

**Wisteria Park
East Side Landscape Services “Opt Out” Document Packet**

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Wisteria Park East Side Landscape Services "Opt Out" Document Packet

Summary

Just prior to and at the July 23, 2018 HOA Board Meeting, nine (9) East Side homeowners requested to "Opt Out" of HOA provided landscaping services. They are not satisfied with the quality of services provided and would like to manage their landscaping themselves.

This group also advised that Article 13 of Wisteria Park's Declaration states the HOA Board can provide landscaping services on an optional basis. At that meeting, the Board authorized the HOA President (Mike Zelle) to obtain Wisteria Park Lawyer's opinion if the HOA can enable individual East Side homeowners to "Opt Out" of the current mandatory landscaping services. His response was yes and he helped create the draft policy and agreement below.

All Florida HOA Boards are required to adhere to Florida Statute 720 and their community Declaration Documents. Your current Wisteria Park HOA Board's decisions are intended to balance individual homeowner desires with those of the overall community within the boundaries established by these regulations. Since 9 or 13% of East Side homeowners have requested to "Opt Out", the HOA Board decided we cannot ignore their request to thoroughly review our current policy. This document's purpose is to organize all the relevant information to help coordinate informed discussion. It includes a proposed "Opt Out" procedure and agreement with known pros and cons. At the September 7th Information Sharing Meeting and the September 24th, October 22nd, November 26th, December 17th and February 4th HOA Board Meetings this document was reviewed and updated.

On February 8, 2019, Sunstate emailed all East Side Homeowners the "Opt Out" survey & "East Side Opt Out Document Packet (Version 7)". East Side Homeowners had 2 weeks (February 22nd) to return the survey to Sunstate. Sunstate provided the survey results at the February 25th HOA Board Meeting.

- 85.5% (47 out of 55) of responding East Side Homeowners did not support allowing "Opt Out"
- 65.3% (47 out of 72) of all East Side Homeowners did not support allowing "Opt Out"

On March 18, 2019 the East Side Landscape Committee voted to: "Recommend the HOA Board to continue with mandatory East Side Landscaping Services."

On March 25, 2019 the HOA Board voted to: "Continue with mandatory East Side Landscaping Services."

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East Side Landscape Services Provided

Seventy-two (72) homes on the East Side currently receive HOA provided landscaping services. There is a separate HOA assessment and budget for these services. In 2019 the per homeowner separate assessment is \$1,528.00 annually, \$382.00 quarterly, \$127.33 monthly or \$29.38 weekly. (Note: If “Opt Out” is allowed, for homeowners who prefer to continue HOA provided landscape services, there will be no change in budgeted services provided and budgeted assessment.)

In addition, the HOA provides landscaping services for all common areas. The cost of common area landscaping is part of the overall HOA budget and homeowner assessment. The HOA does not provide landscaping services for the sixty-nine (69) West Side homes. These homeowners maintain their landscaping themselves in accordance with the landscaping guidelines set forth in the HOA’s governing documents and Rules and Regulations.

The current annual East Side landscaping services provided include:

- Oversight by East Side Landscaping Committee and HOA Board
- Problem management by Sunstate property management
- 41 Mowings, Blowings & Edgings
- 12 Irrigation Inspections, Hand Bed Weedings & Bed Weed Sprayings
- 7 Ornamental Trimmings & Palm <15’ Trimmings
- 4 Turf Insect Prevention / Fertilization Sprayings
- 3 Tree / Ornamental Insect Prevention / Fertilization Sprayings
- 1 Mulch Application & Palm >15’ Trimmings
- Replacement of broken irrigation timers on an as needed basis

For landscaping services not provided by the HOA, East Side homeowners either do the work themselves or hire a landscape vendor.

Over the years, East Side residents have expressed dissatisfaction with the quality of landscaping services provided. To help address these problems recent HOA Boards have taken the following actions:

- 2016: Replaced Argus with Sunstate as the property manager
- 2016: Replaced TruScapes with West Bay as the landscape vendor
- 2017: Implemented the East Side Landscape Council to help proactively address problems
- 2018: Implemented a problem tracking spreadsheet to help catch problems that are not addressed
- 2018: Started a Landscape RFP process to obtain additional vendor bids in addition to West Bay
- 2018: Implemented the East Side Landscaping Committee to manage East Side landscaping

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“Opt Out” Review Process Time Line

Month / Meeting	Activity
July 23, 2018 HOA Board Meeting	<ul style="list-style-type: none"> • Nine (9) East Side Homeowners just before and at this meeting requested to “Opt Out” of HOA provided landscaping services. • HOA Board authorized its President (Mike Zelle) to obtain Wisteria Park HOA’s lawyer’s opinion if the HOA can enable individual East Side homeowners to “Opt Out” of the current mandatory landscaping services.
August 27, 2018 HOA Board Meeting	<ul style="list-style-type: none"> • HOA President reported the HOA lawyer advised the HOA Board may allow East Side residents to “Opt Out” HOA provided landscape services. • HOA Board scheduled an Information Sharing Meeting on September 7 to review and modify the first draft of the “Wisteria Park East Side Opt Out Background - Policy - Procedure” document.
September 7, 2018 Information Sharing HOA Board Meeting	<ul style="list-style-type: none"> • HOA Board and attending East Side homeowners reviewed and modified the first draft of the “Wisteria Park East Side Opt Out Background - Policy - Procedure” document.
September 24, 2018 HOA Board Meeting	<ul style="list-style-type: none"> • HOA Board authorized the East Side Landscape Committee to manage HOA provided East Side landscape services. • HOA Board and attending East Side homeowners reviewed and modified: <ul style="list-style-type: none"> • Second draft of “Wisteria Park East Side Opt Out Document Packet”
Sep 25 - Oct 21	<ul style="list-style-type: none"> • HOA Board sub group interviews potential landscape services vendors
October 22, 2018 HOA Board Meeting	<ul style="list-style-type: none"> • HOA Board sub group reported current status of potential landscape services vendors • HOA Board and attending East Side homeowners reviewed and modified: <ul style="list-style-type: none"> • Third draft of “Wisteria Park East Side Opt Out Document Packet”
November 26, 2018 HOA Board Meeting	<ul style="list-style-type: none"> • HOA Board approved 2019 budget • HOA Board sub group reports current status of potential landscape services vendors • HOA Board selected West Bay as the Landscape Services vendor • HOA Board and attending East Side homeowners reviewed and modified: <ul style="list-style-type: none"> • Fourth draft of “Wisteria Park East Side Opt Out Document Packet”
December 17, 2018 HOA Board Meeting	<ul style="list-style-type: none"> • HOA Board and attending East Side homeowners reviewed and modified: <ul style="list-style-type: none"> • Fifth draft of “Wisteria Park East Side Opt Out Document Packet”
January 28, 2019 HOA Annual Meeting	<ul style="list-style-type: none"> • 2018 HOA President provided an overview of the “Opt Out” Issue • 2019 HOA Board elected
February 4, 2019 Info Sharing Meeting	<ul style="list-style-type: none"> • HOA Board and attending East Side homeowners reviewed and modified: <ul style="list-style-type: none"> • Sixth draft of “Wisteria Park East Side Opt Out Document Packet”
February 8 through February 25, 2019	<ul style="list-style-type: none"> • Sunstate emailed all East Side Homeowners the “Opt Out” survey & “East Side Opt Out Document Packet (Version 7)” • East Side Homeowners had 2 weeks (February 22nd) to return the survey to Sunstate. • Sunstate provided the survey results at the February 25th HOA Board Meeting. <ul style="list-style-type: none"> • 85.5% (47 out of 55) of responding East Side Homeowners did not support allowing “Opt Out” • 65.3% (47 out of 72) of all East Side Homeowners did not support allowing “Opt Out”
March 18, 2019 ESLC Meeting	<ul style="list-style-type: none"> • East Side Landscape Committee voted to: “Recommend the HOA Board continue with mandatory East Side Landscaping Services.”
March 25, 2019 HOA Board Meeting	<ul style="list-style-type: none"> • HOA Board voted to: “Continue with mandatory East Side Landscaping Services.”

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Proposed Policy

Commencing in the 20XX calendar year, the Wisteria Park HOA will allow East Side homeowners to “Opt Out” of HOA provided landscaping services.

The relevant section of Wisteria Park’s ‘Documents’ is ARTICLE 13 LOT MAINTENANCE SERVICES. This article refers to the “Single Family – Lot Maintenance Services Included Lots, as defined in Sec. 1.15 of the Declaration and which includes Lots 70-141 in Wisteria Park, and which lots are commonly called the ‘East Side’. More specifically, the key sentence is: ‘...Developer and after the Turnover Date, the association, shall have the discretion of implementing such services on an **optional** or mandatory basis for each Lot Type for the services elected to be provided...’ (*bold italic added*) The Association’s counsel has reviewed this Article and our other governing documents and agrees the Board of the Association can provide an “Opt Out” option for East Side homeowners should they wish to discontinue receiving the provided Lot Maintenance Services from the Association.

Proposed Procedure

The East Side “Lot Maintenance Services - Opt Out” procedure includes:

- For each calendar year an East Side homeowner who wishes to “Opt Out” of the Lot Maintenance Services provided by the Association and assume all the landscape maintenance for that Owner’s Lot, the Owner must provide the Wisteria Park Property Manager a signed “East Side Homeowner Landscaping Services Opt Out” Agreement. This Agreement must be received by October 15 of each calendar year to be in effect for the next calendar year.
- The Property Manager will ensure that for "Opt Out" homeowners the landscaping services “Supplemental Lot Assessment” will likely only include the budgeted property management fee for that particular calendar year. For 2019, the per East Side homeowner “Supplemental” property management fee is \$34.65 annually, \$8.66 quarterly, \$2.89 monthly or \$0.67 weekly.
- If an East Side homeowner does not “Opt Out” by October 15, their Lot will receive and the homeowner will be assessed for all the budgeted "Lot Maintenance Services" for the next calendar year.

Exception: If the Lot is sold between October 15 and December 31, the new homeowner may “Opt Out” for the subsequent year. (Note there may be up to a quarter implementation delay due to administration constraints.)

- If an East Side home is sold, the new homeowner is obligated by the previous owner’s "Opt Out" decision for that calendar year.
- Those East Side homeowners that “Opt Out” must maintain their Lots in accordance with the current landscaping guidelines set forth in the Association’s governing documents and Rules and Regulations applicable to landscape maintenance within the Lots.
- If an “Opt Out” homeowner decides in a future year they would like to “Opt In”, their landscaping irrigation system will be inspected. If below East Side “Lot Maintenance Services” standards, the homeowner will be required to bring their irrigation system up to standard prior to being allowed to “Opt In”.

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“Opt Out” Pros

- **No action required for East Side homeowners who are satisfied with the Association provided landscaping services.** The HOA will continue its ongoing efforts on improving the quality of landscaping services provided at a reasonable cost to the majority of East Side homeowners.
- **No assessment change for East Side homeowners who do not “Opt Out”.** Our landscape vendor (West Bay) will reduce their fees proportionally by the number of homes that “Opt Out”.
- **East Side homeowners who are not satisfied with the quality of Association managed landscape services would now have the annual option to manage their landscaping to the quality levels they prefer.**
 - Better communication & resolution of problems due to the one to one relationship with the landscape vendor.
 - Easier to arrange custom / ad hoc jobs
- **The landscape vendor will have the additional incentive to address individual East Side homeowners issues in order to keep their business.**
- **Prospective East Side homeowners would have two landscaping options to consider with the landscape “Opt Out” option.**
- **East Side homeowners who “Opt Out” and personally perform their own landscaping chores may have lower costs than HOA provided landscaping services.**

“Opt Out” Cons

- **East Side landscaping continuity will be different.** Mowing, edging, and trimming will likely be done on different days of the week with different equipment. In addition plantings and mulch will be applied at different times.
- **East Side landscaping noise and vendor vehicles will be present on more days of the week.**
- **East Side homeowners who “Opt Out” and hire a landscape vendor will likely have higher costs than HOA provided landscaping services.**

“Opt Out” Potential Cons

- **Overall East Side landscaping quality may decrease.**
 - There have been no significant problems with West Side homeowner managed landscaping. The only known landscaping issue was a foreclosure where the HOA addressed the problem.
- **Neighborhood security may decrease due to a wider variety of landscape vendors.**
 - West Side homeowners have been contracting with numerous landscape vendors since Wisteria Park’s inception. No known security issues have been reported.
- **A snowball effect of more and more homeowners “Opting Out” could affect the marketability of East Side homes due to an unstable landscape maintenance program.**
 - The majority of East Side homeowners are satisfied with HOA provided landscape services. Therefore, the HOA will likely continue to provide these services via the focused efforts of the East Side Landscaping Committee.
- **“Opt Out” may create a perception of uncertainty and lead to questions regarding “Lot Maintenance Services” longevity.**

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- **The marketability of an East Side “Opt Out” home may be affected if a potential buyer who prefers “Opt In” does not want to wait to the end of the year expiration of the current homeowner’s “Opt Out” contract.**
- **“Opt Out” homeowners will be responsible for managing their irrigation timer. This may affect the amount of water available to “Opt In” homeowners at their scheduled times.**
- **A future landscape vendor may not reduce their fees proportionally by the number of homes that “Opt Out”.**
 - **In 2018 all three landscape vendors who bid for the Wisteria Park contract agreed to reduce their fees proportionally by the number of homes that “Opt Out”.**

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Proposed Wisteria Park East Side Landscape Services "Opt Out" Agreement

The undersigned, being the Owner(s) ("Owner") of Lot ____, in Wisteria Park ("Lot"), agree to "Opt Out" of Wisteria Park LOT MAINTENANCE SERVICES, as defined in Sec. 13.01 of the Declaration of Covenants, Conditions and Restrictions for Wisteria Park ("Declaration"), for the Lot during the calendar year _____.

Owner understands the "Lot Maintenance Services" Assessments made against the Lot will likely only include the budgeted property management fee for this calendar year.

Owner also agrees to:

1. Maintain the Lot in accordance with the current guidelines set forth in the Declaration and Rules and Regulations governing landscaping. If the Owner hires a landscape vendor, the vendor must meet all Florida & Manatee County licensing requirements and have adequate general liability and workers compensation insurance.
2. If the Lot is sold during the calendar year to which this Agreement is applicable, the new homeowner(s) is bound by this Agreement for the remainder of calendar year in which the sale occurs.

Exception: If the Lot is sold between October 15 and December 31, the new homeowner may "Opt Out" for the subsequent year. (Note there may be up to a quarter implementation delay due to administration constraints.)

3. For each subsequent calendar year that Owner desires to "Opt Out", Owner must provide the Wisteria Park Property Manager a signed "East Side Homeowner Landscaping Services Opt Out" Agreement. The subsequent Agreements must be received by October 15 of each calendar year to be in effect for the next calendar year. If Owner fails to provide the new Agreement for any subsequent year, Owner will receive and be assessed for all the budgeted "Lot Maintenance Services" for the next calendar year.

_____ Homeowner (Print)	_____ Homeowner (Print)
_____ Homeowner (Signature)	_____ Homeowner (Signature)
_____ Wisteria Park Lot #	
_____ Street Bradenton, FL 34209	_____ Date

_____ Wisteria Park Property Manager (Print)	_____ Date
_____ Wisteria Park Property Manager (Signature)	

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East Side Landscape Services “Opt Out” Survey with Results

Background

At the July 23, 2018 HOA Board Meeting, nine (9) East Side homeowners requested to "Opt Out" of the current mandatory HOA provided landscaping services. They were not satisfied with the quality of services provided and would like to manage their landscaping themselves. Your HOA Board and interested homeowners have discussed “Opt Out” at seven (7) subsequent HOA Board meetings. At these meetings, the attached document packet was reviewed and updated to capture the information needed to make an informed decision.

Please review the attached document packet and complete these survey questions by Friday February 22, 2019.

East Side Landscape Services “Opt Out” Survey Questions

1. Do you support allowing individual East Side Homeowners to “Opt Out” of HOA provided landscape services?

Yes 8 No 47

85.5% (47 out of 55) of responding East Side Homeowners did not support allowing “Opt Out”
65.3% (47 out of 72) of all East Side Homeowners did not support allowing “Opt Out”

2. If allowed, will you choose to “Opt Out” of HOA provided landscape services?

Yes 2 No 48

If “Opt Out” Is Allowed Implications Summary:

- No action required for East Side homeowners who wish to continue receiving HOA provided landscaping services. Furthermore, their current budgeted “Supplemental Lot Assessment” will not change.
- Homeowners who wish to “Opt Out” of HOA provided landscaping services, they will be required to sign an annual “Opt Out” agreement. In addition, their “Supplemental Lot Assessment” will likely only include the budgeted property management fee. For 2019, the per East Side homeowner “Supplemental” property management fee is \$34.65 annually, \$8.66 quarterly, \$2.89 monthly or \$0.67 weekly.
- Review the attached document packet for more detailed information including Proposed Policy & Procedure; known Pros, Cons, & Potential Cons and Proposed “Opt Out” Agreement.