

APPLICATION FOR EXEMPTION — HOMEOWNERS' ASSOCIATION



SUSAN COMBS • TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

A nonprofit corporation that is a homeowners' association should use this application to request exemption from Texas franchise tax. The homeowners' association exemption extends only to franchise tax and is applicable to franchise tax reports due on or after May 1, 1982.

To receive a state franchise tax exemption as a homeowners' association, the association must be a nonprofit corporation organized and operated primarily to obtain, manage, construct and maintain the property in or of a residential condominium or residential real estate development that is legally restricted for use as residences. The property cannot be used for any commercial activity. Additionally, the individual resident owners of the lots, residences or residential units must have at least 51% voting control of the association.

The exemption for a homeowners' association is provided for in Section 171.082, Texas Tax Code, and more detailed information is available in Franchise Tax Rule 3.541.

Texas tax law provides an exemption from sales tax on goods and services purchased for use by organizations exempt under Section 501(c)(3), (4), (8), (10) or (19), Internal Revenue Code (IRC). However, exempt organizations are required to collect tax on most of their sales of taxable items. See *Exempt Organizations, Sales and Purchases*, Publication 96-122.

Texas law also provides an exemption from franchise taxes for corporations exempted from the federal income tax under IRC Section 501(c)(2), (3), (4), (5), (6), (7), (8), (10), (16), (19) or (25).

If your organization has been granted federal tax exemption under one of the qualifying sections listed above, your organization will be granted an exemption from Texas franchise tax, or sales and franchise tax, on the basis of the Internal Revenue Service (IRS) exemption, as required by state law. Organizations that qualify for state tax exemption based on the federal exemption are not exempt from hotel occupancy tax because the hotel occupancy tax law does not recognize any federal exemptions.

The laws, rules and other information about exemptions are online at:

<http://window.state.tx.us/taxinfo/exempt>

Send the completed application along with all required documentation to:

Comptroller of Public Accounts
Exempt Organizations Section
P.O. Box 13528
Austin, Texas 78711-3528

We will contact you within 10 working days after receipt of your application to let you know the status of your application. We may require an organization to furnish additional information to establish the claimed exemption. After a review of the material, we will inform the organization in writing if it qualifies for exemption. The comptroller or an authorized representative of the comptroller may audit the records of an organization at any time during regular business hours to verify the validity of the organization's exempt status.

If you have questions or need more information, contact our Tax Assistance staff at 1-800-252-5555 or, in Austin, call 463-4600.

You have certain rights under Chapters 552 and 559, Government Code, to review, request, and correct information we have on file about you. Contact us at the address or toll-free number listed on this form.

SPECIFIC INSTRUCTIONS

Item 1. The filed document of record, and any subsequent amendments, that establishes the purpose of the property usually provides the qualifications for association membership, owners' voting rights and whether the property is held exclusively for residential use. This document and the plat map are filed with the local county clerk's office, and may be referred to as the:

- Declaration;
- Deed Restrictions;
- Covenants, Conditions and Restrictions, or similar titles.

To complete Item 1, take the language directly from the appropriate controlling document, which is normally the Articles of Incorporation but may be the association's Declaration or Bylaws. Also, specify in Item 1 the title of the document and the specific citation from which the language was taken.

Item 2. To be eligible for exemption as a homeowners' association, the property must be **residential** and have **no commercial property** within the real estate development. A condominium project or real estate development is considered residential if the property is legally restricted for use as residences, **with no commercial use allowed**.

To complete Item 2, enter the total number of lots/units as shown on the plat map for the real estate development. The plat map should be on file with the local county clerk's office.

Item 3. To complete Item 3, enter the total number of lots/units owned by the individual resident owners. Do not include any lots/units owned by the declarants, developers, builders, banks, investors or similar parties. Do not include multiple-owned lots by an individual owner, unless an exception applies. An exception occurs when an individual owner purchases two lots to construct a single residential structure; in that case, the adjacent lot would be considered as being owned by the individual resident owner, and the lot should be included in the total reported in Item 3.

Item 4. To complete Item 4, enter the total number of lots **not** included in Item 3. Include multiple-owned lots by an individual owner, and all lots/units owned by parties other than the individual resident owners. Attach a list identifying these owners and the number of lots owned.

In order to qualify for exemption as a homeowners' association, these parties cannot control more than 49% of the association's total votes. Majority control cannot be held by a single individual or family, or by one or more developers, declarants, banks, investors or similar parties.

Item 5. If the answer to number 5 is yes, also complete Items 5a and 5c. If the answer to number 5 is no, also complete Items 5b and 5c. For 5a, 5b and 5c, take the language directly from the controlling documents. If the language is not found in the declaration, then look for it in the Articles of Incorporation or bylaws. Also, provide the title of the document from which the language was taken.

TEXAS APPLICATION FOR STATE TAX EXEMPTION
FOR HOMEOWNERS' ASSOCIATIONS

• TYPE OR PRINT
• Do NOT write in shaded areas.

PLEASE COMPLETE THE FOLLOWING INFORMATION

1. **SEE INSTRUCTIONS** The primary purpose of the corporation as quoted directly from the association's Articles of Incorporation, Declaration, or Bylaws, including any subsequent amendments, is

[Two empty text boxes for the primary purpose of the corporation]

as found in []

(Title of document and cite from which the language was taken)

2. **SEE INSTRUCTIONS** Number of lots/units shown on the plat map for the real estate development []

3. **SEE INSTRUCTIONS** Number of residential lots/units owned by individual owner []

4. **SEE INSTRUCTIONS** Number of lots/units units owned by declarant, developers, builders, banks, investors, or other similar parties []

Items 3 and 4 must equal the total reported in Item 2.

5. **SEE INSTRUCTIONS** Does the Declaration provide for different classes of votes? YES NO

If **YES**, must complete 5a and 5c. If **NO**, must complete 5b and 5c.

5a. Enter the voting rights for each class of member, as found in:

[Empty text box for voting rights]

(Title of document and cite from which the language was taken)

CLASS A: []

CLASS B: []

(List additional classes if necessary)

[Three empty text boxes for additional classes]

5b. Enter the language that identifies the number of votes each member is entitled to, including the declarant's voting rights.

[Three empty text boxes for language identifying votes]

Title of document and cite from which 5b was taken:

[Empty text box for title of document]

5c. List conditions that determine when the Declarant's voting rights ceased, or converted to other conditions allowing the individual owners to gain voting control of the association.

[Three empty text boxes for conditions]

Title of document and cite from which 5c was taken:

[Empty text box for title of document]

6. Based on the information provided above, the date the individual resident owners collectively gained voting control (at least 51 percent) of the association was: []

Month Day Year

7. Corporation name (For Texas corporations, name must match the official corporate name as on file with the Texas Secretary of State. For out-of-state corporations, name must match the official corporate name as filed in the home state of charter)

[Empty text box for corporation name]

TEXAS APPLICATION FOR STATE TAX EXEMPTION FOR HOMEOWNERS' ASSOCIATIONS

• TYPE OR PRINT
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8. Name, address and daytime phone number of person submitting this application

Name Title
Firm or Company Name Daytime Phone (Area code and number) Extension
Address City State Zip

9. Texas taxpayer number

10. Federal employers identification number (if applicable)

11. For TEXAS corporations, filing information issued by the Secretary of State:

File Number File Date Month Day Year

12. For NON-TEXAS corporations, filing information issued by the Texas Secretary of State:

Certificate of Authority File Number File Date Month Day Year

Home State of Incorporation Date of Incorporation Month Day Year Home State Filing or Registration Number

I, (Name), (Title)

of (Corporation Name), affirm

the homeowner's association is a nonprofit corporation.

I further state that the corporation is organized and operated primarily to obtain, manage, construct, and maintain property in or of a residential condominium or residential real estate development.

The corporation will maintain proof that the condominium project or real estate development is legally restricted for use as residences, with no commercial use allowed, and will also maintain proof that the collective resident owners of individual lots, residences, or units control at least 51 percent of the votes of the corporation.

sign here DATE