

FILED

JUN 25 2025

Waller County JP#1
Judge Charles J. KarischJAMES E. BASHAM AND
JENNY L. BASHAM, PETITIONERS§
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IN THE JUSTICE COURT

v.

PRECINCT NO. 1

ROLLING HILLS COLONY PROPERTY
OWNERS' ASSOCIATION, INC., RESPONDENT

WALLER COUNTY, TEXAS

**PETITION FOR ACCESS TO PROPERTY OWNERS ASSOCIATION
PUBLIC RECORDS UPON DENIAL OF ACCESS****Respondent's Address:**TRINA SMART, Registered Agent
24738 DONEGAL ST
HEMPSTEAD, TX 77445

The registered agent for the Rolling Hills Colony Property Owners' Association, Inc. ("association", "respondent") on file with the Texas Secretary of State (see EXHIBIT A) was the recipient of communication addressed to the respondent due to the Management Certificate on file with the County Clerk's office not being updated and due to conflicting information received during the meeting mentioned in the cause of action regarding access to the P.O. Box listed on the outdated Management Certificate. The registered agent attended the meeting mentioned in the cause of action and acknowledged to all in attendance that she is the registered agent. At this time, the registered agent is the only individual of record for the respondent.

CAUSE OF ACTION

On May 29, 2025, via a social media post by an individual who would later be introduced as the association's secretary ("respondent"), petitioners learned of a property owners meeting to be held on June 1, 2025, in which the intent was to elect board members. (see EXHIBIT B) Petitioners had heard about the meeting a few days prior from other neighbors but had not received any communication themselves regarding the meeting. As new residents in the community and hearing from other neighbors that there was not an elected board, petitioners began asking for information such as current board members and current bylaws to understand the election process. No one presented themselves as a member of the board in response to the numerous requests for information. Petitioners received an unsigned version of a bylaws document from a neighbor. After not receiving a list of board members, petitioners understood that there was not a lawfully elected board in place and a vote as

described in the social media post was in violation of Texas Property Code § 209.0056(a)(1) (2011) ("Notice of Election or Association Vote"). Petitioners' comments advising of this violation received negative responses from the individual announcing the meeting, both in electronic communication and in person at petitioner's residence. Absent any legally binding bylaws and absent any documents confirming elected board members, petitioners began researching the legal operations of the respondent to help come up with a strategy plan to get the respondent into a position of legal compliance and operate as the legal entity for which it is as well as address deficiencies in checks and balances in access procedures. The findings of the petitioners revealed several areas in which the respondent is not in compliance with the Texas Property Code.

In the property owners meeting on June 1, 2025, property owner Donald Cook presented himself to the group as president of the association ("respondent"), Clay White as secretary of the association ("respondent"), as well as other individuals as board members of the association ("respondent"); however, when petitioner publicly asked to rename those individuals and their positions, Donald Cook declined to do so; therefore, the names of additional individuals acting on behalf of the respondent were not captured. Trina Smart, the registered agent for the respondent, collected membership dues. It is unknown if Ms. Smart holds an elected position. In this meeting, Donald Cook stated the meeting was the rescheduled annual meeting and others presenting themselves as board members of the association ("respondent"). After collecting membership dues, Donald Cook made public claims against the prior president of the association ("respondent"), stating she embezzled over \$11,000.00. Additionally, he claimed she removed him from the respondent's bank account without his knowledge and changed passwords to various applications and that's why he or anyone else was unaware of her actions. It is unknown what position Mr. Cook held at the time of the events he claimed that would warrant Mr. Cook having access to the bank account along with the president at the time. At the meeting Jenny Basham, petitioner, spoke to the property owners explaining the respondent's compliance issues, publicly offered her assistance, distributed copies of her recommended strategy plan (see EXHIBIT C) and personally handed a copy to Donald Cook stating she wanted to help handle everything on the list. No response was received. An election did not take place at the meeting. As of the date of this filing, petitioners still have not received a list of board members representing respondent or legally binding bylaws, nor has any such information been made publicly available to the other property owners asking for the same information.

ADDITIONAL INFORMATION: TEXAS PROPERTY CODE VIOLATIONS

1. Respondent is in violation of Texas Property Code § 202.006(a) (2011) ("Public Records") by not filing all dedicatory instruments with the County Clerk. Specifically referring to the bylaws, there has not been any version of the bylaws filed with the County Clerk. The only version of the bylaws that have been provided to petitioners is an unsigned, uncontrolled document. (see EXHIBIT D)
2. Respondent is in violation of Texas Property Code § 202.006(c) (2021) ("Public Records", "A property owners' association may not collect a regular assessment, as defined by Section 209.002, if the dedicatory instrument authorizing the collection of the regular assessment is not filed as required by Subsection (a).") by collecting assessment dues without filing the dedicatory instruments authorizing the collection of dues with the County Clerk. Furthermore, considering there have not been any bylaw documents filed with the County Clerk, as an initial filing or as an amendment, per H.B. 1821, 82nd Leg., Reg. Sess. (Tx. 2011) affecting Texas Property Code § 202.006(b) (2011) ("A dedicatory instrument has no effect until the

instrument is filed in accordance with this section.”), any bylaws in circulation have no effect; therefore, it could be construed that the respondent has been illegally collecting dues since January 1, 2012.

3. Respondent is in violation of Texas Property Code § 207.006(b)(2) (2011) (“Online Subdivision Information Required”) by not providing dedicatory instruments online to be available to association members. The website of the association (“respondent”), rollinghillscolonypoa.org, has not been functional since at least November 2024, when the petitioners first attempted to access it. The website has been compromised and redirects visitors to websites that pose significant cyber security risks that could compromise personal and/or financial data. The compromised website continues to be communicated to association members (see EXHIBIT E) as well as appearing in online search engines.
4. Respondent is in violation of Texas Property Code § 209.004 (b) (2021) (“Management Certificates”) by not updating the Management Certificate with the County Clerk. The Management Certificate currently on file with the County Clerk’s office does not reflect the most current information for the respondent. (see EXHIBIT F) The President listed on the Management Certificate resigned some time in 2024. The name and phone number of the association’s designated representative has not been updated. The online location of the association’s dedicatory instruments is incorrect since the website has been compromised. The property transfer fees listed on the Management Certificate do not align with what is being charged to property buyers (see EXHIBIT G).
5. Respondent is in violation of Texas Property Code § 209.004 (b-1) (2021) (“Management Certificates”) by not filing the Management Certificate with the Texas Real Estate Commission as required.

REQUEST FOR ACCESS TO ASSOCIATION RECORDS

In accordance with Texas Property Code § 209.005(c) (2011) (“Association Records”), petitioners made the request for access to association (“respondent”) records after not receiving any documentation of elected board members, not receiving any legal bylaws, discovery of other violations of the Texas Property Code and after the embezzlement allegations were publicly made against another individual.

The written request was sent to the respondent’s registered agent via certified mail. (see EXHIBIT H)

DENIAL OF ACCESS TO ASSOCIATION RECORDS

Respondent violated Texas Property Code § 209.005(c) (2012) (“Association Records”) by failing to respond within 10 business days as required after a written request for access to the books and records of the association (“respondent”) was received. The request was received by the registered agent on June 5, 2025. (see EXHIBIT I)

RELIEF

Petitioners request relief in accordance with Texas Property Code § 209.005(n) (2012) (“Association Records”). Aside from being property owners within the boundaries of Rolling Hills Colony with a legal right to access the respondent’s records, an audit of the financial records of the respondent is warranted. There is insufficient proof showing anyone has the legal authority to utilize the respondent’s funds for this type of activity. An audit needs

to be conducted without burdening the already strained finances of the respondent. An audit of this nature should be conducted by an appropriately skilled individual that has not had any access to or control of the financial data first-hand. As a finance professional with over 18 years of experience leading financial audits for both public and private corporations combined with her current role as Treasurer for a local non-profit organization and over 5 years currently employed with a CPA firm performing extensive clean-up of business financial records within QuickBooks Online, Jenny Basham ("petitioner"), possesses the experience, knowledge and skillset necessary to perform an honest analysis of the financial books and records of the respondent and present all findings to all property owners. Therefore, petitioners are requesting only non-monetary relief. Petitioners request relief in the manner of ordering the respondent to release and allow access to the books and records as documented in EXHIBIT H, with the following amendments to the original request:

1. All formation documents, including ~~Articles of Incorporation, Certificate of formation, Bylaws, Declarations and/or Restrictive Covenants~~
2. All lawful amendments to formation documents, including ~~Articles of Incorporation, Certificate of formation, Bylaws, Declarations and/or Restrictive Covenants~~
16. ~~Current Management Certificate~~

Additionally, petitioners request the following specific access:

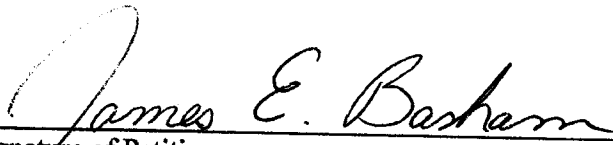
1. Add basham4rollinghillsowners@gmail.com as an admin user to the Rolling Hills Colony Property Owners Association QuickBooks Online account. Due to the security structure of QuickBooks Online, the access role must be the admin role to avoid any restrictions in auditing the data. For auditing and liability purposes, any existing "shared" login credentials should not be provided to the petitioners.
2. Add basham4rollinghillsowners@gmail.com as a view only to the Rolling Hills Colony Property Owners Association's PayPal account. For auditing and liability purposes, any existing "shared" login credentials should not be provided to the petitioners.
3. Add basham4rollinghillsowners@gmail.com as a view only user to the Rolling Hills Colony Property Owners Association's online bank account(s). For auditing and liability purposes, any existing "shared" login credentials should not be provided to the petitioners.

NOTICE TO RESPONDENT

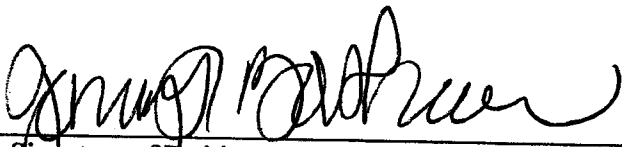
In accordance with Texas Property Code 209.005(p) (2012) ("Association Records"), written notice of petitioner's intent to bring action against the respondent was sent to the registered agent via certified mail on June 23, 2025, followed by a revision to the Notice via certified mail on June 24, 2025. (see EXHIBIT J)

JUSTICE COURT JURISDICTION

The relief sought is within the jurisdictional limits of the court.


Signature of Petitioner

Printed Name: James E. Basham
Address: 24698 Donegal Street
Hempstead, TX 77445
Email: basham4rollinghillsowners@gmail.com
Phone: 281-714-0662


Signature of Petitioner

Printed Name: Jenny L. Basham
Address: 24698 Donegal Street
Hempstead, TX 77445
Email: basham4rollinghillsowners@gmail.com
Phone: 346-462-8459