



MANNING & MEYERS
ATTORNEYS AT LAW

Texas HOA Hearings Handbook

September 10, 2021

Prepared By:

CASEY MEYERS

LANCE ERICKSON

JANE CHERRY

JACK MANNING

MANNING & MEYERS, ATTORNEYS AT LAW

4340 N. CENTRAL EXPRESSWAY, SUITE 200, DALLAS, TX 75206

214-823-6600

www.HOALegal.com

Disclaimer

This handbook is not intended to be relied upon as a final analysis in resolving legal questions regarding hearings affecting Texas property owners' associations. The information presented herein is intended to summarize some of the legislation related to hearings conducted by those associations. There is no substitute for a thorough review of statutes in conjunction with an association's current governing documents by an experienced and competent attorney.



Table of Contents

I	Summary	5
II	<u>Distinguishing Between Residential Subdivisions, Townhomes, & Condominiums</u>	5
A	Characteristics of a Residential Subdivision or Townhome	5
B	Characteristics of a Condominium Association	5
III	<u>Required Violation Notices- Residential Subdivisions & Townhomes</u>	6
A	Notice Letter Required	6
B	When No Notice Letter is Required.....	6
C	Requirements of the Notice Letter.....	6
D	Correcting the Violation During the Cure Period	6
E	Sample Violation Notice Letter.....	6
IV	<u>Hearing Procedures- Residential Subdivisions & Townhomes</u>	7
A	Hearing Required if Request Made	7
B	Denying an Owner’s Request for a Hearing	7
C	Purpose of Hearing.....	7
D	Timing of Hearing.....	7
E	Location of Hearing & Electronic Hearings.....	7
F	Owner’s Notification of Hearing.....	7
G	Owner’s Presence at the Hearing.....	7
H	Postponement of Hearing.....	7
I	Evidentiary Packet.....	7
J	Representation by Third Party or Attorney.....	8
K	Recording the Hearing.....	8
L	Hearing Minutes.....	8
M	Hearing Procedures.....	8
N	Hearing Conclusion.....	8
V	<u>Denial of Architectural Requests- Residential Subdivisions & Townhomes</u>	8
A	Notice Letter Required	8
B	When No Notice Letter is Required	8
C	Requirements of the Notice Letter.....	9
D	Sample Architectural Request Denial Letter	9
VI	<u>Architectural Hearing Procedures- Residential Subdivisions & Townhomes</u>	9
A	Hearing Required if Request Made	9
B	Denying an Owner’s Request for a Hearing	9
C	Purpose of Hearing.....	9
D	Timing of Hearing	9
E	Location of Hearing & Electronic Hearings.....	9
F	Owner’s Notification of Hearing.....	9
G	Owner’s Presence at the Hearing	9
H	Postponement of Hearing	10
I	Evidence	10
J	Representation by Third Party or Attorney	10
K	Recording the Hearing.....	10
L	Hearing Minutes.....	10
M	Hearing Procedures	10
N	Hearing Conclusion.....	10

Table of Contents

VII	<u>Required Violation Notices- Condominium Associations</u>	10
A	Notice Letter Required	10
B	Requirements of the Notice Letter.....	10
C	Correcting the Violation	11
D	Sample Violation Notice Letter	11
VIII	<u>Hearing Procedures- Condominium Associations</u>	11
A	Hearing Required if Request Made	11
B	Denying an Owner’s Request for a Hearing	11
C	Purpose of Hearing.....	11
D	Timing of Hearing.....	11
E	Location of Hearing & Electronic Hearings.....	11
F	Owner’s Notification of Hearing.....	11
G	Owner’s Presence at the Hearing.....	11
H	Postponement of Hearing.....	12
I	Evidence.....	12
J	Representation by Third Party or Attorney.....	12
K	Recording the Hearing.....	12
L	Hearing Minutes.....	12
M	Hearing Procedures.....	12
N	Hearing Conclusion.....	12
IX	<u>Definitions</u>	13
i	Assessment.....	13
ii	Association	13
iii	Board of Directors or “Board”	13
iv	Community Association.....	13
v	Declaration.....	13
vi	Dedictory Instrument	13
vii	Developmental Period.....	14
viii	Lot.....	14
ix	Owner.....	14
x	Property Owners’ Association “POA” or Association.....	14
xi	Real Property Records.....	14
xii	Regular Assessment.....	14
xiii	Residential Subdivision or Subdivision	14
xiv	Restrictions.....	15
xv	Restrictive Covenant.....	15
xvi	Special Assessment.....	15
xvii	Subdivision.....	15
X	<u>Appendix A- Sample Violation Notice Letter- Residential Subdivisions</u>	17
XI	<u>Appendix B- Sample Violation Notice Letter- Condominium Association</u>	19
XII	<u>Appendix C- Sample Hearing Notice Letter- Residential Subdivisions</u>	20
XIII	<u>Appendix D- Sample Hearing Notice Letter- Condominium Associations</u>	21
XIV	<u>Appendix E- Sample Architectural Request Denial Letter- Residential Subdivisions</u>	22
XV	<u>Appendix F- Sample Architectural Hearing Notice Letter- Residential Subdivisions</u>	23

Texas HOA Hearings Handbook

I. Summary

The 2021 Texas Legislative Session brought about numerous changes to Texas Property Owners' Association Law. The changes to the law include requirements for hearings, information which property owners' associations must provide owners related to violations, credit reporting, and architectural improvements when the hearings are requested by owners. What follows are a summary and analysis of procedures for these hearings and a list of sample forms that may be used by property owners' associations when communicating with owners. Should you have any questions, please feel free to reach out to Manning & Meyers at Casey@HOALegal.com, and we will be happy to assist you in your compliance efforts.

II. Distinguishing Between Residential Subdivisions, Townhomes, & Condominiums

Prior to sending an owner a notice or initiating fining procedures, care should be made to first determine whether a community is a residential subdivision, townhome community, or condominium association. Residential subdivisions and townhome communities are subject to a different set of laws from condominium associations. While some requirements are similar, they are not always the same.

- A. Characteristics of a Residential Subdivision or Townhome- A residential subdivision or townhome community is a community that has the following characteristics:
1. Divides land into two or more parts (separate lots);
 2. Limits a majority of the land subject to the dedicatory instruments to residential use only (excluding streets, common areas, and public areas);
 3. Restrictive Covenants are recorded in the County Clerk's Office where the development is located; and
 4. Requires members in a property owners' association that has authority to impose regular or special assessments.¹
- B. Characteristics of a Condominium Association- A condominium association is a community that has the following characteristics:
1. Portions of the real property are designated for separate ownership (separate units); and
 2. Remainder of the property is designated for common ownership (common area).²

If you have having difficulty distinguishing between whether a community is a residential subdivision, townhome community, or condominium association, please feel free to reach out to our office at Casey@HOALegal.com.

¹ Texas Property Code § 207.001(6); Texas Property Code § 209.002(9).

² Texas Property Code § 82.003(a)(8).

III. Required Violation Notices- Residential Subdivisions & Townhomes

- A. Notice Letter Required- Prior to taking certain actions, a residential subdivision or townhome community must send a notice letter to an owner in accordance with Section 209.006 of the Texas Property Code.³ These actions include:
1. Levying a fine against an owner;
 2. Suspending an owner's right to use a common area (e.g., pool);
 3. Filing suit against an owner;
 4. Charging an owner for property damage; or
 5. Reporting any delinquency of an owner to a credit reporting service.
- B. When No Notice Letter is Required- There are few, limited sets of circumstances under which no Section 209 notice is required. No such notice is required prior to:
1. Filing a suit to collect assessments or foreclose;⁴
 2. Acting in response to a violation that is the same or similar to a violation for which notice has been sent to the owner within the previous six months; or
 3. Acting in response to a violation that is of an incurable nature.⁵
- C. Requirements of the Notice Letter- The Requirements of the notice are quite lengthy and attention to detail should be shown to closely adhere to these requirements. Any notice letter sent under Section 209.006 must:
1. Be sent via certified mail (return receipt requested is not required) to the owner's last known address;
 2. Describe the violation or property damage;
 3. State any amount due to the association;
 4. Specify the date by which the violation must be cured; and
 5. Inform the owner that the owner may:
 - a. Cure the violation and avoid fines if the violation is of a curable nature and does not pose a threat to public health or safety;
 - b. Request a hearing under Section 209.007 of the Texas Property Code on or before the 30th day after the date the notice was mailed; and
 - c. Have a right of relief under federal law, including the Servicemembers Civil Relief Act, if the owner is on active military duty.
- D. Correcting the Violation During the Cure Period- If an owner corrects the violation or other subject of a Section 209 notice during the cure period set forth in the notice, then the association may not fine the owner.
- E. Sample Violation Notice Letter- A sample violation notice letter that may be used by residential subdivisions and townhomes is included with this handbook at Appendix A.

³ Texas Property Code § 209.006.

⁴ A separate notice is required under Texas Property Code § 209.0064 and § 209.008 if attorney's fees and third-party collection fees are to be sought in the assessment collection action.

⁵ The Texas Property Code sets forth lists of curable and incurable violations at § 209.006(h) and § 209.006(i).

IV. Hearing Procedures- Residential Subdivisions & Townhomes

- A. Hearing Required if Request Made- If an owner has been sent a notice letter in accordance with Section 209.006 of the Texas Property Code, as set forth above, and that owner has requested a hearing, then that owner must be granted a hearing before the board of directors.
- B. Denying an Owner's Request for a Hearing- An association may only deny an owner's request for a hearing under the following circumstances:
1. The association files a suit seeking a Temporary Restraining Order or Temporary Injunctive Relief;
 2. The association files suit for foreclosure; or
 3. The association seeks to temporarily suspend an owner's right to use a common area (e.g., pool) as a result of that owner's violation that 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 under Section 209.007 of the Texas Property Code.
- C. Purpose of Hearing- The purpose of the hearing with the owner is to verify facts and resolve the matter at issue.
- D. Timing of Hearing- The hearing must be held within 30 days of the owner's request.
- E. Location of Hearing & Electronic Hearings- The hearing is not required to be held at a board meeting. It may be held in person or electronically. The hearing may be held electronically if the following conditions are met:
1. All board members and owners may hear and be heard by one another; and
 2. The electronic meeting provides an opportunity for the board and for the owner to present evidence.
- F. Owner's Notification of Hearing- The owner must be notified of the date, time, and place of the hearing at least 10 days prior to the hearing. The notice may be sent via mail, email, or hand delivery. A sample hearing notice letter that may be used by residential subdivisions and townhomes is included with this handbook at Appendix C.
- G. Owner's Presence at the Hearing- The owner's presence at the hearing is not required to conduct a proper hearing. The board's presence is required.
- H. Postponement of Hearing- Either the board or the owner may request a 10-day postponement of the hearing. Upon mutual agreement, the parties may agree to postpone the hearing until a set date. The Texas Property Code does not include provisions for either party to request more than one postponement of the hearing.
- I. Evidentiary Packet- At least 10 days prior to the hearing, the association must provide to an owner a packet that contains evidence relating to the matter the association intends to introduce at the hearing. This packet may include:

1. Documents;
2. Photographs; and
3. Communications.

If the association fails to provide the packet within 10 days of the hearing, the owner is entitled to an automatic 15-day postponement of the hearing.

- J. Representation by Third Party or Attorney- Either the board or the owner may be represented by a third party at the hearing.
- K. Recording the Hearing- Either the association or the owner may record the hearing.
- L. Hearing Minutes- Texas law does not require that meeting minutes be kept; however, it is recommended that notes of the meeting be kept should they be useful at a later time.
- M. Hearing Procedures- During the 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 then entitled to present the owner's case, including information and issues relevant to the appeal or dispute.

There is no requirement to argue with the owner or their representative during the hearing. If an association does not believe that a final resolution to the matter will be reached, it is recommended that the association simply meet the requirements as set forth above and bring the hearing to a close.

- N. Hearing Conclusion- Texas law does not require that the association reach a final decision on the matter during the hearing. The association may simply thank the owner for his or her attendance and draw the hearing to a close. If necessary, the association may discuss the matter at a duly noticed board meeting during executive session. If the association intends to fine the owner or intends to waive the violation, the association should provide the owner written notice of its conclusion.

V. Denial of Architectural Requests- Residential Subdivisions & Townhomes

- A. Notice Letter Required- If an owner has submitted a request for architectural modification to the association, and that request is to be denied, the owner must be provided a notice of the denial and opportunity for appeal.
- B. When No Notice Letter is Required- There are few, limited sets of circumstances in which no notice letter of an architectural denial is required. No such notice is required:
 1. If the association consists of 40 or fewer lots;
 2. During the developmental period;
 3. During any period in which the Declarant:
 - a. Appoints at least a majority of the members of the architectural review authority (the "ARA") or otherwise controls the appointment of the ARA; or

- b. Has the right to veto or modify a decision of the architectural review authority.
- C. Requirements of the Notice Letter- Any notice of an architectural denial must be sent to the owner via certified mail, email, or hand delivery and:
 - 1. Describe the basis for the denial in reasonable detail;
 - 2. Describe changes, if any, to the application or improvements required as a condition to approval; and
 - 3. Inform the owner of a right to a hearing under Section 209.00505(e) of the Texas Property Code on or before the 30th day after the date the notice was sent to the owner.
- D. Sample Architectural Request Denial Letter- A sample architectural request denial letter that may be used by residential subdivisions and townhomes is included with this handbook at Appendix E.

VI. Architectural Hearing Procedures- Residential Subdivisions & Townhomes

- A. Hearing Required if Request Made- If an owner has made a request for an architectural improvement, that request has been denied, and the owner has been sent written notice of the denial, that owner may request a hearing before the board. If an owner has requested a hearing before the board under these circumstances, then that owner's request must be granted.
- B. Denying an Owner's Request for a Hearing- There are no circumstances under which the Texas Property Code provides that an association may deny an owner's request for a hearing related to the association's denial of that owner's request for an architectural improvement.
- C. Purpose of Hearing- The purpose of the hearing with the owner is to verify facts and to discuss and resolve the denial of the owner's application or request for the construction of improvements, and the changes, if any, requested by the association in the notice provided to the owner.
- D. Timing of Hearing- The hearing must be held within 30 days of the owner's request.
- E. Location of Hearing & Electronic Hearings- The hearing is not required to be held at a board meeting. It may be held in person or electronically. The hearing may be held electronically if all attendees at the hearing may hear and be heard by one another.
- F. Owner's Notification of Hearing- The owner must be notified of the date, time, and place of the hearing at least 10 days prior to the hearing. The notice may be sent via mail, email, or hand delivery. A sample hearing notice letter that may be used by residential subdivisions and townhomes is included with this handbook at Appendix F.
- G. Owner's Presence at the Hearing- The owner's presence at the hearing is not required to conduct a proper hearing. The board's presence is required.

- H. Postponement of Hearing- Either the board or the owner may request 10-day postponement of the hearing. Upon mutual agreement, the parties may agree to postpone the hearing for a longer period of time. The Texas Property Code does not include provisions for either party to request more than one postponement of the hearing.
- I. Evidence- The association is not required to provide an owner with any evidence prior to the hearing.
- J. Representation by Third Party or Attorney- Either the board or the owner may be represented by a third party at the hearing.
- K. Recording the Hearing- Either the association or the owner may record the hearing.
- L. Hearing Minutes- Texas law does not require that meeting minutes be kept; however, it is recommended that notes of the meeting be kept should they be useful at a later time.
- M. Hearing Procedures- Texas law does not set forth hearing procedures for denial of architectural review denials. An attempt should be made to verify facts and to discuss and resolve the denial of the owner's application or request for the construction of improvements, and the changes, if any, requested by the association in the notice provided to the owner.

There is no requirement to argue with the owner or their representative during the hearing. If an association does not believe that a final resolution to the matter will be reached, it is recommended that the association simply meet the requirements as set forth above and bring the hearing to a close.

- N. Hearing Conclusion- Texas law allows for the board to affirm, modify, or reverse, in whole or in part, any decision of the architectural review authority. The final decision of the board must be consistent with the declaration of the association. The board will need to notify the owner of its final conclusion in writing.

VII. Required Violation Notices- Condominium Associations

- A. Notice Letter Required- Prior to a condominium association levying a fine against a unit owner for property damage or a violation, the condominium must send a notice letter to the owner in accordance with Section 82.102(d) of the Texas Property Code.⁶
- B. Requirements of the Notice Letter- The requirements of the Section 82 notice are similar to those required for residential subdivisions and townhomes. Any notice letter sent to a unit owner under Section 82.102(d) must:
 1. Be sent to the owner's last known address (certified mail not required);
 2. State the amount of the proposed damage charge or fine;

⁶ Texas Property Code § 82.102(d).

3. State that the unit owner may request a hearing before the board to contest the matter not later than the 30th day after the date of the notice; and
 4. Allow the unit owner a reasonable time, by a specified date, to cure the violation and avoid a fine unless the owner was previously given notice and an opportunity to cure the same violation or a similar violation within the preceding 12 months.
- C. Correcting the Violation- The association may give a copy of the notice to the occupant of the unit as well as the unit owner. If the unit owner does not correct the violation and is fined or charged for damage, then the association must give the owner notice of the fine or damage charge within 30 days of the charge or fine being placed on the owner's account. If the unit owner corrects the violation or subject of the notice during the cure period set forth in the notice, then the association may not fine the owner.
- D. Sample Violation Notice Letter- A sample violation notice letter that may be used by condominium associations is included with this handbook at Appendix B.

VIII. Hearing Procedures- Condominium Associations

- A. Hearing Required if Request Made- If a unit owner has been sent a notice letter in accordance with Section 82.102(d) of the Texas Property Code, as set forth above, and that unit owner has requested a hearing, then that unit owner must be granted a hearing before the board of directors.
-
- B. Denying an Owner's Request for a Hearing- There are no circumstances under the Texas Property Code by which a condominium association may deny a unit owner's request for a hearing.
-
- C. Purpose of Hearing- The purpose of the hearing is to allow the unit owner to contest the fine or property damage.
- D. Timing of Hearing- The hearing must be held within 30 days of the unit owner's request.
- E. Location of Hearing & Electronic Hearings- The hearing is not required to be held at a board meeting. It may be held in person or electronically. The hearing may be held electronically if all attendees at the hearing may hear and be heard by one another.
- F. Owner's Notification of Hearing- There is not a time period stated in the Texas Property Code during which a unit owner must be notified of the hearing. However, it is recommended that reasonable notice be provided to the owner of the time, date, and location of the hearing. The notice may be sent via mail, email, or hand delivery. A sample hearing notice letter that may be used by condominium associations is included with this handbook at Appendix D.
- G. Owner's Presence at the Hearing- The unit owner's presence at the hearing is not required to conduct a proper hearing. The board's presence is required.

- H. Postponement of Hearing- There is no provision in the Texas Property Code that allows or prohibits a unit owner from requesting a postponement of the hearing. If a unit owner requests a postponement of the hearing and the association wishes to agree to the request, there is nothing in the Texas Property Code prohibiting the association from agreeing to one such postponement.
- I. Evidence- A condominium association is not required to provide a unit owner with any evidence prior to the hearing.
- J. Representation by Third Party or Attorney- There is no provision in the Texas Property Code that allows or prohibits a unit owner from being represented by a third party at the hearing. If a unit owner is represented by a third party or attorney, it is recommended that the association not contest the representation.
- K. Recording the Hearing- Either the association or the unit owner may record the hearing.
- L. Hearing Minutes- Texas law does not require that meeting minutes be kept; however, it is recommended that notes of the meeting be kept should they be useful at a later time.
- M. Hearing Procedures- Texas law does not set forth hearing procedures for condominium associations. However, procedures for similar hearings are set forth for residential subdivisions. Those procedures call for a member of the board or the association's designated representative to first present the association's case against the owner. An owner or the owner's designated representative is then entitled to present the owner's case, including information and issues relevant to the appeal or dispute.
- There is no requirement to argue with the owner or their representative during the hearing. If an association does not believe that a final resolution to the matter will be reached, it is recommended that the association simply meet the requirements as set forth above and bring the hearing to a close.
- N. Hearing Conclusion- Texas law does not require that the association reach a final decision on the matter during or after the hearing. The association may simply thank the unit owner for his or her attendance and draw the hearing to a close. If necessary, the association may discuss the matter at a duly noticed board meeting during executive session. However, if the association intends to fine the unit owner, it is a good practice to notify the unit owner of the board's conclusion in writing.

IX. Definitions

- i. Assessment:
 1. Residential subdivision: Regular assessment, special assessment, or any other amount an owner is required to pay pursuant to a dedicatory instrument.⁷
 - a. Regular assessment: Any fee that is required to be paid by all owners to an association on a regular basis and that is designated for use by the association for the benefit of the association.⁸
 - b. Special assessment: Any charge, other than a regular assessment, to be paid by an owner to the association as required by procedures in the association dedicatory instruments for:⁹
 - i. Capital improvements;
 - ii. Unexpected repairs;
 - iii. Maintenance in common areas; or
 - iv. Any purpose stated in the dedicatory instruments.
 - ii. Association: Incorporated or unincorporated property owners' association that:¹⁰
 1. Represents the owners;
 2. Has a membership primarily comprised of owners; and
 3. Manages the association for the benefit of the owners.
 - iii. Board of Directors or "Board": Governing body of a property owners' association.¹¹
 - iv. Community Association: Incorporated property owners' association created to enforce restrictions.¹²
 - v. Declaration: Dedicatory instrument filed in county real property records that includes the restrictive covenants governing a property owners' association.¹³
 - vi. Dedicatory Instrument: Each governing instrument providing for the establishment, maintenance, and operation of a property owners' association. They include:¹⁴
 1. Declaration- Restrictive Covenants;

⁷ Texas Property Code § 209.002(1).

⁸ Texas Property Code § 204.001(3); Texas Property Code § 209.002(8).

⁹ Texas Property Code § 209.002(12).

¹⁰ Texas Property Code § 209.002(7).

¹¹ Texas Property Code § 209.002(2).

¹² Texas Property Code § 206.001(1).

¹³ Texas Property Code § 209.002(3).

¹⁴ Texas Property Code § 202.001(1); Texas Property Code § 209.002(4).

2. Bylaws;
3. Rules & Regulations; and
4. Any Amendments thereto.

vii. Developmental Period-

1. Residential Subdivision: Period in which the declarant controls an association, including:¹⁵
 - a. Development;
 - b. Construction;
 - c. Marketing;
 - d. Size; and
 - e. Shape.

viii. Lot: Any parcel of land located in a residential subdivision and any improvements on the land.¹⁶

ix. Owner:

1. Residential Subdivision: Person or entity who holds record title to land in a residential subdivision or that person or entity's personal representative.¹⁷

x. Property Owners' Association "POA" or Association: Incorporated or unincorporated association that:¹⁸

1. Represents the owners;
2. Is owned by the members or membership primarily of owners; and
3. Is managed by a board of directors or members for the benefit of the owners.

xi. Real Property Records: The county clerk records where deeds are recorded.¹⁹

xii. Regular Assessment: Any charge, fee, or dues that are required to be paid by all owners to an association on a regular basis and that is designated for use by the association for the benefit of the association.²⁰

xiii. Residential Subdivision or Subdivision: Subdivision, townhome, or planned unit development in which land has been divided into two or more parts and is subject to restrictions that:

¹⁵ Texas Property Code § 209.002(4-a).

¹⁶ Texas Property Code § 209.002(5).

¹⁷ Texas Property Code § 201.003(3); Texas Property Code § 207.001(3); Texas Property Code § 209.002(6).

¹⁸ Texas Property Code § 202.001(2); Texas Property Code § 209.002(7).

¹⁹ Texas Property Code § 201.003(5).

²⁰ Texas Property Code § 204.001(3); Texas Property Code § 209.002(8).

1. Limit a majority of the land subject to the dedicatory instruments to residential use only (excluding streets, common areas, and public areas);
2. Are recorded in the county clerk's office where the development is located; and
3. Require members in a POA that has authority to impose regular or special assessments.²¹

Residential subdivisions located in Galveston County, Harris County, and Montgomery County must be located within a city, town, or village or their extraterritorial jurisdiction.²² The Texas Property Code may slightly modify this definition dependent upon the exact location of the residential subdivision.²³ However, these modified definitions are not applicable to the vast majority of residential subdivisions in Texas.

- xiv. Restrictions: One or more restrictive covenants contained in a dedicatory instrument and recorded in the real property records; often used as a plural term for "Restrictive Covenant."²⁴
- xv. Restrictive Covenant: Any covenant, condition, or restriction contained in a dedicatory instrument; they may be mandatory, permissive, prohibitive, or administrative.²⁵
- xvi. Special Assessment: Any charge, other than regular assessments, required to be paid by an owner to an association, as required by procedures in its dedicatory instruments, for capital improvements, unexpected repairs, maintenance in a common area, or any purpose stated in the dedicatory instruments.²⁶

For residential subdivisions located in Galveston County, Harris County, or Montgomery County, "Special Assessment" has a definition that is slightly more restrictive than the above definition; however, the definition above applies to all associations in Texas, including those located in Galveston County, Harris County, and Montgomery County.²⁷

- xvii. Subdivision: Subdivision, townhome, or planned unit development in which land has been divided into two or more parts and is subject to restrictions that:

²¹ Texas Property Code § 207.001(6); Texas Property Code § 209.002(9).

²² Texas Property Code § 201.003(2).

²³ Texas Property Code § 210.001(4); Texas Property Code § 211.001(4).

²⁴ Texas Property Code § 201.003(1); Texas Property Code § 209.002(10).

²⁵ Texas Property Code § 202.001(4); Texas Property Code § 209.002(11).

²⁶ Texas Property Code § 209.002(12).

²⁷ Texas Property Code § 204.001(4).

1. Limit a majority of the land subject to the dedicatory instruments to residential use only (excluding streets, common areas, and public areas);
2. Are recorded in the county clerk's office where the development is located; and
3. Require members in a POA that has authority to impose regular or special assessments.²⁸



²⁸ Texas Property Code § 207.001(6); Texas Property Code § 209.002(9).

X. Appendix A- Sample Violation Notice Letter- Residential Subdivisions

{Association Name}
{Association Address}

Sent via Certified Mail

{Owner Name}
{Owner Mailing Address}

{Current Date}

Property Address: {Property Address}
Account Number: {Account number- In any}
Association: {Association Name}

Dear {Owner Name}:

We are the Board of Directors of {Association Name} (“Association”). The Board of Directors of the Association is charged with the responsibility of maintaining the community in a manner consistent with the dedicatory instruments of the Association. During a recent inspection, the following was noted on your property:

{VIOLATION}

You are entitled to a reasonable period to cure the violation and avoid the fine or suspension unless you were given notice and a reasonable opportunity to cure a similar violation within the preceding six months. We ask that you take action to correct this matter by {date of letter + 30 days}. If the violation remains after this date, the Association may take further action and attorney’s fees and costs may be charged to your account.

You have a right to a hearing in front of the Board of Directors to discuss and verify facts regarding the matter. If you desire a hearing, written notice of your request must be received at our office within 30 days of the date of this letter. Upon receipt of your written request, you will be furnished with notice of the date, time and place of the hearing.

Hearing requests may be delivered to:

{Association Name}
{Association Address}

If you are serving on active military duty, you may have special rights or relief related to this enforcement action under Federal Law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.).

[Note- Do not include the following paragraph if owner has a zero balance]

Your account with the Association is currently in default. Your account now reflects a balance due of **\${Account balance}** through {Month} {Year}. This balance does not include any amounts that may accrue after {Current Date}. This letter is from the Association and is attempting to collect a debt, and any further information obtained will be used for that purpose.

For questions regarding your property or to request additional information please contact the Association at {Association Phone Number} or you may send an email to: {Association' Email Address}.

Sincerely,

{Association Name}, Board of Directors



XI. Appendix B- Sample Violation Notice Letter- Condominium Association

{Association Name}
{Association Address}

Sent via Certified Mail

{Owner Name}
{Owner Mailing Address}

{Current Date}

Property Address: {Property Address}
Account Number: {Account number- In any}
Association: {Association Name}

Dear {Owner Name}:

We are the Board of Directors of {Association Name} (“Association”). The Board of Directors of the Association is charged with the responsibility of maintaining the community in a manner consistent with the dedicatory instruments of the Association. During a recent inspection, the following was noted on your property:

{VIOLATION}

You are entitled to a reasonable period to cure the violation and avoid the fine unless you were given notice and a reasonable opportunity to cure a similar violation within the preceding 12 months. We ask that you take action to correct this matter by {date of letter + reasonable period of time to cure violation}. If the violation remains after this date, the Association may take further action and attorney’s fees and costs may be charged to your account.

You have a right to a hearing in front of the Board of Directors to contest the fine. If you desire a hearing, written notice of your request must be received at our office by {date of letter + reasonable period of time to cure violation}. Upon receipt of your written request, you will be furnished with notice of the date, time, and place of the hearing.

Hearing requests may be delivered to:

{Association Name}
{Association Address}

For questions regarding your property or to request additional information please contact the Association at {Association Phone Number} or you may send an email to: {Association’ Email Address}.

Sincerely,

{Association Name}, Board of Directors

XII. Appendix C- Sample Hearing Notice Letter- Residential Subdivisions

{Association Name}
{Association Address}

Sent via {Certified Mail, First Class Mail, Hand Delivery, or Email}

{Owner Name}
{Owner Mailing Address}

{Current Date}

Property Address: {Property Address}
Account Number: {Account number- In any}
Association: {Association Name}

Dear {Owner Name}:

We are in receipt of your request for a hearing pursuant to Section 209.007 of the Texas Property Code. Your request for a hearing has been granted.

If Hearing Will be Conducted In Person

Your hearing will be conducted at {Location}, at {Time}, on {Date}.

If Hearing Will be Conducted Electronically

Your hearing will be conducted electronically via {Electronic Method Used}, at {Time}, on {Date}. You may access using the following link {Attach Link}.

Please find enclosed all documents, photographs, communications, and other evidence that the Association intends to introduce at the hearing.

Sincerely,

{Association Name}, Board of Directors

XIII. Appendix D- Sample Hearing Notice Letter- Condominium Associations

{Association Name}
{Association Address}

Sent via {Certified Mail, First Class Mail, Hand Delivery, or Email}

{Owner Name}
{Owner Mailing Address}

{Current Date}

Property Address: {Property Address}
Account Number: {Account number- In any}
Association: {Association Name}

Dear {Owner Name}:

We are in receipt of your request for a hearing pursuant to Section 82.102(d) of the Texas Property Code. Your request for a hearing has been granted. The purpose of the hearing is to allow you to contest the proposed {fine/damage charge}.

If Hearing Will be Conducted In Person

Your hearing will be conducted at {Location}, at {Time}, on {Date}.

If Hearing Will be Conducted Electronically

Your hearing will be conducted electronically via {Electronic Method Used}, at {Time}, on {Date}. You may access using the following link {Attach Link}.

Sincerely,

{Association Name}, Board of Directors

XIV. Appendix E- Sample Architectural Request Denial Letter- Residential Subdivisions

{Association Name}
{Association Address}

Sent via {Certified Mail, Hand Delivery, or Email}

{Owner Name}
{Owner Mailing Address}

{Current Date}

Property Address: {Property Address}
Account Number: {Account number- In any}
Association: {Association Name}

Dear {Owner Name}:

We, the board of directors of {Association Name}, are in receipt of your request for architectural improvement. Your request has been denied.

Your request has been denied because {Explain reason for denial of request}.

If Request Could be Altered to be Approved

Your request will be approved if you alter it to include the following changes: {Explain changes that may be made to allow owner's request to be approved}.

You have a right to a hearing in front of the Board of Directors to discuss your requested architectural modification. If you desire a hearing, written notice of your request must be received at our office within 30 days of the date of this letter. Upon receipt of your written request, you will be furnished with notice of the date, time, and place of the hearing.

Sincerely,

{Association Name}, Board of Directors

XV. Appendix F- Sample Architectural Hearing Notice Letter- Residential Subdivisions

{Association Name}
{Association Address}

Sent via {Certified Mail, First Class Mail, Hand Delivery, or Email}

{Owner Name}
{Owner Mailing Address}

{Current Date}

Property Address: {Property Address}
Account Number: {Account number- In any}
Association: {Association Name}

Dear {Owner Name}:

We are in receipt of your request for a hearing pursuant to Section 209.00505 of the Texas Property Code. Your request for a hearing has been granted.

The purpose of the hearing is to discuss, verify facts, and resolve the denial of your application for the construction of improvements, and the changes, if any, requested by the association that would allow your application to be approved.

If Hearing Will be Conducted In Person

—Your hearing will be conducted at {Location}, at {Time}, on {Date}.

If Hearing Will be Conducted Electronically

Your hearing will be conducted electronically via {Electronic Method Used}, at {Time}, on {Date}. You may access using the following link {Attach Link}.

Sincerely,

{Association Name}, Board of Directors