

# MISSION ESTATES HOMEOWNERS ASSOCIATION, INC.

## RULE REGARDING INSPECTION AND COPYING OF THE ASSOCIATION'S OFFICIAL RECORDS

*[Additions are indicated by underline; deletions by ~~strike through~~]*

WHEREAS, MISSION ESTATES HOMEOWNERS ASSOCIATION, INC., a Florida not for profit corporation (herein, the "Association") is a homeowners association governed by Chapter 720, Florida Statutes; and

WHEREAS, Section 720.303(4), Florida Statutes, requires that the Association maintain certain Official Records and that those records must be open to inspection and available for copying (at a reasonable expense) by Members of the Association or their authorized agents within ten (10) business days after receipt of a written request; and

WHEREAS, Section 720.303(5)(c), Florida Statutes, provides that "the association may adopt reasonable rules governing the frequency, time, location, notice and manner of inspections"; and

WHEREAS, Article 3.2. E. of the Association Articles of Incorporation provides that the Association's Board of Directors is authorized to adopt, promulgate and enforce rules and regulations in order to effectuate the purposes for which the Association is organized; and

WHEREAS, Article 11 of the Bylaws provides that the books, records, and other papers of the Association shall be available at the Association's office and shall be subject to inspection by any of the Association's Members during regular business hours; and

WHEREAS, the Association's Board of Directors desires to adopt reasonable rules with respect to the inspection and photocopying of Association's Official Records, balancing the legitimate right of Members to that access with the avoidance of undue harassment by those Members who might seek to abuse that right.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Association that the following is adopted as an official rule of the Association governing the inspection and photocopying of the Association's Official Records by Members or their authorized representatives:

1. **List of Official Records.** The Association shall maintain each of the following items, when applicable, which constitute the Official Records (herein, "Official Records") of the Association:

(A) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the Association is obligated to maintain, repair, or replace.

(B) A copy of the Bylaws of the Association and of each amendment to the bylaws.

(C) A copy of the Articles of Incorporation of the Association and of each amendment thereto.

(D) A copy of the Declaration of Covenants and a copy of each amendment thereto.

(E) A copy of the current Rules of the Association.

(F) The minutes of all meetings of the Board of Directors and of the Members, which minutes must be retained for at least seven (7) years.

(G) A current roster of all members and their mailing addresses and parcel identifications. The Association shall also maintain the electronic mailing addresses and the numbers designated by members for receiving notice sent by electronic transmission of those members consenting to receive notice by electronic transmission. The

electronic mailing addresses and numbers provided by owners to receive notice by electronic transmission shall be removed from Association records when consent to receive notice by electronic transmission is revoked. However, the Association is not liable for an erroneous disclosure of the electronic mail address or the number for receiving electronic transmission of notices.

(H) All of the Association's insurance policies or a copy thereof, which policies must be retained for at least seven (7) years.

(I) A current copy of all contracts to which the Association is a party, including, without limitation, any management agreement, lease, or other contract under which the Association has any obligation or responsibility. Bids received by the Association for work to be performed must also be considered Official Records and must be kept for a period of one (1) year.

(J) The financial and accounting records of the Association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least seven (7) years. The financial and accounting records must include:

1. Accurate, itemized, and detailed records of all receipts and expenditures.

2. A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.

3. All tax returns, financial statements, and financial reports of the Association.

4. Any other records that identify, measure, record, or communicate financial information.

(K) A copy of the disclosure summary described in s. 720.401(1).

(L) Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by parcel owners, which must be maintained for at least 1 year after the date of the election, vote, or meeting.

(M) All affirmative acknowledgments made pursuant to s. 720.3085(3)(c)3.

(N) All other written records of the Association not specifically included in the foregoing which are related to the operation of the Association.

2. Inaccessible Records. Notwithstanding the above, the following Official Records are not accessible to Members, parcel owners or their designated representatives:

(A) Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including, but not limited to, a record prepared by an Association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the Association and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

(B) Information obtained by the Association in connection with the approval of the lease, sale, or other transfer of a parcel.

(C) Personnel records of Association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term "personnel records" does not include written employment agreements with the Association or management company employee or budgetary or financial records that indicate the compensation paid to the Association or management company employee.

(D) Medical records of parcel owners or community residents.

(E) Social security numbers, driver license numbers, credit card numbers, electronic mailing addresses, telephone numbers, facsimile numbers, emergency contact information, any addresses for a parcel owner other than

as provided for Association notice requirements, and other personal identifying information of any person, excluding the person's name, parcel designation, mailing address, and property address. Notwithstanding the restrictions in this subparagraph, the Association may print and distribute to parcel owners a directory containing the name, parcel address, and all telephone numbers of each parcel owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the Association. An owner may consent in writing to the disclosure of other contact information described in this subparagraph. The Association is not liable for the disclosure of information that is protected under this subparagraph if the information is included in an official record of the Association and is voluntarily provided by an owner and not requested by the Association.

(F) Any electronic security measure that is used by the Association to safeguard data, including passwords.

(G) The software and operating system used by the Association which allows the manipulation of data, even if the owner owns a copy of the same software used by the Association. The data is part of the Official Records of the Association.

3. Inspection and Copying of Official Records. Any Member of the Association may submit in writing a request for inspection of the Official Records of the Association. Such request may also be submitted by an authorized representative of a member, provided that the request is accompanied by a signed and dated statement of the Member evidencing that authorization, specifically for that purpose. Where the word "Member" is used in this Rule, it shall refer both to a Member directly requesting records access and to any authorized representative submitting such a request on behalf of a Member.

(A) Written Request. A request to inspect and copy the Official Records shall be in writing, typewritten or legibly printed (not written in cursive style) by hand. Verbal requests are insufficient and will not be responded to by the Association.

(B) Method and Location of Delivery of Request. Each written request must be sent to the Association via US Mail or via hand-delivery to the current management company of the Association to the attention of the manager. Each request must include an address and telephone number where the Member may be contacted. An email address is also recommended. As of the date of the execution of this Rule, the current management company and manager of the Association are as follows:

Sunstate Association Management Group, Inc.  
Attn: Ms. Michelle Thibeault, Manager  
5602 Marquesas Circle, #103  
Sarasota, Florida 34233

A Member shall not transmit a request to inspect the Official Records to the Association, the management company or the manager via email. A Member's request sent via email to the Association, the management company or the manager is not deemed to be received by the Association under this Rule. A Member's requested sent via email to a director or officer of the Association or mailed or hand delivered to their home address is not deemed received by the Association.

(C) Date and Time. The Member's request may, but need not, suggest a date and time (or dates and times) preferable for the inspection. The Association's duly authorized representative or the manager shall promptly coordinate and schedule an appointment date and time with the Member for the inspection in accordance with this Rule.

(D) **Specificity of Request.** To better enable the Association to gather the specific Official Records that the Member would like to inspect, the Member's request should specify those Official Records for which inspection is requested. A copy of a recommended written request is attached hereto.

(E) **Association's Obligations.** The Association is under no duty to research the Official Records on behalf of a member. For example, a request to "provide the electric bills for the five most expensive months during the last four years" is not acceptable. No document or report will be created in a format other than that document or report as kept in the ordinary course of business. The Association shall not be required to collate or cull-out specific or requested records for the Member's benefit. The Association shall not be required to interpret any document found within its Official Records and will not answer any questions during the course of the inspection of the Official Records. In addition, the Association shall not be required to mail, email or otherwise transmit the requested Official Records to the Member.

(F) **Number of Inspections.** No Member may submit more than one (1) request for inspection of Association records in any thirty (30) day period.

(G) **8 Hour Limit.** A Member's inspection of the Association's records shall be limited to a total of one 8-hour business day per month.

(H) **Business Hours.** The Member's inspection(s) shall occur Monday through Friday, between the hours of 9:00 a.m. and 5:00 p.m.

(I) **No Requirement for Purpose.** The Association may not require a member to state or demonstrate any proper purpose for the inspection or state any reason for the inspection.

(J) **Ten Business Days.** Records shall be made available for inspection by the Association on or before the tenth (10<sup>th</sup>) business day subsequent to actual receipt by the Association of the written request for inspection. This time may be extended by verbal or written request of the Member. The Association shall notify the Member, by telephone, in writing or (if an e-mail address is provided by the Member) by e-mail, that the records are available and the time, date, and place for such inspection.

(K) **Location of Inspection.** The Association may make the Official Records available for inspection or copying in the community or at the office of the Association's management company or, at the option of the Association, by making the Official Records available to a Member electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. The inspection may be monitored by a duly authorized representative of the Association.

(L) **Fails to Attend.** In the event a Member does not attend the scheduled date and time for inspection of Association's Official Records provided in response to that Member's request, the request shall be deemed abandoned and the Association shall be under no further obligation to make the requested Official Records available for inspection pursuant to that request. Nothing, however, shall prohibit the Member from submitting another request in conformance with this Rule.

(M) **How to Designate Records.** If a Member desires to obtain a copy of any specific Official Record to which that Member is provided access as provided in this Rule, the Member is encouraged to designate in writing which Official Record is desired or, during the inspection the Member may designate such Official Record by use of a tab or clip upon the pages desired.

(N) **Member's Obligations.** A Member shall not mark, write upon, alter, remove, deface, destroy, take, or damage any portion of the Official Records. All persons inspecting or requesting copies of Association's Official Records shall conduct themselves in a businesslike manner and shall not interfere with the operation and peaceful conduct of any business in which the records inspection or copying is conducted. The Member shall return the Official Records to the Association in the same boxes, folders, form and format as they were provided to the Member. If any violation of this requirement occurs or if the Member shall violate any other requirement of this Rule or appropriate standards of conduct, in the reasonable judgment and discretion of the Association representative providing that opportunity, then the inspection or copying shall be terminated and the requesting Member shall be required to depart the premises, subject to the right to submit another inspection request in compliance with this rule.

#### 4. **Costs and Personnel Fees.**

(A) **Costs of Copying.** The Association shall charge twenty-five cents (25 cents) per page for copies made on the Association's or management company's photocopier. If the Association does not have a photocopy machine available where the Official Records are kept, or if the Official Records requested to be copied exceed twenty-five (25) pages in length, the Association may have copies made by an outside duplicating service and may charge the actual cost of copying and transportation to and from the duplicating service, as supported by the vendor invoice(s). A Member requesting photocopies shall pay the Association for those copies at the time of the request. If paid by cash, the payment shall be made by bills, with coins limited to quarters for any amount less than one dollar.

(B) **Limit on Number of Copies.** The Association shall be under no obligation to provide more than one hundred (100) documents per inspection in response to a Member's request.

(C) **Personnel Fees Costs.** The Association may impose fees to cover the costs of providing copies of the Official Records, including the costs of copying and the costs required for personnel to retrieve and copy the records if the time spent retrieving and copying the records exceeds one-half hour. Personnel costs shall be charged at the rate of Twenty Dollars (\$20.00) per hour. Personnel costs shall not be charged for records requests that result in the copying of twenty-five (25) or fewer pages.

(D) **Photocopy Machine.** If the Association has a photocopy machine available where the records are maintained, it must provide parcel owners with copies on request during the inspection if the entire request is limited to no more than 25 pages. The Association shall allow a Member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the Official Records in lieu of the Association providing the Member or his or her authorized representative with a copy of such records. The Association may not charge a fee to a member or his or her authorized representative for the use of a portable device.

(E) **Recorded Governing Documents.** The Association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to Members and prospective Members.

5. **Failure to Provide Access.** The failure of the Association to provide access to the records within ten (10) business days after receipt of a written request submitted by certified mail, return receipt requested, creates a rebuttable presumption that the Association willfully failed to comply with this Rule. A Member who is denied access to Official Records is entitled to the actual damages or minimum damages for the Association's willful failure to comply with the applicable statute. The minimum damages are to be \$50 per calendar day up to 10 days, the calculation to begin on the 11th business day after receipt of the written request.

6. Governing Law. If Chapter 720, Florida Statutes, is amended after this Rule is recorded in the official records of Sarasota County, Florida, the Rule shall be deemed automatically amended to make it consistent with the requirements of Florida law.

THIS RULE HAS BEEN DULY ADOPTED this 25 day of August, 2022, by the Board of Directors of MISSION ESTATES HOMEOWNERS ASSOCIATION, INC.

MISSION ESTATES HOMEOWNERS ASSOCIATION, INC.

By: THOMAS R. KELLY

Thomas R. Kelly, President

Attest: DAVID CARL JESSO

[Signature], Secretary

(Corporate Seal)