

## **Board Policy On Processing Owner Requests for Inspection of Association Documents**

APPROVAL DATE – June 12, 2017

**GENERAL PURPOSE AND SCOPE** - The Board adopts this policy as a part of its overall effort to formalize the Association's process of communication between Board members, Association staff and Owners. Part of the total approach is to ensure that the Association has a process in place to fully respond to Owner requests for inspection of Association documents as defined in Section 720.303(4-5) F.S. in a lawful and timely fashion. The policy is designed to assist both Owners and Association staff in complying with the rules set out in the Florida Statutes to govern this process.

**THE COMMON ELEMENT** – This policy applies to the Association's statutory obligation to provide all Owners with access to, at a minimum, documents defined as "official records" in Section 720.303(4), F.S. The statute establishes each Owner's right to inspect and copy any of these common documents. Certain association documents are also expressly excluded from this list and are to be sequestered by the Association. The definition of which documents are categorized as official records and which are excluded is provided in full as a part of the authorities incorporated into this policy.

**MAINTAINING RECORDS AND REQUESTS FOR INSPECTION** - The official records shall be maintained within Okaloosa County for at least seven (7) years after each record is generated. All official records shall be made available to an Owner for inspection or photocopying within Okaloosa County within 10 business days after receipt by the Association General Manager or their specific designee of a written request for inspection. A written request shall be deemed valid if it includes the date of the request, the name and address of the Owner making the request and a general description of the records sought for inspection. The written request shall be deemed validly delivered if it is provided to the Association General Manager or its designee by mail, electronic mail or hand delivery. If a request is not in valid form or validly delivered, the Association is not obligated to respond to the request until any deficiencies in form or delivery are corrected by the Owner. The Association shall maintain a log of requests which indicates at least dates received and date of response related to each request.

Owners will be limited, based on available staff resources, to no more than two record requests per 30 day period and four (4) hours inspection time in Association offices per request.

**RESPONSE TO REQUESTS FOR INSPECTION** – The Association shall respond to a valid request for inspection within ten (10) business days of actual receipt of that request from an Owner. This response can include:

1. directing the Owner to a copy of the official records available for inspection or copying within the community; or
2. at the option of the Association, making the records available to the Owner electronically via the Internet; or
3. allowing the records to be viewed in electronic format on a computer screen and printed upon request.

If records are to be inspected at a location within the community, either by viewing paper documents or in electronic format, the inspections must be done during standard office hours M-F, unless specific alternative times are agreed to between the Owner and Association.

If the Association has an operational photocopy machine available where the records are maintained, it will provide an Owner with copies on request during the inspection if the entire request is limited to no more than 25 pages. The Association will charge \$ .10 per page for copies made on its copier and may charge \$20.00 per hour of staff time if more than 30 minutes of staff time is required to respond to an Owner's inspection related needs related to any single request. If the document copying amounts to more than 25 pages, the Association can wait until all documents are identified by Owner and make copies for pickup/delivery within 2 business days. If an outside copying service is required to meet the requirements of the Owner's request, the Owner agrees to pay the actual, invoiced cost for that service.

The Owner may, at no cost, use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member with a copy of such records

RECORDED ASSOCIATION GOVERNING DOCUMENTS – The Association shall keep a stock of printed copies of the Association Governing Documents which are recorded in the Official Records of Okaloosa County in the Association management offices for distribution to Owners upon request. The Association shall make them available for payment of the cost of production for each set.

#### **AUTHORITY**

Fla. Stat. § 720.303

(4) Official records. — The association shall maintain each of the following items, when applicable, which constitute the official records of the association:

(a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the association is obligated to maintain, repair, or replace.

(b) A copy of the bylaws of the association and of each amendment to the bylaws.

(c) A copy of the articles of incorporation of the association and of each amendment thereto.

(d) A copy of the declaration of covenants and a copy of each amendment thereto.

(e) A copy of the current rules of the homeowners' association.

(f) The minutes of all meetings of the board of directors and of the members, which minutes must be retained for at least 7 years.

(g) A current roster of all members and their mailing addresses and parcel identifications. The association shall also maintain the electronic mailing addresses and the numbers designated by members for receiving notice sent by electronic transmission of those members consenting to receive notice by electronic transmission. The electronic mailing addresses and numbers provided by unit owners to receive notice by electronic transmission shall be removed from association records when consent to receive notice by

electronic transmission is revoked. However, the association is not liable for an erroneous disclosure of the electronic mail address or the number for receiving electronic transmission of notices.

(h) All of the association's insurance policies or a copy thereof, which policies must be retained for at least 7 years.

(i) A current copy of all contracts to which the association is a party, including, without limitation, any management agreement, lease, or other contract under which the association has any obligation or responsibility. Bids received by the association for work to be performed must also be considered official records and must be kept for a period of 1 year.

(j) The financial and accounting records of the association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least 7 years. The financial and accounting records must include:

1. Accurate, itemized, and detailed records of all receipts and expenditures.

2. A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.

3. All tax returns, financial statements, and financial reports of the association.

4. Any other records that identify, measure, record, or communicate financial information.

(k) A copy of the disclosure summary described in s. 720.401(1).

(l) All other written records of the association not specifically included in the foregoing which are related to the operation of the association.

(5) Inspection and copying of records. — The official records shall be maintained within the state for at least 7 years and shall be made available to a parcel owner for inspection or photocopying within 45 miles of the community or within the county in which the association is located within 10 business days after receipt by the board or its designee of a written request. This subsection may be complied with by having a copy of the official records available for inspection or copying in the community or, at the option of the association, by making the records available to a parcel owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. If the association has a photocopy machine available where the records are maintained, it must provide parcel owners with copies on request during the inspection if the entire request is limited to no more than 25 pages. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized representative with a copy of such records. The association may not charge a fee to a member or his or her authorized representative for the use of a portable device.

(a) The failure of an association to provide access to the records within 10 business days after receipt of a written request submitted by certified mail, return receipt requested,

creates a rebuttable presumption that the association willfully failed to comply with this subsection.

(b) A member who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply with this subsection. The minimum damages are to be \$50 per calendar day up to 10 days, the calculation to begin on the 11th business day after receipt of the written request.

(c) The association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections, but may not require a parcel owner to demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel owner's right to inspect records to less than one 8-hour business day per month. The association may impose fees to cover the costs of providing copies of the official records, including the costs of copying and the costs required for personnel to retrieve and copy the records if the time spent retrieving and copying the records exceeds one-half hour and if the personnel costs do not exceed \$20 per hour. Personnel costs may not be charged for records requests that result in the copying of 25 or fewer pages. The association may charge up to 25 cents per page for copies made on the association's photocopier. If the association does not have a photocopy machine available where the records are kept, or if the records requested to be copied exceed 25 pages in length, the association may have copies made by an outside duplicating service and may charge the actual cost of copying, as supported by the vendor invoice. The association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members. Notwithstanding this paragraph, the following records are not accessible to members or parcel owners:

1. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including, but not limited to, a record prepared by an association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.
2. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a parcel.
3. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term "personnel records" does not include written employment agreements with an association or management company employee or budgetary or financial records that indicate the compensation paid to an association or management company employee.
4. Medical records of parcel owners or community residents.
5. Social security numbers, driver license numbers, credit card numbers, electronic mailing addresses, telephone numbers, facsimile numbers, emergency contact information, any addresses for a parcel owner other than as provided for association notice requirements, and other personal identifying information of any person, excluding the person's name, parcel designation, mailing address, and

property address. Notwithstanding the restrictions in this subparagraph, an association may print and distribute to parcel owners a directory containing the name, parcel address, and all telephone numbers of each parcel owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this subparagraph. The association is not liable for the disclosure of information that is protected under this subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

6. Any electronic security measure that is used by the association to safeguard data, including passwords.

7. The software and operating system used by the association which allows the manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.