



Dana DeBeauvoir

Dana DeBeauvoir, County Clerk
Travis County, Texas

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CERTIFIED RESOLUTIONS OF THE BOARD OF DIRECTORS

OF SERENE HILLS HOMEOWNERS ASSOCIATION, INC.

**ADOPTION OF PROCEDURES AND GUIDELINES FOR
THE EXERCISE OF ARCHITECTURAL REVIEW AUTHORITY
PURSUANT TO CHAPTER 209 OF THE TEXAS PROPERTY CODE**

The undersigned, Bonnie Casey-Moore, as the duly elected, qualified, and acting Secretary of the Serene Hills Homeowners Association, Inc., a Texas nonprofit corporation (the "**Association**"), hereby certifies on behalf of the Association that the following resolutions were duly adopted by the Board of Directors of the Association (the "**Board**") at a meeting of the Board held on August 23, 2021, and that such preamble and resolutions have not been amended or rescinded and are in full force and effect on the date hereof.

WHEREAS, the Association is a property owners association governed by Chapter 209 of the Texas Property Code and is vested with the authority to enforce restrictive covenants and other terms and provisions of that certain Declaration of Covenants, Conditions and Restrictions for Serene Hills, recorded at Document No. 2012105853 on July 2, 2012 in the Official Public Records of Travis County, Texas, as may be amended from time to time (collectively, the "**Declaration**").

WHEREAS, Chapter 209 of the Texas Property Code imposes certain procedures for the denial of a property owner's application for architectural review of proposed construction or modification of an improvement and establishes procedures for appealing a denial of an application for architectural review to the Association's Board of Directors

WHEREAS, the Board desires to adopt procedures and guidelines for conducting architectural review of a property owner's application for proposed construction or modification of an improvement in compliance with Chapter 209 of the Texas Property Code.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts the procedures and guidelines set forth on Exhibit "A", attached hereto and incorporated herein by reference.


BE IT RESOLVED, FURTHER, that, the Secretary of the Association is hereby authorized and empowered, in the name and on behalf of the Association, from time to time to do and perform all such further acts and things and to execute and deliver all such further instruments as he or she may deem necessary or advisable to carry out and effectuate the intent and purposes of the foregoing resolutions and of the actions referred to therein.

BE IT RESOLVED, FURTHER, that any actions taken by the officers or directors of the Association prior to the date of this action or hereafter that are within the authority conferred hereby are hereby ratified, confirmed and approved as the act and deed of the Association.

[SIGNATURE PAGE FOLLOWS]

SECRETARY'S CERTIFICATE

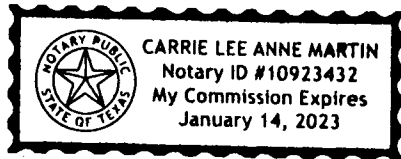
IN WITNESS WHEREOF, the undersigned has executed this Certificate as Secretary on behalf of the Association to be effective upon the recording of this document in the Official Public Records of Travis County, Texas.


 By: Bonnie Casey-Moore
 Title: Secretary

STATE OF TEXAS §

COUNTY OF Travis §

This instrument was acknowledged before me on Aug. 23 2021, by Bonnie Casey-Moore, Secretary of the Serene Hills Homeowners Association, Inc., a Texas non-profit corporation, on behalf of said non-profit corporation.




 Notary Public Signature

AFTER RECORDING PLEASE RETURN TO:

Gregory S. Cagle
 CAGLE PUGH, LTD. LLP
 4301 Westbank Drive, Ste. A-150
 Austin, Texas 78746

EXHIBIT A**SERENE HILLS HOMEOWNERS ASSOCIATION, INC.**

**PROCEDURES AND GUIDELINES FOR
THE EXERCISE OF ARCHITECTURAL REVIEW AUTHORITY
PURSUANT TO CHAPTER 209 OF THE TEXAS PROPERTY CODE**

**ARTICLE I
Introduction**

The architectural review of applications for construction or modification of improvements is a vital task for ensuring that improvements constructed in the Serene Hills community (the "Community") are in compliance with the terms and provisions of the governing documents applicable to the community. Such task commonly involves a high degree of discretionary determinations, which may be scrutinized or disagreed with by others after the fact. In order to provide greater transparency and procedures for redress when property owners disagree with architectural review decisions concerning their property, the Texas legislature enacted Section 209.00505 of the Texas Property Code, which imposes new procedures for the denial of a property owner's application for architectural review and establishes procedures for appealing a denial of an application for architectural review to the property owners association's board of directors.

These procedures and guidelines are intended to assist the Architectural Committee (the "Architectural Committee") in the review and approval or denial of an application for architectural review of proposed construction or modification of an improvement and, if applicable, the appellate review of a denied application (the "Guidelines"). The Guidelines have been prepared by the Cagle Pugh law firm specifically for the Architectural Committee and the Board of Directors (the "Board") of the Declaration of Covenants, Conditions and Restrictions for Serene Hills, recorded at Document No. 2012105853 on July 2, 2012 in the Official Public Records of Travis County, Texas,, as amended from time to time (collectively, the "Declaration").

**ARTICLE II
Purpose**

The purpose of the Architectural Committee is to serve as a "gate-keeping" function for the construction of Improvements in a development. In most Declarations, Homeowners are required to submit an application for the construction of new Improvements or the modification of existing Improvements to the Architectural Committee for its review in advance of initiating construction, and the Architectural Committee is vested with exclusive discretion to determine whether such proposed construction of new Improvements or modification of existing Improvements is in compliance with the Restrictive Covenants applicable to the community. Often such task also involves a subjective determination as to whether the proposed construction is aesthetically attractive and harmonious with the other structures in the community. The authority to review and approve construction of new Improvements and/or modifications to existing Improvements is generally referred to as the "Architectural Review Authority."

**ARTICLE III
Improvements Requiring Approval of the Architectural Committee**

The necessity of obtaining approval from an architectural committee is derived from a land-use restriction contained in the dedicatory instruments applicable to the community. Such land-use restriction will often restrict property owners from constructing or modifying certain improvements, buildings and/or structures without the advance written approval of the architectural committee. The scope of items requiring

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approval of the architectural committee is specified by the dedicatory instruments applicable to the community.

The Declaration for the Community requires the following items to be submitted to and approved in writing by the Architectural Committee prior to commencing construction:

1. Any Improvement commenced, erected, constructed, placed or maintained upon any Lot, or any exterior addition to, change thereto or alteration therein. (See Article V, Section 5.01 of the Declaration)

“Improvement” means every structure and all appurtenances thereto of every type and kind located on the Property, including, but not limited to, buildings, outbuildings, storage sheds, patios, tennis courts, swimming pools, basketball goals, playscapes, garages, storage buildings, fences, trash enclosures, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

“Lot” means any parcel or parcels of land within the Property shown as a subdivided lot of the Plat of the Property, together with all Improvements located thereon, excluding, however, any Common Area.

2. Any variance request (See Article V, Section 5.12);
3. Additionally, the following are specifically identified in the Declaration as items which require prior written approval from the Architectural Committee:
 - a. The subdivision of a Lot (See Section 3.03);
 - b. Any exterior radio or television antenna or aerial or satellite dish or disc (See Section 3.11);
 - c. Any sign or emblem of any kind, whether mounted, painted or attached to any Residence, fence or other Improvement which is visible from public view (See Section 3.13);
 - d. Any tank for the storage of fuel, water, oil or LPG, including swimming pool filter tanks, which require screening, and may not be visible from public view (See Section 3.14);
 - e. Any tent, shack, or other temporary building, Improvement or structure or shed, outbuilding, greenhouse, gazebo or other storage building (See Section 3.17);
 - f. Any alteration, modification, addition or other change to the Common Areas (See Section 3.27);
 - g. Any Playscapes or any similar recreational facilities, including “sport courts” and/or tennis courts (See Section 3.29);
 - h. Any rainwater harvesting system (See Section 3.36);
 - i. Any solar energy device (See Section 3.37);
 - j. Any energy efficient roofing (See Section 3.38);

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- k. Any retaining wall, as described and identified in those requirements outlined in the Third Amendment to Declaration of Covenants, Conditions and Restrictions for Serene Hills, as recorded at Document No. 2013080290 on May 2, 2013 in the Official Public Records of Travis County, Texas as may be amended.

ARTICLE IV**Scope of Architectural Review Authority**

The authority of the Architectural Committee to approve or deny a property owner's application to construct or modify an improvement is not without limitation. In a 1981 case law opinion, entitled *Davis v. Huey*, the Texas Supreme Court held that dedicatory instrument provisions requiring the submission of plans to and prior consent of an architectural committee before construction of improvements are valid "insofar as they furnish adequate notice to the homeowners of the specific restriction sought to be enforced" and that an architectural committee may not impose building restrictions upon homeowners that are more stringent than those specifically set out in the dedicatory instruments through its discretionary authority to disapprove proposed construction projects. In other words, even if a dedicatory instrument vests an architectural committee with discretionary approval authority, the architectural committee is not permitted to alter or expand the specific building restrictions or to impose limitations on a property owner's construction or remodeling project that are more restrictive than the specific restrictions set out elsewhere in the dedicatory instrument. Thus, the scope of an architectural committee's review of an application for proposed construction or modification of an improvement is generally dictated by the express provisions of the dedicatory instrument establishing such committee, and an architectural committee may not exercise architectural review authority over characteristics of a proposed improvement that is not expressly within such scope of review.

The permitted scope of Architectural Review Authority by the Architectural Committee established by the Declaration is as follows:

- 1. Upon receipt of:
 - a. Two (2) copies of the construction Plans and Specifications, which includes, but is not limited to, information as to exterior views, exterior materials, colors and elevation, a drainage plan, a site plan showing the location of any proposed structure or Improvement, a landscaping plan, and a driveway construction plan;

"Plans and Specifications" shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including, but not limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, sign age, lighting, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, all other documentation or information relevant to such Improvement, and any and all additional documentation or information called for by the Design Guidelines.

or,

- b. A proposal in the form required by the Architectural Committee when an Owner desires solely to re-subdivide or consolidate Lots, and
- c. Any review fee which is imposed by the Architectural Committee;

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The Architectural Committee is to review and consider all of the Plans and Specifications for the Improvement or proposal in question, including any Design Guidelines and all other facts which, in the Architectural Committee's sole discretion, the Architectural Committee considers relevant, including, without limitation, any permits, environmental impact statements or tests that may be required by the Architectural Committee or any other entity, and harmony of external design and location in relation to surrounding structures, topography, vegetation, and finished grade elevation. (See Section 5.11).

2. The Architectural Committee may require an Owner to provide such other information which the Architectural Committee deems relevant in considering any request.
3. The Architectural Committee may perform such other duties assigned to it by the Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Architectural Committee.
4. The Architectural Committee may, but is not required to, evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Community, but has no responsibility or liability with regard to protecting views of other Improvements with the Community.

ARTICLE V

Variance Authority

It is very common for a dedicatory instrument to vest an architectural committee with the power to grant a property owner a variance from compliance with one or more of the land-use restrictions in the dedicatory instrument regarding construction or modification of an improvement. When such variance authority is granted to an architectural committee it may be limited to certain types of land-use restrictions or the architectural committee may be restricted from granting a variance except in limited to circumstances where the architectural committee determines there is good cause or justification for allowing the deviation and such variance will not have an adverse impact on the community.

The Declaration does grant the Architectural Committee the authority to grant variances from compliance with any of the provisions of the Declaration or the Design Guidelines, when, in the opinion of the Architectural Committee, in its sole and absolute discretion, such a variance will not impair or detract from the high-quality development of the Community, and such variance is justified (See Article V, Section 5.12 of the Declaration).

In order to grant a variance, the Architectural Committee must receive a written request for a variance, in recordable form, and upon decision, said variance must be signed by two (2) members of the Architectural Committee.

In addition, the Architectural Committee may grant conditional variances (i.e., variances that are conditioned upon the continued existence of certain conditions) or temporary variances (i.e., variances that expire upon the expiration of specified period of time or upon an event, such as the sale of the lot).

The granting of any variance does not operate to waive or amend any of the terms and provisions of the Declaration and/or any other restrictions applicable to the Community for any purpose except as to the particular property and in the particular instance covered by the granted variance. Any granted variance does not and should not be considered to establish a precedent or future waiver, modification or amendment of the Declaration, the Design Guidelines and/or any other restriction applicable to any Lot within the Community.

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ARTICLE VI
Time Period for Review

The Declaration provides the Architectural Committee may postpone review until receipt of the Plans and Specifications, including any information, materials or documents which the Architectural Committee, in its sole discretion, may request and/or deem necessary to render its decision.

In the event, however, all Plans and Specifications, and any additional information, is submitted to the Architectural Committee, and said Architectural Committee shall fail either to approve or reject such Plans and Specifications for a period of forty-five (45) days following such submission, the Plans and Specifications **will be deemed disapproved** (See Article V, Section 5.15 of the Declaration).

Any failure of the Architectural Committee to act upon a request for a variance at any time shall not be deemed consent of said variance, as all requests for variances shall be expressly required (See Article V, Section 5.15 of the Declaration).

If the Architectural Committee does not have sufficient information from the requesting property owner to be able to approve an application with the specified time period to do so, the Architectural Committee should deny the application for such reason before the explanation of the deadline, request the additional information needed to perform a review of the application, and inform the requesting property owner that the application will be reconsidered by the Architectural Committee upon receipt of the requested information.

ARTICLE VII
Denial of an Application

Section 209.00505 of the Texas Property Code requires all denials of an application for construction or modification of an improvement to be in writing and delivered to the requesting property owner by certified mail, hand-delivery, or electronic delivery. The written denial must also (1) 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 (2) inform the property owner that he or she may request a hearing with the board of directors for the purpose of appealing the denial by the architectural committee on or before the 30th day after the date the written denial is mailed, hand-delivered or electronically delivered to the property owner.

Based on the permitted scope of Architectural Review Authority described above, an application may be denied by the Architectural Committee for one (1) or more of the following reasons:

1. The proposed Improvement is of such size or architectural design or involves the use of such landscaping, color schemes, exterior finishes, and materials and similar features which are incompatible with development of the Community and the surrounding area (See Article V, Section 5.09 of the Declaration);
2. The proposed Improvement is not aesthetically compatible with the Community (See Article V, Section 5.11 of the Declaration);
3. The Plans and Specifications, in the Architectural Committee's sole and absolute discretion are not sufficient (See Article V, Section 5.11 of the Declaration).

A template letter for denial of an application that conforms to the Architectural Committee's scope of Architectural Review Authority under the Declaration and complies with the requirements of Section

EXHIBIT A

209.00505 of the Texas Property Code is attached hereto as Exhibit A-1 and the Architectural Committee is strongly encouraged to use such template when denying a property owner's application for architectural review. **The denial of an application letter should state all applicable reasons for the denial.**

ARTICLE VIII

Appellate Review by the Board

If a request for an appellate review hearing is timely received from a property owner, the Board must conduct an appellate review hearing not later than the 30th day after the date the Board receives the property owner's request and the Board must provide the property owner notice of the date, time, and place of the hearing not later than the 10th day before the date of the hearing.

During an appellate review hearing, the Board, or a designated representative of the Association, and the owner, or his or her designated representative, will each be provided the opportunity to discuss, verify facts, and resolve the denial of the property owner's application or request for the construction or modification of an improvement, and the changes, if any, requested by the architectural committee in the written denial provided to the property owner.

The Board or the property owner may request a postponement of the scheduled hearing. If requested, a postponement shall be granted for a period of not more than 10 days. Subsequent postponements may be granted by agreement of the parties. The Association and/or the property owner may make an audio recording of the appellate review hearing.

The Board is authorized to affirm, modify, or reverse, in whole or in part, any decision by the Architectural Committee regarding a denial of a property owner's application as consistent with the Declaration. In other words, the Board is limited to the same scope of architectural review of a property owner's application as the Architectural Committee.

EXHIBIT A-1

SERENE HILLS HOMEOWNERS ASSOCIATION, INC.

ARCHITECTURAL COMMITTEE

_____, 2021

Via Certified Mail, Hand-Delivery, and/or
Electronic Delivery

RE: Denial of application for construction or modification of improvement at _____ (the
"Property") submitted to the Architectural Committee (the "Committee") on _____, 2021 (the
"Application")

Dear [insert owner name]:

Thank you for your submission of the Application. The Committee has denied the Application for
the following reasons:

☐ The proposed Improvement is of such size or architectural design or involves the use of such
landscaping, color schemes, exterior finishes, and materials and similar features which are incompatible
with development of the Community and the surrounding area.

☐ The proposed Improvement is not aesthetically compatible with the Community.

☐ The Plans and Specifications, in the Architectural Committee's sole and absolute discretion, are not
sufficient.

☐ The submitted Application failed to include information required by the applicable dedicatory instrument
and/or requested by the Committee. Please provided the required/requested information and the Committee
will reconsider the Application.

☐ Other: _____

[if applicable – add the following provision]

Notwithstanding the denial above, the Committee shall reconsider its denial and approve the Application
on the following conditions:

Pursuant to Section 209.00505 of the Texas Property Code, you may request an appellate review
hearing with the Board of Directors of Serene Hills Homeowners Association, Inc. (the "Board"). A request
for an appellate review hearing must be delivered to the Board on or before the 30th day from the date this
notice was transmitted to you at the following mailing and/or email address:

EXHIBIT A-1

Sincerely,

Name

Title