

**OFFICIAL RECORDS INSPECTIONS FOR  
HOMEOWNER'S ASSOCIATIONS  
GOVERNED BY CHAPTER 720 OF THE FLORIDA STATUTES**

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**Q & A**

**Where must an HOA keep its official records?**

They do not necessarily have to be stored on-site. They must be available for inspection or photocopying within 45 miles of the community or within the community's county.

**How long do you have to respond?**

The records must be "made available" for inspection within 10 business days after receipt of the board or its designee of a written request. (Note that the request does not necessarily have to be certified).

**What does it mean to make records available?**

The statute is not very clear. Official records "shall be made available for inspection or photocopying..." and the penalties for willful failure to comply with a records request are triggered when an association fails "to provide access to the records."

Therefore it is our opinion that the Association's duty upon receiving a records request goes no further than providing access to the member, allowing the owner to come to where the documents are normally kept and inspect them in the manner they are normally organized and stored. The Association does not have to pull every record requested and mail them to an owner. The Association may simply allow inspection of the documents as they are kept in the normal course of business.

**How long must we keep records?**

For most records, at least 7 years. For documents like your governing documents and amendments, they should be kept indefinitely. Bids for contractor work should be retained for 1 year.

**Can they be electronic or printed records?**

You may make the records available electronically via the internet or by viewing the records on a computer and printed upon request. Alternatively, you may have a copy of the records printed and available for inspection or copying.

**Can an HOA charge for photocopies?**

If there is a copier available where the records are kept, you must provide copies if the entire request is 25 pages or less. However, if the request is over 25 pages, the Association may charge .25 per page for copies made on the Association's copier.

**Can an HOA charge for personnel costs for monitoring an inspection?**

Yes, if the records request results in the copying of more than 25 pages, the time spent retrieving and copying the records exceeds one-half hour, and the personnel costs do not exceed \$20 per hour.

**Does an HOA have to allow owners to use a portable scanner or their phone to take pictures of a record?**

Yes. An association must 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. You may not charge the member for using a portable device.

**Can an HOA send out for copies instead of copying them on-site?**

Yes, 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, then the association may have copies made by an outside service and may charge the actual cost of copying (make sure you get a vendor invoice.) However, the association must maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members, so if the request is for a copy of the governing documents, then it should not have to be sent out to a vendor.

**What are the penalties for failure to comply?**

If the Association fails to provide access to the records within 10 business days (not calendar days) of receiving a written request (again, not necessarily certified), then a penalty may be imposed if the member can show some evidence that the failure was "willful." Such evidence may include proof that the Association received the request via certified mail and failed to make the records available within 10 business days of the date of receipt. If the Association received the request by certified mail and fails to make the records available within 10 business days, then the law will presume that the failure was willful, unless you can show in good faith that the failure was inadvertent or that the documents could not be produced within 10 business days.

If the failure is found to be willful, the minimum damages are \$50 per calendar day up to 10 days, the calculation to begin on the 11th business day after receipt of the written request.

**Can an HOA have rules to regulate official records requests?**

Yes, and it should. An association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections. You may not require a member to demonstrate any reason for the inspection, and you may not limit the right to inspect records to less than one 8-hour business day per month.

<b>Official Records &amp; Accessible to Owners:</b> <i>(See § 720.303(4), Fla. Stat.)</i>	<b>Official Records But Not Subject to Inspection:</b> <i>(See § 720.303(5), Fla. Stat.)</i>
<p>(a) Copies of any <b>plans</b>, 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.</p> <p>(b) A copy of the <b>bylaws</b> of the association and of each amendment to the bylaws.</p> <p>(c) A copy of the <b>articles</b> of incorporation of the association and of each amendment thereto.</p> <p>(d) A copy of the <b>declaration</b> of covenants and a copy of each amendment thereto.</p> <p>(e) A copy of the current <b>rules</b> of the homeowners' association.</p> <p>(f) The <b>minutes</b> of all meetings of the board of directors and of the members, which minutes must be retained for at least <u>7 years</u>. <i>*This includes "unapproved" minutes.</i></p> <p>(g) A current <b>roster</b> of all members and their mailing addresses and parcel identifications and the e-mail addresses designated by members for receiving notice by electronic transmission.</p> <p>(h) All of the association's <b>insurance policies</b> or a copy thereof, which policies must be retained for at least <u>7 years</u>.</p> <p>(i) A current copy of all <b>contracts</b> 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. <b>Bids</b> received by the association for work to be performed must also be considered official records and must be kept for a period of <u>1 year</u>.</p> <p>(j) The <b>financial and accounting records</b> of the association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least <u>7 years</u>. The financial and accounting records must include:</p> <ol style="list-style-type: none"> <li>1. Accurate, itemized, and detailed records of all <b>receipts and expenditures</b>.</li> <li>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</li> </ol>	<ol style="list-style-type: none"> <li>1. Any record protected by the <b>lawyer-client privilege</b> as described in s. <a href="#">90.502</a> and any record protected by the <b>work-product</b> 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. <i>*Communications with Association counsel will be protected by lawyer-client privilege.</i></li> <li>2. Information obtained by an association in connection with the <b>approval of the lease</b>, sale, or other transfer of a parcel. <i>*Leasing applications, backgrounds checks, lease, etc.</i></li> <li>3. <b>Personnel records</b> 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. <i>*Management contracts and compensation to managers are records open for inspection.</i></li> <li>4. <b>Medical records</b> of parcel owners or community residents. <i>*E.g., information obtained to verify whether or not a reasonable accommodation for a disability should be made pursuant to the Fair Housing Act.</i></li> <li>5. <b>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</b>, excluding the person's name, parcel</li> </ol>

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 written **financial records** that identify, measure, record, or communicate financial information.

(k) A copy of the **disclosure summary** described in s. [720.401](#)(1). *\*This is the disclosure that purchasers will be subject to mandatory membership in the Association.*

(l) All other **written records** of the association not specifically included in the foregoing which are related to the operation of the association. *\*This is very broad and includes anything in writing related to the operation of the association. This may include e-mails to or from an official "Association" e-mail address (e.g., BLACKACREHOA@AOL.COM) and e-mails between the Board and management if related to the operation of the association, but at present there are arbitration decisions indicating that emails between board members on the board members' personal computers are not official records. However, because these e-mails may still be subject to discovery during litigation, it is not advisable for Board members to use existing work or personal e-mail addresses for Association business; setting up a separate e-mail address for the member's Association-related communication is recommended. It also goes without saying that nothing should be said in an e-mail which would make the author uncomfortable if read in court.*

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 (unless owner has requested in writing that his or her telephone numbers not be included in the directory).

*\*Unless the Association has printed and distributed a directory as described here, individual members' phone numbers are not open to inspection.*

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, but the data itself is part of the official records of the association. *E.g., you may have an excel spreadsheet for Association financial data. You should provide a printed copy of the data, but you do not have to provide it in a format which allows that data to be manipulated.*

(d) The association or its authorized agent is not required to provide a **prospective purchaser or lienholder** with information about the residential subdivision or the association other than information or documents required by this chapter to be made available or disclosed (*i.e., estoppel showing amounts due, disclosure summary*). The association or its authorized agent may charge a reasonable fee to the prospective purchaser or lienholder or the current parcel owner or member for providing good faith responses to requests for information by or on behalf of a prospective purchaser or lienholder, other than that required by law, if the fee does not exceed \$150 plus the reasonable cost of photocopying and any attorney fees incurred by the association in connection with the response.

***If you need assistance creating rules and regulations for your Association regarding records inspections, or if you are in doubt regarding whether or not an item is an official record or must be available for inspection, please contact our office at the number listed above or by e-mail to***

***[Mary@Jamesdefurio.com](mailto:Mary@Jamesdefurio.com). We would be happy to assist you.***