

MISSION TRACE HOMEOWNERS ASSOCIATION
BOARD HEARING POLICY

This Board Hearing Policy of Mission Trace Homeowners Association (the "Association") was duly adopted on the 2021, setting forth certain policies of the Association in connection with the management of the Association and the properties known as Mission Trace, subject to the Declaration of Covenants and Restrictions, recorded in Volume 6991, Page 193 of the Official Public Records of Bexar County, Texas; and all amendments, annexations and supplements thereto (collectively, "Declaration"), the Bylaws of the Association, and all policies, rules, and regulations duly adopted by the Association from time to time (collectively, "Governing Documents").

This Board Hearing Policy is adopted under the requirements of the TEX. PROP. CODE § 209.007 and § 209.00505 governing procedures for hearings before the Board of Directors ("Board") of the Association for violations of the Governing Documents or appeals of denials by an architectural review authority as defined by TEX. PROP. CODE § 209.00505. Any previously adopted policies regulating violation or architectural review authority appeal hearings before the Board are of no further force or effect,

The adoption of this Board Hearing Policy for the purposes stated herein is in compliance with the TEX. PROP. CODE § 202.006, requiring all property owners' associations to file all Governing Documents in the real property records of each county in which the Property to which the Governing Documents relate is located. This Board Hearing Policy shall become effective as of the date the Board Hearing Policy is filed in the Official Public Records of Bexar County, Texas.

Capitalized terms contained herein shall have the definitions as set forth in the Declaration, as applicable.

1. **Right to Hearing.** An Owner has a right to request a hearing before the Board, as follows, prior to enforcement actions concerning curable violations of the Governing Documents and to appeal decisions by the architectural review authority denying an Owner's application or request for the construction, alteration, or modification of an improvement. "Architectural Review Authority" (ARA) as used herein shall mean and refer to the governing authority for the review and approval of improvements within the subdivision.

A. An Owner has the right to submit a written request for a hearing to discuss and verify facts and resolve matters in issue related to a curable violation of the Governing Documents on or before the thirtieth (30th) day after the date written notice of the violation is mailed to the Owner in accordance with TEX. PROP. CODE § 209,006, Such notice and opportunity to request a hearing must be provided, as described herein, to the Owner prior to the Association:

- i. suspending an Owner's right to use common area;
- ii. filing a suit against an Owner other than a suit to collect regular or special assessments or foreclose under an Association's lien;
- iii. reporting any delinquency of an Owner to a credit reporting service; **iv.** charging an Owner for property damage; or **v.** levying a fine for a violation of the Governing Documents.

B. The right of an Owner to request a hearing to discuss a violation of the Governing Documents does not apply if:

i. the Association files a lawsuit seeking a temporary restraining order or temporary injunctive relief or files a lawsuit that includes foreclosure as a cause of action; or

ii. the temporary suspension of an Owner's right to use common area 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.

c. An Owner who receives written notice of a decision by an ARA denying an application or request by the Owner for the construction of improvements, in accordance with TEX. PROP. CODE § 209.00505(d), has the right to request a hearing before the Board to appeal the decision on or before the thirtieth (30th) day after the date written notice of the denial is mailed to the Owner. This Subsection C does not apply:

i. if the Association consists of forty (40) or fewer Lots; or ii. during the development period or during any period in which the Declarant:

a. appoints at least a majority of the members of the ARA or otherwise controls the appointment of the ARA; or b, has the right to veto or modify a decision of the ARA.

2. Notice Requirements. The Association must provide an Owner written notice as follows prior to enforcement action, as described in Section I(A), or upon denial by the ARA of an Owner's application or request for the construction, alteration, or modification of an improvement.

A. Notice of Enforcement Action. Prior to an enforcement action for a curable violation of the Governing Documents for which an Owner has not previously been given notice and an opportunity to exercise any rights available under TEX. PROP. CODE § 209.006 in the preceding six months, the Association must provide the Owner notice by certified mail, The notice must:

i. describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the Association from the Owner;

ii. provide a reasonable period to cure the violation if the violation is curable and does not pose a threat to public health or safety;

iii. specify a date by which the Owner must cure the violation if the violation is curable and does not pose a threat to public health or safety;

iv. advise the Owner is entitled to a reasonable period to cure the violation and avoid the fine or suspension if the violation is curable and does not pose a threat to public health or safety;

v. advise the Owner may request a hearing in accordance with TEX. PROP. CODE § 209,007 on or before the thirtieth (30th) day after the date the notice was mailed to the Owner; and

vi. advise that the Owner may have special rights or relief related to the enforcement action under Federal law, including the Servicemembers Civil Relief Act (50 U.S.C App. Section 501 et seq.) if the Owner is serving on active military duty.

B. Notice of Denial by Architectural Review Authority. A decision by the ARA

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denying an Owner's application or request for the construction, alteration, or modification of an improvement must be provided to the Owner by certified mail, hand delivery, or electronic delivery. The notice must:

- i. describe the basis for the denial in reasonable detail and changes, if any, to the application or improvements required as a condition to approval; and
- ii. inform that the Owner may request, on or before the thirtieth (30th) day after the date the notice was mailed to the Owner, a hearing before the Board.

3. Hearing Request. Upon receipt of a notice of violation or denial by the ARA as described in Section 2 herein, an Owner may submit a written request, on or before the thirtieth (30th) day after the date written notice was mailed to the Owner, for a hearing before the Board. An ARA hearing request shall state the Owner's basis for appeal and include any evidence supporting the appeal. All requests for a hearing must be mailed, hand delivered or electronically delivered to the Association's address on the most recently filed management certificate. The Owner should verify receipt by Association if no response is received within a reasonable timeframe.

4. Hearing Date and Notification. The Association shall hold a hearing not later than the thirtieth (30th) day after the date the Board receives the Owner's request for hearing and shall notify the Owner of the date, time, and place of the hearing not later than the tenth (10th) day before the date of the hearing. The Board or Owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of the parties. The Board of Directors may elect to conduct the hearing at a regular or a special called meeting with notice to the membership in accordance with TEX. PROP. CODE § 209.0051, as amended.

Prior to Enforcement Hearing.

A. Not later than ten (10) days before the Association holds a hearing for an enforcement action related to a curable violation of the Governing Documents as described in Section I(A), the Association shall provide the Owner with an "evidence" packet containing all documents, photographs, and communications relating to the matter the Association intends to introduce at the hearing. The evidence packet shall be provided by mail, hand delivery or electronic delivery.

B. If the Association does not provide a packet within the period described in Section 4(A), the Owner is entitled to an automatic fifteen (15) day postponement of the hearing.

6. Enforcement Hearing. During an enforcement hearing as described in Section I(A), 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. If either party intends to make an audio recording of the meeting, notice of such intent shall be provided to the other party prior to the commencement of the hearing.

7. Architectural Review Authority Hearing. During an ARA hearing, the Board or the designated representative of the Association and the Owner or the Owner's designated representative shall 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 changes, if any, requested by the ARA in the notice provided to the Owner in accordance with TEX. PROP, CODE § ~~209.00505~~(d). If either party intends to make an audio recording of the meeting, notice of such intent shall be provided to the other party prior to the commencement of the hearing. Only one hearing is required. However, a hearing may be suspended

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and reconvened at a later date by agreement of the parties.

The Board may affirm, modify, or reverse, in whole or in part, any decision of the ARA as consistent with the Governing Documents. Any decision by the Board shall be made at a regular or special meeting of the Board in open meeting for which prior notice was given. After a vote in an open meeting, the Board may issue a written decision. If the Board does not vote on the appeal within thirty (30) days of the date of the hearing, the appeal shall be considered denied.

CERTIFICATE OF OFFICER

The undersigned certifies that the foregoing Board Hearing Policy was duly approved and adopted by the Board of Directors of MISSION TRACE HOMEOWNERS ASSOCIATION on the 25th day of August, 2021, and that the undersigned has been authorized by the Board of Directors to execute and s instrument. The undersigned further certifies that the foregoing Board Hearing Policy constitutes a dedicatory instrument under TEX. PROP. CODE § 202.006 which applies to the operation of Mission Trace, a subdivision located in Bexar County, Texas, as hereinabove described.

Signed this 25th day of August, 2021.

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By: OWEN SEIDENBERGER
OWEN SEIDENBERGER
PRESIDENT
Name:
Title:
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