

1 **ADDENDUM A**

2 **February 11, 2014**

3 **Candlelight Forest West Maintenance Fund, Inc.**
4 **Texas Property Code Revisions 2012**

5 Applicable to Chapters 202, 207, and 209 - Effective January 1, 2012

6
7 **1. Elections & Voting**

- 8 • Meeting Notice
- 9 • Director qualifications
- 10 • Voting rights
- 11 • Voting methods
- 12 • Ballots
- 13 • Recounts
- 14 • Appointments
- 15 • Failure to hold annual meeting

16 **Meeting Notice**

- 17 • Written notice must be given to all owners 10 to 60 days in advance of any meeting for an
18 election or other vote by the owners
- 19 • This supersedes any conflicting time frames in the association’s dedicatory instruments
- 20 • This supersedes common initial language that no notice is needed if held at the same date, time,
21 place...
- 22 • Note that this does not apply to membership meetings without voting – e.g. an informational
23 meeting
- 24 • Effective 01/01/2012

25 **Director Qualifications**

- 26 • Any owner may run for and serve on the Board – no disqualification for non-payment of
27 assessments or other charges on owner accounts

- 28 • The law only addresses owners – if stated in the Bylaws, non-owners can be prohibited from
29 serving
- 30 • The law does not address a Nominating Committee’s ability to recommend a slate for the ballot
- 31 • A person is automatically and immediately removed from serving once an Association receives
32 written evidence from a law enforcement authority that the person has been convicted of a
33 felony or crime
- 34 • Effective 01/01/2012

35 Voting Rights

- 36 • All owners may vote – no owner may be disqualified from voting for any reason
- 37 • Individual ballots can still be disqualified for other reasons, for example:
38 · failure to sign written ballot
39 · failure to enter correct PIN in electronic voting, if used
40 · failure to identify property to validate ownership
41 · conflict between votes of two owners of same property
42 · unreadable or ambiguous markings for vote
43 · voting for more candidates than open positions
- 44 • Effective 01/01/2012

45 Voting Methods

- 46 • Four methods are now provided under the law
47 · in person at the meeting
48 · by written proxy to someone else attending the meeting
49 · by absentee ballot
50 · by electronic ballot
- 51 • Absentee ballots may not be counted
52 · if the owner attends the meeting and votes in person
53 · if the language of the vote changes from what was listed on the absentee ballot
- 54 • Effective 01/01/2012

55 Voting Methods (continued)

- 56 • Absentee ballots must contain
57 · each proposed action with opportunity to vote for or against
58 · ballot mailing or delivery instructions
59 · disclaimer that the ballot will not be counted if the proposal is changed at the meeting

- 60 • An “electronic ballot” is
- 61 · a ballot submitted by email, fax or posting on a website
- 62 · where the owner submitting the ballot can be confirmed
- 63 · where the owner can receive a receipt of the ballot
- 64 • Effective 01/01/2012

65 **Ballots**

- 66 • All votes cast in an election or proposal must be in writing and signed by the owner – electronic
- 67 votes are considered written and signed
- 68 • The only exception is for uncontested elections – the slate may be accepted by acclamation
- 69 · handle nominations from the floor and write-in candidates
- 70 • Vote tabulators may not disclose individual votes
- 71 • Candidates and persons related by blood or marriage within the 3rd degree may not tabulate or
- 72 see the votes of individual owners
- 73 · possible access in recount
- 74 • Effective 01/01/2012

75 **Recounts**

- 76 • Any owner may make a written demand for a recount of a member vote within 15 days of
- 77 meeting:
- 78 · by certified mail
- 79 · by personal delivery to address on management certificate or home address is applicable
- 80 • An independent person must be hired for the recount
- 81 • The owner requesting the recount pays the cost in advance – if the result of the vote changes,
- 82 the association reimburses the owner
- 83 • The recount must be completed within 30 days of request and payment
- 84 • Any interim board decisions are valid
- 85 • Effective 01/01/2012

86 **Appointments**

- 87 • Board members whose term has expired must be elected by the members
- 88 • Board members may only fill a vacant position by appointment due to resignation, death or
- 89 disability – not removal

- 90 • Avoid manipulation to rearrange terms
- 91 • This law does not apply to appointments during a development period or in communities with
- 92 representative voting
- 93 • Effective 01/01/2012

Failure To Hold Annual Meeting

- 95 • If an association fails to call an annual meeting, an election committee of members may form,
- 96 register with the County Clerk, call an annual meeting and hold an election on their own
- 97 • This approach provides a legal option when there are no longer any active board members
- 98 • Effective 01/01/2012

2. Board Meetings

- 100 • Notices
- 101 • Open meetings
- 102 • Executive sessions
- 103 • Unannounced sessions
- 104 • Meeting minutes

Notice To Members

- 106 • Owners must be given notice of date, hour, place and general subject of board meetings
- 107 including a general description of any executive session matter
- 108 • The notice may be given in either of two ways
- 109 1. mail to each owner 10 to 60 days in advance or
- 110 2. post at least 72 hours in advance on a website or in a conspicuous place in the community
- 111 and email to each owner who has registered an email address for this purpose
- 112 • There are rules for continuing a board meeting to another day in our existing by-laws
- 113 • Effective 01/01/2012

Open Meetings

- 115 • All board meetings must be open to members
- 116 • This includes any deliberation between a quorum of board members where formal action is
- 117 taken

- 118 • Notice is not required if no formal action will be taken
- 119 • Reasonable rules should be established & announced regarding owner participation in meetings
- 120 · Open forum with limit on time
- 121 · No action on items not on agenda
- 122 • Within constraints, a Board may move to an Executive Session with the exclusion of non-board
- 123 members
- 124 • Effective 01/01/2012

125 **Executive Sessions**

- 126 • Executive sessions are only allowed to consider
- 127 · actions involving personnel
- 128 · pending or threatened litigation
- 129 · contract negotiations
- 130 · enforcement actions
- 131 · attorney-client communications
- 132 · private matters concerning individual owners
- 133 · other matters where affected parties request confidentiality
- 134 • An executive session involves board members and optionally the community manager, attorney
- 135 and/or affected parties
- 136 • Effective 01/01/2012

137 **Executive Sessions (continued)**

- 138 • An executive session occurs within a regular or special board meeting
- 139 · adjourn to executive session & ask members to leave
- 140 · reconvenes to regular meeting & invite members back
- 141 • Upon return to regular meeting, each decision must be orally summarized
- 142 • Each decision must be placed in the minutes in general terms without breaching confidentiality
- 143 of topic
- 144 • Effective 01/01/2012

145 **Unannounced Meetings**

- 146 • A board may hold a meeting that has not been announced to the owners using any method of
- 147 communication (in person, by phone, various electronic means) as long as each board member
- 148 can hear and be heard
- 149 • A board may take action by written unanimous consent

150 • Any action taken without notice to owners, must be orally summarized at the next meeting and
151 placed in the minutes

152 • Effective 01/01/2012

153 **Unannounced Meetings (continued)**

- 154 • The following may not be taken without owner notice
155 · increasing assessments or levying special assessments
156 · initiating foreclosure actions
157 · initiating enforcement actions (excluding TROs, “cease and desist” or health/safety issues)
158 · decision on appeal of denial of architectural control submission
159 · suspension of rights of an owner prior to their opportunity for a hearing
160 · imposing fines or damage assessments

161 • Governing authority still rests with the Board of Directors as per our association by-laws

162 • Effective 01/01/2012

163 **Meeting Minutes**

164 • Written minutes must be kept for each board meeting

165 • Under the law, this only applies to board meetings where a quorum is present and formal action
166 is taken

167 • Approved minutes must be available to members under their “access to records” rights

168 • There is no obligation to post minutes on a website
169 · Consider posting a meeting summary or approved minutes

170 • Effective 01/01/2012