

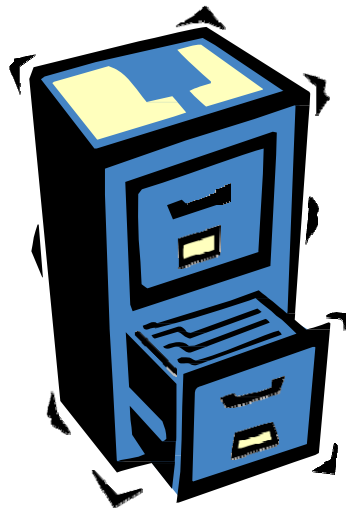
OFFICIAL RECORDS OF CONDOMINIUM ASSOCIATIONS

**DEPARTMENT OF
BUSINESS AND PROFESSIONAL REGULATION
Division of Florida Condominiums, Timeshares and Mobile Homes
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OFFICIAL RECORDS

Section 718.111(12) of the Condominium Act and Rules 61B-22.002, 61B-22.003(3), 61B-23.002(5) and 61B-23.0021(13) of the Florida Administrative Code provide guidelines for the maintenance and inspection of the association's official records. Florida law requires that condominiums maintain the official records of the association within the state for at least 7 years. The records of the association shall be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located. However, such distance requirement does not apply to an association governing a timeshare condominium. Please refer to the back of this information sheet for a list of records the condominium associations must maintain, some of which must be maintained permanently.

INSPECTION



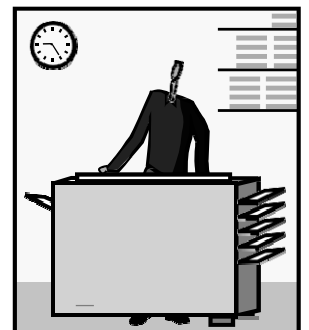
An association's official records must be open for inspection by each association member or the association member's authorized representative at all reasonable times. The records must be made available within ten (10) working days after the board or its designee receives a written request. Associations may not require that unit owners state a reason or purpose for the inspection. This paragraph may be complied with by having a copy of the official records of the association available for inspection or copying on the condominium property or association property, or the

association may offer the option of making the records available to a unit owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. The association is not responsible for the use or misuse of the information provided to an association member or his or her authorized representative pursuant to the compliance requirements of this chapter unless the association has an affirmative duty not to disclose such information pursuant to this chapter.

COPIES

The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member or authorized representative of such member. A fee cannot be charged simply for the inspection of records. Reasonable rules regarding the frequency, time, location, notice and manner of record inspections and copying may be adopted by the association. The tenant of an association member's unit is authorized to inspect and copy (only) the bylaws and rules of an association.

In order to ensure the availability of association documents to unit owners and prospective purchasers, associations must maintain an adequate number of copies of the declaration of condominium, articles of incorporation, bylaws, rules and all amendments to those documents. In addition the year-end annual financial information and



a current copy of "*Frequently Asked Questions and Answers*" sheet prepared as required by section 718.111(12)(a), Florida Statutes must be available for distribution upon request. The association may charge the actual cost of preparing and furnishing copies of these particular documents.

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 member or his or her authorized representative for the use of a portable device.

An association with 150 or more units that does not manage timeshare units must provide certain documents on the association's website (See 718.111(12)(g)F. S. for a list of documents required to be on the website)).

The website must be independently owned and operated by the association or operated by a third-party provider with whom the association has the right to operate a web page dedicated to the association's activities, notices, and records.

The association must provide an owner, upon request, with a username and password to the protected sections of the association's website that contain any notices, records, or documents that must be electronically provided.

In order to implement the website requirement, DBPR must include in its next condominium association annual fee statement a notice informing condominium associations of 150 or more units of the requirement to create a website for association documents that is operational no later than January 1, 2019.

Also, associations with 150 or more units may make records available through an application that can be downloaded on a mobile device as an alternate option to posting records on a website.

DENIAL OF ACCESS

An association must make its books and records available to a unit owner or the unit owner's designated representative within ten (10) working days of the owner's written request. If an association fails to provide requested records within ten (10) working days after receipt of a written request, the association is presumed to have willfully failed to comply with the law. The association's noncompliance entitles the unit owner to seek actual or minimum damages. Section 718.111(12)(c), Florida Statutes provides for minimum damages of \$50 per calendar day, for up to ten days, beginning on the 11th working day after receipt of the written request. Such damages must be awarded by a court of law. A unit owner who prevails in court may also recover reasonable attorney's fees from the person in control of the records who knowingly denied access. The failure of the board to allow inspection of books and records constitutes a dispute for which a unit owner may either file a complaint with the Division or petition the Division for alternative dispute resolution.

Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. [718.501](#)(1)(d).

Destruction of any official record of a condominium association in furtherance of a crime is punishable as tampering with evidence pursuant to s. 918.13, F.S., (Criminal Procedure & Correction) or as obstruction of justice pursuant to s. 843.02, F.S., (Obstructing Justice).

A PRACTICAL GUIDE TO REQUESTING BOOKS AND RECORDS

How does the typical owner go about requesting and accessing the books and records of the condominium association? Most associations have planned for and are ready to provide books and records to unit owners when they are requested for review. If your condominium association has established a set of rules and regulations addressing your right to inspect the books and records and the method required to access them, you should carefully read these regulations before making your request and follow them carefully.

In spite of your careful adherence to procedure, unforeseen problems may arise. It is always prudent to retain a record of your request in the event a misunderstanding or dispute arises at a later date as to whether or when your request was made. **Always put your request in writing.**



In order to establish at a later date that you actually made the request, you must be able to show that the appropriate parties actually received the request. There are two ways to accomplish this:

- 1) If you are on the property and you make your request directly to the management office, put the request in writing and present it to the person in charge of the office. Make two original requests and ask the person who accepts the request to sign and date both letters at the bottom or in the margin. Leave one letter with the person who signed for your request and take the other one with you for your files.
- 2) If you mail your request, mail it **certified return receipt requested**. Keep a copy of the letter with the return receipt for your files.

Be specific. Remember that most condominium associations are run like businesses. The management staff will need to understand in clear language what records you wish to review and whether you will want copies.

Specify the date and time you would like to conduct your review. The statute states that the association is required to make the books and records available at reasonable times. Reasonableness can be relative. For example, if the established hours for review end at 5:00 p.m. and you arrive at 4:00 p.m. to conduct a review that will take you past closing time, it may not be considered "reasonable" to expect office personnel to stay after working hours to

accommodate you, unless that has been planned in advance. Rescheduling for the next day to complete the review may be the prudent thing to do.

Condominium managers and other office personnel are understandably cautious that records are only reviewed by those who are authorized. If you intend to have a relative, friend or business associate conduct a review for you, there are some basic measures that you may take to avoid misunderstandings:

- Notify the association in advance and in writing that your agent or representative will conduct the review.
- Clearly identify your agent or representative and state that he or she will present appropriate credentials upon arrival.

If you have done all of the above and still are not obtaining cooperation, you may file a complaint with the Division of Florida Condominiums, Timeshares and Mobile Homes at 2601 Blair Stone Road, Tallahassee, Florida 32399-1031. Again, be sure to include a clear explanation of your problem and copies of your documentation. The Division cannot enforce the provisions of Chapter 718, Florida Statutes unless it has evidence that a violation has occurred. **The Division cannot provide legal representation for you.** It does, however, have the authority to fine an association that has violated the statute, and it is authorized to order the association to provide access to the official records.



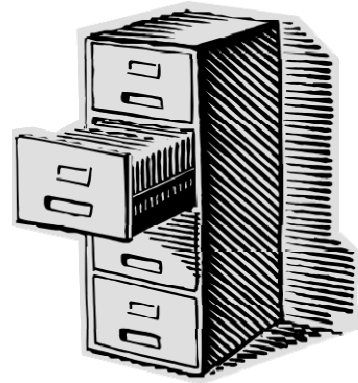
Another option, if you have not been permitted to review books and records to which you are entitled, would be to pursue mediation or alternative dispute resolution, as described in Section 718.1255 of the Condominium Act. The Division of Florida Condominiums, Timeshares and Mobile Homes maintain several brochures and booklets describing what is involved in filing a request for mediation or alternative dispute resolution. Generally, for disputes regarding access to official records you are required to file a petition for alternative dispute resolution before the dispute will be heard by a court. After the arbitrator issues a final order, you, or the association, may appeal in court within 30 days.

In most cases unit owners will not encounter problems with their requests to view books and records. In those few cases when problems do arise a clear knowledge of the applicable statutes and a methodical approach to the request will assist you in ensuring that your rights are observed.

For more information, you may contact the Division of Florida Condominiums, Timeshares, and Mobile Homes at (850) 488-1122 or (800) 226-9101 or visit us on the web at www.MyFloridaLicense.com/condo

THE OFFICIAL RECORDS OF AN ASSOCIATION MUST INCLUDE THE FOLLOWING ITEMS:

1. Copies of the plans, permits, warranties and other items provided by the developer **(PERMANENTLY MAINTAINED)**.
2. A photocopy of the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration. **(PERMANENTLY MAINTAINED)**.
3. A photocopy of the recorded bylaws of the association and each amendment to the bylaws. **(PERMANENTLY MAINTAINED)**.
4. A certified copy of the articles of incorporation of the association, or other documents creating the association, and each amendment. **(PERMANENTLY MAINTAINED)**
5. A copy of the current rules of the association. **(PERMANENTLY MAINTAINED)**
6. Book containing minutes of all association, board and unit owner meetings. Minutes must be kept permanently **(PERMANENTLY MAINTAINED)**.
7. Current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and if known, telephone numbers. The roster must also include the email addresses and facsimile numbers of those owners who have consented to receiving communications by these means.



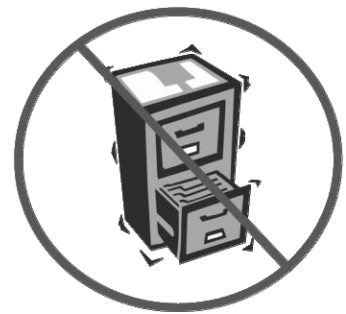
The association shall also maintain the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission. The e-mail addresses and facsimile numbers are not accessible to unit owners if consent to receive notice by electronic transmission is not provided in accordance with sub-subparagraph (c)3.e. However, the association is not liable for an inadvertent disclosure of the e-mail address or facsimile number for receiving electronic transmission of notices.

8. All current insurance policies of the association and condominiums operated by the association.
9. Current copy of any management agreement, lease or other contract under which the association is a party or the unit owners has an obligation or responsibility.
10. Bills of sale or transfer for all property owned by the association.
11. Accounting records for the association and separate accounting records for each condominium the association operates. Any person who knowingly or intentionally defaces or destroys such records, or who knowingly or intentionally fails to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. [718.501](#)(1)(d). The accounting records must include, but are not limited to:
 - a) Accurate, itemized, and detailed records of all receipts and expenditures,

- b) Current statement of account for each unit owner including the unit owner's name, the due date and amount of each assessment, the amount paid on the account and the balance due,
 - c) All audits, reviews, accounting statements, structural integrity reserve studies, and financial reports of the association. Structural integrity reserve studies must be maintained for at least 15 years after the study is completed.
 - d) All contracts for work to be performed, including bids for work to be performed which must be maintained for 1 year after receipt.
12. Ballots, sign-in sheets, voting proxies and all other papers relating to voting by unit owners. These items must be kept for a period of 1 year from the date of the election, vote, or meeting to which the document relates.
 13. All rental records when the association is acting as a rental agent.
 14. Current *Questions and Answers* sheet as described in s. 718.504.
 15. A copy of the inspection report as required in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property. Such record must be maintained by the association for 15 years after receipt of the report.
 16. Bids for materials, equipment, or services.
 17. All affirmative acknowledgements pursuant to s. 718.121.
 18. All other written records of the association not specifically included in the foregoing which are related to the operation of the association.

THE FOLLOWING RECORDS ARE NOT ACCESSIBLE TO UNIT OWNERS:

1. Records prepared by or at the direction of an association attorney which reflects legal conclusions, strategies or legal theories and which were prepared for civil or criminal litigation or adversarial administrative proceedings until the conclusion of those proceedings.
2. Certain information obtained by an association in connection with the approval of the lease, sale or some other form of transfer of a unit.
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 employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.
4. Medical records of unit owners.
5. Social security numbers, driver's license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person. The following records are accessible by a unit owner:



The person's name, unit designation, mailing address, property address, and any address, e- mail address, or facsimile number provided to the association to fulfill the association's notice requirement. Additionally, an owner may consent in writing to the disclosure of protected information described in this subparagraph.

Notwithstanding the restrictions in this paragraph, an association may print and distribute to parcel owners a directory containing the name, parcel address, and telephone number of each parcel owner. However, an owner may exclude his or her telephone number from the directory by so requesting in writing to the association.

6. Electronic security measures that are used by the association to safeguard data, including passwords.
7. The software and operating system used by the association which allow 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.