

# HindmanSanchez

## 38-33.3-317. Association records.

- (1)
  - (a) The association shall keep financial records sufficiently detailed to enable the association to comply with section 38-33.3-316 (8) concerning statements of unpaid assessments.
  - (b) The association shall keep as permanent records minutes of all meetings of unit owners and the executive board, a records of all actions taken by the unit owners or executive board by written ballot or written consent in lieu of a meeting, a record of all actions taken by a committee of the executive board in place of the executive board on behalf of the association, and a record of all waivers of notices of meetings of unit owners and of the executive board or any committee of the executive board.
  - (c)
    - (i) The association or its agent shall maintain a record of unit owners in a form that permits preparation of a list of the names and addresses of all unit owners, showing the number of votes each unit owner is entitled to vote.
    - (ii) Notwithstanding section 38-33.3-117(1)(l), this paragraph (c) shall not apply to a unit, or the owner thereof, if the unit is a time-share unit, as defined in section 38-33-110(7).
  - (d) The association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.
- (2)
  - (a) Except as otherwise provided in paragraph (b) of this subsection (2), all financial and other records shall be made reasonably available for examination and copying by any unit owner and such owner's authorized agents.
  - (b)(1) Notwithstanding paragraph (a) of this subsection (2), a membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to a unit owner's interest as a unit owner without consent of the executive board.
  - (II) Without limiting the generality of subparagraph (I) of this paragraph (b), without the consent of the executive board, a membership list or any part thereof may not be:
    - (A) Used to solicit money or property unless such money or property will be used solely to solicit the votes of the unit owners in an election to be held by the association;
    - (B) Used for any commercial purpose; or
    - (C) Sold to or purchased by any person.
- (3) The association may charge a fee, which may be collected in advance but which shall not exceed the association's actual cost per page, for copies of association records.
- (4) As used in this section, "reasonably available" means available during normal business hours, upon notice of five business days, or at the next regularly scheduled meeting if such meeting occurs within thirty days after the request, to the extent that:

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- (a) The request is made in good faith and for a proper purpose;
  - (b) The request describes with reasonable particularity the records sought and the purpose of the request; and
  - (c) The records are relevant to the purpose of the request.
- (5) In addition to the records specified in subsection (1) of this section, the association shall keep a copy of each of the following records at its principal office:
- (a) Its articles of incorporation, if it is a corporation, or the corresponding organizational documents if it is another form of entity;
  - (b) The declaration;
  - (c) The covenants;
  - (d) Its bylaws;
  - (e) Resolutions adopted by its executive board relating to the characteristics, qualifications, rights, limitations, and obligations of unit owners or any class or category of unit owners;
  - (f) The minutes of all unit owners' meetings, and records of all action taken by unit owners without a meeting, for the past three years;
  - (g) All written communications within the past three years to unit owners generally as unit owners;
  - (h) A list of the names and business or home addresses of its current directors and officers;
  - (i) Its most recent annual report, if any; and
  - (j) All financial audits or reviews conducted pursuant to section 38-33.3-303(4)(b) during the immediately preceding three years.
- (6) This section shall not be construed to affect:
- (a) The right of a unit owner to inspect records:
    - (i) Under corporation statutes governing the inspection of lists of shareholders or members prior to an annual meeting; or
    - (ii) If the unit owner is in litigation with the association, to the same extent as any other litigant; or
  - (b) The power of a court, independently of this article, to compel the production of association records for examination on proof by a unit owner of proper purpose.
- (7) This section shall not be construed to invalidate any provision of the declaration, bylaws, the corporate law under which the association is organized, or other documents that more broadly defines records of the association that are subject to inspection and copying by unit owners, or that grants unit owners freer access to such records; except that the privacy protections contained in paragraph (b) of subsection (2) of this section shall supersede any such provision.