

LEGAL



Records Inspections

BY MARK FRIEDMAN, BOARD CERTIFIED IN CONDOMINIUM AND PLANNED DEVELOPMENT LAW

One of the most common sources of disputes between condominium associations and unit owners involves official records requests. Fortunately, Section 718.111(12), Florida Statutes, provides a roadmap for associations to follow. Unfortunately, most managers and board members are not looking at the map.

When a unit owner makes a written request to inspect or copy official records, the association must make the records available within ten (10) working days after receipt of the request. While the term “working days” is not defined in the statute, consider it to be “business days”. Therefore, Saturday, Sunday, and holidays such as Labor Day, Independence Day and other non-business days, would not count. Failing to do so can expose the association to potential fines from the Department of Business and Professional Regulation, statutory penalties, and unnecessary conflict.

The first step is to carefully review the request. Associations should determine exactly what records are

being sought and whether the requested documents constitute “official records” under the statute. If the request is unclear, the association may contact the owner to seek clarification or seek guidance from legal counsel. The request should be to “inspect”, not a demand that documents be mailed or emailed to the owner.

Next, the association should promptly acknowledge receipt of the request. While not required by statute, confirming receipt helps establish a paper trail and demonstrates that the association is acting in good faith especially in a subsequent challenge.

Associations should then gather the responsive records and review them before production. Certain records are protected from owner inspection. Examples include attorney-client privileged communications, attorney work product relating to pending litigation, information obtained in connection with the approval of a lease, sale, or transfer of a unit, and person-

al identifying information such as Social Security numbers, driver's license numbers, telephone numbers, and other information listed in the statute. When records contain both accessible and protected information, the association should redact the protected portions rather than withholding the document entirely. If you are ever thinking of redacting a record check with your legal counsel first to ensure you are doing so properly.

Associations should also remember that the statute permits reasonable rules regarding the frequency, time, location, notice, and manner of record inspections. Consistent procedures help ensure that all owners are treated fairly and uniformly. Such rules also help prevent unit owners from abusing this statutory right.

For owners, specificity is important. A narrowly tailored request is more likely to result in a prompt and complete response.

A relatively recent change to Florida law requires associations

responding to records requests to provide a checklist identifying the records that were produced and those that were not made available. The checklist itself becomes an official record that must be maintained by the association for seven years.

The best practice for both associations and owners is cooperation. Most records disputes arise from misunderstandings, delays, or poor communication rather than intentional misconduct. By responding promptly, preserving records, and following the statutory requirements, associations can reduce disputes and improve transparency within the community.

Mark Friedman, B.C.S. is a Shareholder with the law firm of Becker and is recognized by the Florida Bar as a specialist in Condominium and Planned Development Law. This article is intended for educational purposes only. If you have an issue with a records inspection, please consult your association attorney. Mr. Friedman may be reached at MFriedman@BeckerLawyers.com.

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