

OMEGA BAY IMPROVEMENT COMMUNITY, INC.
DEED RESTRICTION VIOLATION HEARING POLICY

STATE OF TEXAS §
 §
COUNTY OF GALVESTON §

WHEREAS, Omega Bay Improvement Community, 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 Deed Restriction Violation 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 209.007 of the Texas Property Code was amended to provide additional hearing procedures that a property owners association must follow when enforcing deed restriction violations for which an owner is entitled to an opportunity to cure the violation; 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. If an owner is entitled to an opportunity to cure a violation, the owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before the board of the property owners' association.
2. An owner desiring a hearing must request a hearing on or before the 30th day after the date the notice of violation and right to a hearing was mailed to the owner. Any owner that does not request a hearing within thirty (30) days of receiving certified notice of owner's deed restriction violation will not be entitled to a hearing.
3. An owner 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.
4. The association shall hold a hearing under this section not later than the 30th day after the date the board receives the owner's request for a hearing.

5. The Association 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.
6. The board or the owner may request a postponement, and, 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.
7. The owner or the association may make an audio recording of the meeting.
8. The notice and hearing provisions of this policy do not apply if the association files a suit seeking a temporary restraining order or temporary injunctive relief or files a suit that includes foreclosure as a cause of action.
9. The notice and hearing provisions of this policy do not apply to a temporary suspension of a person's right to use common areas if the temporary suspension is the result of a violation that occurred in a common area and involved a significant and immediate risk of harm to others in the subdivision. The temporary suspension is effective until the board makes a final determination on the suspension action after following the procedures prescribed by this policy.
10. Not later than 10 days before the association holds a hearing under this section, the association shall provide to an owner a packet containing all documents, photographs, and communications (not to include any attorney-client privileged communications) relating to the matter the association intends to introduce at the hearing.
11. If an association does not provide a packet within the designated period, an owner is entitled to an automatic 15-day postponement of the hearing.
12. During a hearing, a member of the board or the association's designated representative shall first present the association's case against the owner. An owner or the owner's designated representative is entitled to present the owner's information and issues relevant to the appeal or dispute.
13. All hearings will be held in private.
14. After the hearing is concluded, the owner and their designated representative will leave the hearing so the Board may discuss and consider the information presented.
15. The Association will provide the owner with a written notice with 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*
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

