

Revision of Founding Documents Update

The facts...



FACT: CLCCA is a non-profit organization founded in 1963 and continues to operate on 1963 income. A McDonald's Big Mac that was only \$.28 in 1963 costs \$3.99 today! A gallon of gasoline was only \$.29!

Try to imagine the upkeep of your property today on 1963 income. A NASA engineer's starting salary in 1966 was \$7,700—that's not a typo! Now try to imagine the financial upkeep of a large recreation center, 10 pools, three pool houses, six parks, soccer fields, tennis courts, baseball fields and several monument signs on 1963 income. Add to that insurance premiums and wages for both recreation and the property owners association.

FACT: CLCCA budgets to collect approximately \$621K from annual assessments. That amount is the most it's allowed by the Founding Documents. Unfortunately, CLCCA property owners don't always pay. Currently, accounts receivable is \$272,609. Therefore, not only is CLCCA running on 1963 income but it's running on less than what's budgeted. These funds are very much needed to help the association run and maintain the community.

FACT: Because of the way State law is written, CLCCA has been working with Representative Dennis Paul to amend property code over the last several years so that YOU, the property owner would have the right to vote on actions regarding the annual mill assessment. Unfortunately, CLCCA received the news 10 days before the legislative deadline that Rep. Paul was not going to submit the bill for consideration. CLCCA's attorney asked for his help to assist CLCCA with a bill that could help the association, but Representative Dennis Paul chose not to move forward.

FACT: Some residents have expressed concern about the motivation for seeking these changes. The CLCCA board's pursuit of these changes is NOT about money and power. It's about a desire to live up to its responsibilities to residents of the neighborhoods. Look around you....your neighborhood is deteriorating and your property values are being impacted. Do you like the direction your neighborhood is going? We all would like to see updated monuments, parks, pools, and a nice recreation center we'd all be proud to use. We'd all like to have neighborhood pools open for use more days in the summer.

FACT: The requested changes also do not mean the CLCCA Board would have unchecked power. They simply mean the association would have additional funds to improve the needed areas if the residents approved an increase. Right now, the association is operating on 1963 income with only five full-time employees. An association the size and age of CLCCA should be operating with more than 10 full time employees. Each neighborhood core should have its own staff member to report and stay on top of deed restrictions. CLCCA would utilize the funds to send more properties to legal when they repeatedly do not comply with deed restrictions. On 1963 income, the association is unable to accomplish this. It is strapped with picking its battles on where to place the funds first.

FACT: For those that would like the financial facts, we encourage you to review the budget, audits, and financial data publicly available online. Also, the Treasurer thoroughly reviews the monthly financials and gives an update at every board meeting. ALL property owners are welcome to attend. Property owners can also contact their board representatives, the Board Treasurer

or the General Manager with any questions pertaining to the financials. The CLCCA Board and staff believe that transparency is key.

FACT: The current founding document does have a current theoretical method of voting but there is a problem with it. It reads,

"Such annual charge may be adjusted from year to year by Clear Lake City Community Association, Inc., its successors or assigns, as the needs of the property may, in its judgement, require, but in no event shall such charge be raised above eight (8) mills per square foot of area, unless raised by the then owners of a majority of the square foot of area of the lots or property in ALL of said sections paying such charge."

So, as you see, it is a vote by square feet! And, ALL sections paying the assessment are to be included in the vote. The total square foot of dirt to vote is ~~83,091,096~~ **77,811,703**. The majority needed for a vote is ~~41,545,549~~ **39,905,853**. ~~Commercial and exempt property alone is 37,989,084~~ **32,709,691**! This **still** makes it realistically impossible to change anything via this voting method, especially when property owners don't show up to vote.

FACT: Since a vote as described in the founding documents is pretty much impossible to accomplish, Clear Lake City Community Association is unable to apply Property Code Section 209.0041 to vote to amend the dedicatory instrument. Texas Property Code Section 209.0041(c) provides that this section of the property code "does not apply to a property owners association that is subject to chapter 552, government code by application of section 552.0036, government code." Since Texas Government Code Section 552.0036 is the provision which subjects CLCCA to the Texas Open Meetings Act and Texas Public Information Act, it is unable to utilize the declaration amendment provision of 209.0041 to amend its founding document. Therefore, it is legally necessary for CLCCA to approach Texas state legislature in amending the property code.

FACT: The current unrealistic method of voting is why the CLCCA board went to Representative Dennis Paul for help but he failed to understand the issue at hand. He actually told the CLCCA via conference call, that he thought giving the property owners the right to vote was unconstitutional. As stated in his March 14, 2019 letter to the CLCCA Board of Trustees posted on the www.clcca.org website, Representative Dennis Paul would like the association to use the existing theoretical voting method, which would mean using funds for a complicated process that are desperately needed elsewhere.

FACT: The CLCCA is very disappointed in the last minute decision. The bill proposal was already in Austin with his backing. Representative Dennis Paul had years to raise objections to the proposed legislation. He had the language for the proposed change explained to him by numerous lawyers, CLCCA staff and board members. He has had the CLCCA's situation documented for him. Yet, he chose to wait until there was no recourse for the CLCCA because of state legislative time deadlines to withdraw his support. Therefore, property owners within the CLCCA are currently still denied the right to vote via a new method of voting.

Property owners do retain the right to vote for state representatives that understand their plight. The state representative election will be in 2020.