

ADDITIONAL DEDICATORY INSTRUMENTS
for
THE LAKES IN BAY COLONY HOMEOWNERS ASSOCIATION, INC.

THE STATE OF TEXAS §

COUNTY OF GALVESTON §

BEFORE ME, the undersigned authority, on this day personally appeared **Trisha Taylor Farine**, who, being by me first duly sworn, states on oath the following:

"My name is **Trisha Taylor Farine**, I am over twenty-one (21) years of age, of sound mind, capable of making this affidavit, authorized to make this affidavit, and personally acquainted with the facts herein stated:

"I am the attorney/agent for THE LAKES IN BAY COLONY HOMEOWNERS ASSOCIATION, INC. Pursuant with Section 202.006 of the Texas Property Code, the following documents are copies of the original official documents from the Association's files:

Regulation of Solar Energy Devices

DATED this 31st day of October, 2018.

THE LAKES IN BAY COLONY HOMEOWNERS
ASSOCIATION, INC.

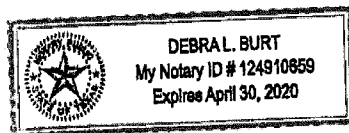
BY: *Trisha Taylor Farine*
Trisha Taylor Farine, attorney/agent

THE STATE OF TEXAS §

COUNTY OF GALVESTON §

THIS INSTRUMENT was acknowledged before me on this the 31st day of October, 2018, by Trisha Taylor Farine, attorney/agent for THE LAKES IN BAY COLONY HOMEOWNERS ASSOCIATION, INC., a Texas non-profit corporation, on behalf of said corporation.

Debra L. Burt
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



After recording return to:
Daughtry & Farine, P.C.
17044 El Camino Real
Houston, Texas 77058

THE LAKES IN BAY COLONY HOMEOWNERS' ASSOCIATION, INC.

REGULATION OF SOLAR ENERGY DEVICES

WHEREAS, Section 202.010 of the Texas Property Code provides for the regulation of solar collectors or solar energy devices by a property owners' association;

WHEREAS, the Board of Directors desires to amend its dedicatory instruments with the intent of regulating solar collectors or solar energy devices;

NOW, THEREFORE, BE IT RESOLVED THAT the following policy is hereby adopted by the Board of Directors:

SOLAR ENERGY SYSTEMS

PURPOSE OF GUIDELINES

While the Association recognizes these benefits of solar energy systems, it is important that these systems are installed in a manner that respects legitimate competing community interests. For purposes of these design guidelines, the phrase "solar energy system" includes both photovoltaic and solar heating and/or cooling technologies.¹

APPLICATION REQUIREMENTS

All solar energy systems require ACC (Architectural Control Committee) approval. The following documents must be included along with the required application or request form:

- Plans showing visibility of the system from areas open to common or public access (e.g., public streets, neighboring lots, or association properties or common areas);
- A rendering or drawing (with dimensions) showing the proposed location of the system and how the equipment will be mounted, as well as a description of any visible auxiliary equipment (including inverter boxes, meters, disconnects, conduits, and other appurtenances);
- Photographs, manufacturer literature, or descriptions for all proposed system components including specifications, color, materials, etc.
- Written support of all adjoining property owners, consisting of name(s) of owner(s), address, and short statement indicating that they have reviewed the preliminary design and feel it will not cause them loss of enjoyment of their property based on the information provided. Any subsequent design changes must also receive the same approval statement from adjoining lot owner(s).

Following submission of these materials, the ACC will either approve the application, request additional materials, recommend changes, or deny the system design and location as proposed or, if feasible, determine an alternate location for the system. The ACC shall not withhold approval if all below conditions are met, unless the ACC determines, in writing, that placement of the system as proposed by the property owner constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to others. An applicant may overcome this determination by obtaining the written support of all adjoining property owners.²

¹ According to TEX. PROP. CODE ANN. § 202.010(2), the term "solar energy device" is defined in the Tax Code § 171.107 as "a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy."

SYSTEM DESIGN AND PLACEMENT REQUIREMENTS

Any solar energy system is to be entirely contained on the land or structures owned by the property owner, and will not encroach on neighboring property or common areas.³

To the maximum extent possible, a roof-mounted solar energy system shall be installed so as to minimize its exposure when viewed from areas open to common or public access (e.g., public streets, neighboring lots, or association properties or common areas). The ACC reserves the right to designate a new location for a proposed system, unless the new location would decrease energy production of the system by more than 10%. The difference in energy production by location shall be determined through the publicly available modeling tool provided by the National Renewable Energy Laboratory (www.nrel.gov).⁴

For solar energy systems located in a fenced yard, no portion may extend above the fence.⁵ The ACC may consider installation of solar energy systems on properties without a fenced yard if there is adequate screening from public view from any street or common area.

Roof mounted solar panels (1) may not extend higher than or beyond the roofline⁶ and (2) must have a top edge that is parallel to the roofline.⁷ If solar panels are located on the front-facing or side-facing roof surfaces, visible from areas open to common or public areas, they must (3) conform to the slope of the roof minimizing stand-off distance from the roof surface.⁸

Efforts must be made to make the solar energy system a harmonious part of the architectural design of the residence. Reasonable efforts should be taken to minimize the visibility of any plumbing, wiring, or auxiliary equipment. All system components that are not involved in the production of energy, such as a frame, support bracket, or visible piping or wiring, must be either (1) a silver, bronze, or black tone commonly available in the marketplace, or (2) a color that blends with the roof coloring.⁹

² This requirement is taken from the Texas solar rights statutory text which reads "[an ACC] may not withhold approval for installation of a solar energy device if the provision of the dedicatory instruments to the extent authorized by Subsection (d) are met or exceeded, unless the association or committee, as applicable, determines in writing the placement of the device as proposed by the property owner constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinance sensibilities. For purposes of making a determination under this subsection, the written approval of the proposed placement of the device by all property owners of adjoining property constitutes prima facie evidence that such a condition does not exist." Tex. Prop. Code Ann. § 202.010(e).

³ HOA restrictions on solar installations are not dictated by the Texas state legislation if the solar device will be located on property owned by the HOA or owned in common by the members. TEX. PROP. CODE ANN. § 202.010(d)(2)-(3).

⁴ This 10% decrease in efficiency, as well as the publicly available modeling tool through NREL, is explicitly laid out in Tex. Prop. Code Ann. § (d)(5)(B).

⁵ HOAs must allow ground mounted solar energy systems but are allowed to restrict those that extend above the fenceline according to Tex. Prop. Code. Ann. § 202.010(d)(4)(B) and § 202.010(d)(6).

⁶ HOA ability to limit explicitly protected in Tex. Prop. Code Ann. § 202.010(d)(5)(A)

⁷ HOA ability to limit explicitly protected in Tex. Prop. Code Ann. § 202.010(d)(5)(C)

⁸ HOA ability to limit explicitly protected in Tex. Prop. Code Ann. § 202.010(d)(5)(C)

⁹ HOA ability to limit explicitly protected in Tex. Prop. Code Ann. § 202.010(d)(5)(D)

Because existing trees may reduce access to sunlight and thereby decrease system performance, the ACC will give special consideration to the limited removal of trees outside the normal tree removal requirements or processes. Removed trees shall be replaced to ensure no net loss of trees.

A homeowner may not install a solar energy system that, as adjudicated by a court, (1) threatens public health or safety, or (2) violates a law.¹⁰ All systems must be installed in compliance with manufacturer's instructions and in a manner that does not void material warranties.¹¹ After installation, all systems must be maintained in good repair.

This administrative resolution supersedes all previously adopted policies regarding solar collectors or solar energy devices by the Association.

Duly adopted at a meeting held by the Board of Directors of The Lakes in Bay Colony Homeowners' Association, Inc. this 29th day of October, 2018.

Effective Date: October 29, 2018

Signed:

Heather Rittenour

Signature

Heather Rittenour

Print Name

Secretary, Board of Directors

¹⁰ This is explicitly addressed in TEX. PROP. CODE ANN. § 202.010(d)(1).

¹¹ This is explicitly addressed in TEX. PROP. CODE ANN. § 202.010(d)(7).

FILED AND RECORDED

Instrument Number: 2018065648

Recording Fee: 38.00

Number Of Pages:5

Filing and Recording Date: 11/01/2018 9:25AM

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Galveston County, Texas.



A handwritten signature in cursive script that reads "Dwight D. Sullivan".

Dwight D. Sullivan, County Clerk
Galveston County, Texas

DO NOT DESTROY - *Warning, this document is part of the Official Public Record.*