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**CLOISTERS HOME OWNERS ASSOCIATION**

**Block #2 and #3**

**ANNUAL MEETING**

**January 30, 2012**

**Present:** Hodges (2), Wilkinson (2), Risinger, Grider, Nutt, Borman (1), Arrington, Merrill (2), Murphy, Darby (1), McGilvray (2), Pruessner, Locke,

The Cloisters Home Owners Association held its Annual Meeting on Monday, January 30, 2012, in the McGilvray home (1520 Bennett) at 2:00 pm. The Meeting was called to order by President Bob Wilkinson. The 2011 Minutes were read and approved as read and will be placed on file.

There being no Old Business pending, the first order of business was the election of Trustees for 2012. Jack Merrill made the motion to accept the current officers by acclamation for another year; Bob Arrington seconded; the motion carried. Officers are President Bob Wilkinson, Vice President Tommy McGilvray, Secretary JoAnn Locke, and Treasurer Glenda Merrill (who was appointed by the Board in the summer of 2011 to fill the unexpired term of Bill Murphy.)

The 2011 Financial Report was presented and discussed by the Treasurer Glenda Merrill; it was approved and will be placed on file. She also presented the 2012 Budget (attached). The Budget was approved as presented and will be placed on file.

Other items discussed and acted upon when necessary were

- 1) Reminders were made regarding trash can spacing, pets, parking to avoid sprinkler system damage, et cetera.
- 2) The lawn service will continue in 2012 with Amos Trejo at a cost of \$10,070. Amos and his crew are available to do additional work for individual home owners, if desired, at owner's expense. His telephone is ~~970-555-1234~~. Also, Marlon Chavez is available and Tommy has his telephone number.
- 3) The Board recommends to the Association that we declare ourselves an Age-Restricted Community by placing an addendum to our By-Laws and Restrictions. The motion carried.

The President asked for any comments from the Officers. There being none, the meeting adjourned at 2:45 pm.

JAL

JoAnn Locke, Secretary

## 55 Year Age Restriction Policy

per

The FAIR HOUSING AMENDMENTS ACT of 1988 (the "Act")

HOUSING FOR OLDER PERSONS ACT 1995: FINAL RULE

(Department of Housing and Urban Development: 24 CFR Part 100)

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### INTRODUCTION

The Fair Housing Act (Title VIII of the Civil Rights Act) exempts "housing for older persons" from the Act's prohibition against discrimination because of familial status. Section 807(b)(2)(C) of the Act exempts housing intended and operated for occupancy by persons 55 years of age or older which satisfies certain criteria HUD has adopted implementing regulations further defining the "housing for older persons" exemption at 24 CFR part 100, subpart E (Housing for Older Persons Act, hereinafter: HOPA).

There are 4 factors required for a facility to claim the 55 and older exemption:

1. that the housing be intended and operated for persons age 55 and older; (24 CFR 100.304)
- 2) that at least 80 percent of the occupied units be occupied by at least one person who is 55 years of age or older; (24 CFR 100.305)
- (3) the housing facility or community must publish and adhere to policies and procedures that demonstrate its intent to operate as housing for persons fifty-five (55) years of age or older. (24 CFR 100.306)
- (4) the housing facility or community must also comply with rules issued by HUD for the verification of occupancy. (24 CFR 100.307).

Cloisters Block 2 & 3 is qualified for the exemption as a community for 55 year or older persons. The intent is stated in the Cloisters Block 2 & 3 Homeowners Association, Inc. CC&R's (Article 9, section 1 and By-laws (Article 16) as well as by the age restriction rules adopted and enforced by the Association.

This document's purpose is to cumulate in one place for easy reference the age restriction policy adopted by Cloisters Block 2 & 3 Homeowners Association, Inc. within the rules and broad discretion permitted under the Act and HOPA. The Board of Directors, in its sole discretion, may add, delete or change its policies within the scope permitted by the Act and HOPA, Texas State laws or local laws.

Qualification for Exemption under the Fair Housing Amendments Act of 1988 (the "Act") and HOPA

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In accordance with the Act and HOPA Cloisters Block 2 & 3 Homeowners Association, Inc. has clearly indicated its intent to qualify as housing for older persons age 55 years or older in the following Governing Documents:

CC&R's Article 4 Section 2(a): Age Restrictions

Each dwelling unit in Cloisters Block 2 & 3, if occupied, shall be occupied by at least one (1) person not less than fifty-five (55) years of age and no person eighteen (18) years of age or under shall reside in any dwelling unit. To the extent required by any applicable Federal or State law, at no time shall less than eighty (80%) percent of the Lots subject to this Declaration be occupied by Single Families where at least one member of the Single Family is fifty (55) years of age or older.

By-laws Article 2.1 (a) 1,2,3,4: Membership Qualifications

2.1 (a) "Member" shall mean and refer to those persons entitled to membership as provided in the Master Declaration....

1) One (1) member of the family residing in each Cloisters Block 2 & 3 residence must be fifty-five (55) years of age or older in order to qualify anyone living in that residence for membership in the Association;

2) No person eighteen (18) years of age or under shall be entitled to be a member of the Association;

3) Any person nineteen (19) years of age and older who resides in the same household with any person who is qualified under Section 2.1(a)(1) above is eligible for membership in the Association as long as such person is a resident of Cloisters Block 2 & 3 ;

4. Any person under age fifty-five (55) years of age who acquires real property in Cloisters #2& 3 by purchase or inheritance and subsequently lives on such property and is not qualified under Section 2.1 (a)(1) above, or rents or leases such property to third parties, is not eligible for membership in the Association.

**Cloisters Block 2 & 3 Homeowners Association, INC.**  
**AGE RESTRICTION POLICY**

**Occupancy Age Restrictions**

- 1.1 There must be at least one person that is fifty-five (55) years of age or older (age qualified) residing in each dwelling unit. (24 CFR Section 100.304)
- 1.2 No person under the age of 19 may reside in Cloisters Block 2 & 3.
- 1.3 Persons under the age of 19 may reside in Cloisters Block 2 & 3 as guests for a maximum period of 90 days in any 12 month period as long as there is an age qualified person also occupying the dwelling unit.
- 1.4 Persons 19 years of age or older may reside in Cloisters Block 2 & 3 as long as there is an age qualified person also residing in the dwelling unit.
- 1.5 These age restrictions apply to Owners, renters and to house guests who occupy the dwelling unit in the absence of the age qualified Owner or renter.

**2. Occupancy Exception**

- 2.1 The policy of Cloisters Block 2 & 3 Homeowners Association, Inc. is not to permit under age occupancy in any dwelling unit.
- 2.2 The only exception to the 55 age qualification is for the non-age qualified surviving spouse of an age qualified decedent Owner who had occupied the dwelling unit, until such time as the nonage qualified surviving spouse remarries at which time the exception expires. At that time, membership, if any, shall be determined pursuant to Article 2.1(a) of the By Laws.
- 2.3 There are no exceptions for other non-age qualified heirs or any other non-age qualified persons who come into possession of a dwelling unit in Cloisters Block 2 & 3.
- 2.4 Appeal for a temporary exception to the occupancy rules must be made in writing to the Board of Directors. The Board of Directors, in its sole discretion, may grant or refuse to grant such temporary exception in any particular case. The grant of a temporary exception in a particular case does not invalidate or waive the particular occupancy rule in subsequent cases.

**3. "80/20 Rule" (24 CFR 100.305)**

- 3.1 HOPA requires that no less than 80% of the occupied dwelling units shall be occupied by at least one age qualified person. This does not mean that 20% must be occupied by non-age qualified persons. It means that as long as 80% of the dwelling units are occupied by at least one age qualified person Cloisters Block 2 & 3 maintains its exemption under HOPA as a 55 year age restricted community
- 3.2 The policy of Cloisters Block 2 & 3 Homeowners Association, Inc. is to maintain the percentage of age qualified occupancy as close to 100% as possible without mandating a greater percentage than the minimum 80% required by HOPA.

3.3 One of the primary reasons for the 80/20 rule by Congress was to accommodate under age surviving spouses of age qualified decedents and to permit flexibility in specific situations at the sole discretion of the Board of Directors without endangering the HOPA exemption. Such exemption is permitted as long as the minimum 80% age qualified requirement under HOPA is not reduced. HOPA was enacted for the protection of the age restriction exemption and not to grant any rights to under age persons to occupy the 20% which is solely within the discretion of the Board of Directors.

#### 4. Verification of Age (24 CFR 100.307)

4.1 All residents, whether Owners, renters or house guests of absentee Owners or renters, must show evidence that at least one resident in the occupied dwelling unit is age qualified. Any of the following documents are considered reliable documentation of the age of the occupants of the housing facility or community:

- a) Driver's license
- b) Birth certificate
- c) Passport
- d. Immigration card
- e) Military identification
- f) Any other state, local, national or international official documents containing a birth date of comparable reliability
- g) A certification in a lease application, affidavit or other document signed by any member of the household age 19 or older asserting that at least one person in the unit is 55 years of age or older.

4.2 A facility or community shall consider any one of the forms of verification identified above as adequate for verification of age, provided that it contains specific information about current age or date of birth.

4.3 Such evidence must be shown at the time such Owner or renter come to the Association offices to obtain the mandatory Association membership card which confirms age compliance with HOPA and permits use of the facilities of the Association.

4.4 If the occupants of a particular dwelling unit refuse to comply with the age verification procedures, the Association may, if it has sufficient evidence, consider the unit to be occupied by at least one person 55 years of age or older; such evidence may include:

- a) Government records or documents such as a local household census
- b) Prior forms or applications; or
- c) A statement from an individual who has personal knowledge of the age of the occupants. The statement must set forth the basis for such knowledge and be signed under penalty of perjury.

## 5. Surveys for Compliance

5.1 Cloisters Block 2 & 3 Homeowners Association, Inc. will conduct surveys at least every two years and maintain a data base to verify age compliance as required by HOPA. All residents of Cloisters Block 2 & 3 are required to respond to the surveys. Proof of occupancy by at least one age qualified person in the occupied dwelling unit as noted above must be provided in response to the survey unless already provided, in which case a reliable affidavit of current compliance is all that is required.

5.2 Copies of supporting information gathered in support of the occupancy verification may be segregated in a separate file and are considered confidential and not generally available for public inspection. They are created for the sole purpose of complying with HOPA and are to be kept separate from the general or resident files that may be widely accessible to employees or other residents.

5.3 A summary of occupancy surveys shall be available for inspection upon reasonable notice and request by any person.

## 6. Disclosure of 55 Age Restriction Policy

6.1 Any Owner or Realtor who sells or leases real property in Cloisters Block 2 & 3 shall disclose in the advertisements, purchase or lease documents that Cloisters Block 2 & 3 is a 55 year age restricted community under HOPA. (100.306). In the case of a lease of real property in Cloisters #2&3 the lease agreement shall verify that at least one occupant is age qualified by specific current age or date of birth recorded in the lease agreement. (100.306 (a) 3).

6.2 A copy of this Age Restriction Policy shall be provided by every Owner/Seller/Lessor to any prospective buyer or lessee to read and acknowledge. This document is to be included as part of the Purchase or Lease documents.

6.3 Disclosure shall also be made to any persons permitted by the Owner or renter to occupy the dwelling unit as house guests in the absence of the age qualified Owner or renter. At least one house guest of such absentee Owner or lessee must be age qualified. The under 19 years of age occupancy prohibition rule also applies to such house guests.

6.4 Non-disclosure by the Owner/Seller/Lessor shall not prevent Cloisters Block 2 & 3 Community Association, Inc. from enforcing this age restriction policy against any Owner and renter for noncompliance.

6.5 All "For Sale" or "For Rent/Lease" signs in Cloisters Block 2 & 3, whether by Owner or by a Realtor, shall prominently display that this is a "55 YEAR AGE RESTRICTED COMMUNITY".

## 7. Enforcement

7.1 Cloisters Block 2 & 3 Homeowners Association, Inc. will vigorously seek any and all remedies available to it by law including, but not limited to, fines and liens against the offending Owner's real property for non-compliance by the Owner renter or house guests.

7.2 The reporting and enforcement procedures for non-compliance shall be through the Deed Restriction Enforcement Committee (DREC).

Acknowledgment of Age Qualified Occupancy

The Undersigned (Buyer)( Lessee) has read the Cloisters Block 2 & 3 Age Restriction Policy and asserts that at least one occupant of the dwelling unit being purchased or leased herein shall be at least fifty-five (55) years of age or older.

Address of the Dwelling Unit: \_\_\_\_\_

1. \_\_\_\_\_ 2. \_\_\_\_\_

Print name(s) of Buyer or Lessee

1. \_\_\_\_\_ 2. \_\_\_\_\_

Signature(s) of Buyer or Lessee

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Before me, a notary public, on this day known to me to be the person whose name is subscribed to the foregoing and, being by me first duly sworn, declared that the statement therein contained is true and correct.

State of Texas  
County of Brazos

Tommy C. McGilvray  
printed name  
Tommy C. McGilvray  
signature

Date: 02/06/2012

Kim Doan  
notary public signature

