

Matagorda County
Janet Hickl County Clerk
1700 7th St. Rm 202
Bay City, TX 77414



70 2012 00127202

Instrument Number: 2012-127202

As

Recorded On: December 31, 2012

Recordings

Billable Pages: 7

Number of Pages: 8

Comment:

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

Recordings	40.00
Total Recording:	40.00

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Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2012-127202
Receipt Number: 6617
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Record and Return To:

HAYES & PENDEGRAFT
1704 5TH STREET
BAY CITY TX 77414

User / Station: D Townsend - CC-Front Counter



STATE OF TEXAS COUNTY OF MATAGORDA
I hereby certify that this instrument was FILED in File Number
Sequence on the date and at the time stamped hereon by me
and was duly recorded in the OFFICIAL RECORDS of Matagorda
County, Texas.

Janet Hickl
COUNTY CLERK, Matagorda County, Texas

RECORDS PRODUCTION AND COPYING POLICY

[Tex. Prop. Code Sec. 209.005]

Date:

Subdivision: Downey's Caney Creek

Property Owners' Association: Downey's Caney Creek Club Lot Owners Association, Inc.

Charges: Charges for examining and copying Property Owners' Association information are set out in Schedule 1.

Except for information deemed confidential by law or court order, the Property Owners' Association will make its books and records open to and reasonably available for examination by an owner of property in the Subdivision, or a person designated in a writing signed by the owner as the owner's agent, attorney or certified public accountant, in accordance with Texas Property Code Section 209.005. Owners are also entitled to obtain copies of information in the Property Owners' Association's books and records upon payment of the Charges for the copies. To the extent the Charges in this Policy exceed the charges in 1 Texas Administrative Code Sec. 70.3, the amounts in 1 Texas Administrative Code Sec. 70.3 shall govern.

Information not subject to inspection by owners include, but is not limited to:

1. Any document that constitutes the work product of the Property Owners' Association attorney or that is privileged as an attorney-client communication;
2. Files and records of the Property Owners' Association attorney relating to the Property Owners' Association, excluding invoices requested by an owner under Texas Property Code § 209.008(d);
3. Except to the extent the information is provided in the meeting minutes or as authorized by Tex. Prop. Code § 209.005(1),
 - a. Information that identifies the dedicatory instrument violation history of an individual owner;
 - b. An owner's personal financial information, including records of payment or nonpayment of amounts due the Property Owners' Association,
 - c. An owner's contract information, other than the owner's address, and
 - d. Information related to an employee of the Property Owners' Association, including personnel files.

If a document in the Property Owners' Association attorney files and records relating to the Property Owners' Association would be responsive to a request by an owner to inspect or copy

Property Owners' Association documents, the document will be produced by using the copy from the attorney's files and records if the Property Owners' Association has not maintained a separate copy of the document.

Procedures for Owners to Inspect Property Owners' Association Information and/or Obtain Copies

1. An owner or the owner's agent must submit a written request for access or information by certified mail, with sufficient detail describing the Property Owners' Association's books and records requested, to the mailing address of the Property Owners' Association or authorized representative as reflected on the most current management certificate filed with the county clerk of Matagorda County, Texas.

2. The request must include enough description and detail about the information requested to enable the Property Owners' Association to accurately identify and locate the information requested. Owners must cooperate with the Property Owners' Association's reasonable efforts to clarify the type or amount of information requested.

3. The request must contain an election either to inspect the books and records before obtaining copies or to have the Property Owners' Association forward copies of the requested books and records and:

- a. if an inspection is requested, the Property Owners' Association, on or before the 10th business day after the date the Property Owners' Association receives the request, shall give access to the requested books and records during normal business hours, to the extent such books and records are in the possession, custody or control of the Property Owners' Association;
- b. if copies of identified books and records are requested, the Property Owners' Association will, to the extent those books and records are in the possession, custody or control of the Property Owners' Association, produce the requested books and records for the requesting party on or before the 10th business day after the date the Property Owners' Association receives the request.

4. If the Property Owners' Association is unable to produce the books or records requested that are in its possession or custody on or before the 10th business day after the date the Property Owners' Association receives the request, the Property Owners' Association must provide to the requestor written notice that:

- a. informs the owner that the Property Owners' Association is unable to produce the information on before the 10th business day after the date the Property Owners' 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 will take place at a mutually agreeable time during normal business hours, and the owner will identify the books and records for the Property Owners' Association to copy and forward to the owner.

6. The Property Owners' Association may produce copies of the requested information in paper copy, electronic or other format reasonably available to the Property Owners' Association.

7. Before starting work on an owner's request, the Property Owners' Association must provide the owner with a written, itemized statement of estimated Charges for examining and/or copying records related to the owner's request using amounts prescribed herein when the estimated Charges exceed \$40.00. Owners may modify the request in response to the itemized statement.

8. Within 10 business days of the date the Property Owners' Association sent the estimate of Charges, the owner must respond in writing to the written estimate, or the request is considered automatically withdrawn. The response must state whether the owner (a) accepts the estimate per the request, (b) modifies the request, or (c) withdraws the request.

9. Owners are responsible for charges related to the compilation, production and reproduction of the requested information in the amounts stated herein. The Property Owners' Association may require advance payment of the estimated Charges of compilation, production and reproduction of the requested information.

10. If the estimate Charges are lessor or greater than the actual Charges, the Property Owners' 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 Property Owners' 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 Charges 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.

DOWNEY'S CANEY CREEK CLUB LOT
OWNERS ASSOCIATION, INC.

By: Ruth Risinger
Printed name: Ruth Risinger
Its: President

THE STATE OF TEXAS §

COUNTY OF MATAGORDA §

This instrument was acknowledged before me on this the 10TH day of DECEMBER, 2012, by Burt RISINGER, the PRESIDENT of DOWNEY'S CANEY CREEK CLUB LOT OWNERS ASSOCIATION, INC.

D. Y. Lane Brown

Notary Public, State of Texas

SCHEDULE 1
CHARGES FOR EXAMINING AND COPYING
PROPERTY OWNERS' ASSOCIATION INFORMATION
[from 1 Texas Administrative Code Sec. 70.3]

A. Labor charge for computer programming.

If a particular request requires the services of a computer programmer to execute an existing program or to create a new program so that requested information may be accessed and copied, the Property Owners' Association will charge \$28.50 an hour for the programmer's time spent on the request.

B. Labor charge for locating, compiling, manipulating data and reproducing Property Owners' Association information.

1. The charge for labor costs incurred in processing an owner's request for Property Owners' Association 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 will 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 are located in:
 - a. Two or more separate buildings that are not physically connected with each other; or
 - b. A remote storage facility.
3. A labor charge will not be billed for any time spent by an attorney, legal assistant, or any other person who reviewed the requested information to determine whether the requested information is confidential or privileged under Texas law.
4. When confidential or privileged information is mixed with public information in the same page, a labor charge may be recovered for time spent to redact, blackout, or otherwise obscure the confidential or privileged information in order to comply with the owner's request. The Property Owners' Association will not charge for redacting confidential or privileged information for requests of 50 or fewer pages unless the request also qualifies for a labor charge under Texas Gov. Code § 552.261(a)(1) or (2).

C. Overhead charges.

1. Whenever any labor charge is applicable to a request, the Property Owners' Association may include in the Charges direct and indirect costs, in addition to the

specific labor charge. This overhead charge would cover such costs a depreciation of capital assets, rent, maintenance and repair, utilities and administrative overhead. If the Property Owners' Association chooses to recover such costs, the overhead charge will 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$ per hour); and one hour of programming labor charge ($\$28.50$ per hour), the combined overhead would be: $\$15.00 + \$28.50 = \$43.50 \times .20 = \8.70 .

2. An overhead charge shall not be made for requests for copies of 50 or fewer pages of standard paper records.

D. Microfiche and microfilm charge.

If the Property Owners' Association already has the requested information on microfiche or microfilm, the charge for a copy must not exceed the cost of reproducing the information on microfiche or microfilm or \$.10 per page for standard size paper copies of the information on microfiche or microfilm, plus any applicable labor and overhead charge for more than 50 copies.

E. Remote document retrieval charge.

To the extent that the retrieval of documents stores off of the Property Owners' Association's property results in a charge to comply with a request, the Property Owners' Association will charge the actual cost of the retrieval.

F. Copy charges.

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 of a piece of paper on which information is recorded is counted as a single copy. A piece of paper that has information recorded on both sides is counted as two copies. Standard paper copy is a copy of Property Owners' Association information that is a printed impression on one side of a piece of paper that measures up to 8½ by 14 inches.

2. Nonstandard copy.

This includes everything but a copy of a piece of paper measuring up to 8½ by 14 inches. Microfiche, microfilm, diskettes, magnetic tapes, CD-ROM are examples of nonstandard copies. 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 disk (DVD) – \$3.00;
- h. JAZ drive – actual cost;
- I. Other electronic media – actual cost;
- j. VHS video casset – \$2.50;
- k. Audio casset – \$1.00;
- l. Oversize paper copy (e.g.: large than 8½ by 14 inches, greenbar, bluebar, not including maps and photographs using specialty paper) – \$.50;
- m. Specialty paper (e.g.: Mylar, blueprint, blueline, map, photographic) – actual cost,