements required as a condition to approval; and
 - b. inform the owner that the owner may request a hearing on or before the 30th day after the date the disapproval notice was mailed or delivered to the owner.

4. An owner desiring a hearing appealing a denial shall request such a hearing in writing, either by mail, electronic mail or hand delivery. Such request must be delivered to the Association's address or electronic mail address provided on the most recently filed management certificate.
5. The board shall hold a hearing not later than the 30th day after the date the board receives the owner's request for a hearing and shall notify the owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. Only one hearing is required.
6. During a hearing, the board or the designated representative of the property owners' association and the owner or the owner's designated representative will each be provided the opportunity to discuss, verify facts, and resolve the denial of the owner's application or request for the construction of improvements, and the changes, if any, requested by the architectural review authority in the notice provided to the owner.
7. The board or the owner may request a postponement. If requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties.
8. All hearings with the owner will be held in private. The board will consider and vote upon the outcome of the hearing in an open meeting for which notice was provided to the members.
9. The property owners' association or the owner may make an audio recording of the meeting.
10. The board as appropriate, may affirm, modify, or reverse, in whole or in part, any decision of the architectural review authority.
11. The Association will provide the owner with a written notice of their decision regarding the matter of the hearing.

CERTIFICATION

"I, the undersigned, President of Omega Bay Improvement Community, Inc., hereby certify that the foregoing was adopted by at least a majority of Omega Bay Improvement Community, Inc.'s Board of Directors, at a properly noticed, open board meeting, at which a quorum of the board was present."

By: 
DANIEL C. BARNES, PRESIDENT

ACKNOWLEDGEMENT

STATE OF TEXAS

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COUNTY OF GALVESTON

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THIS INSTRUMENT was acknowledged before me by the said DANIEL C. BARNES, PRESIDENT of OMEGA BAY IMPROVEMENT COMMUNITY, INC., a Texas non-profit corporation, on behalf of said corporation.

Given under my hand and seal of office this the 26th day of August, 2021.

Taylor Kelley
Notary Public State of Texas

