

+ MERCERTRIGIANI

ASSOCIATION BOOKS & RECORDS

Overview

Section 55.1-1815 of the Virginia Property Owners' Association Act and Section 55.1-1945 of the Virginia Condominium Act establish community association obligations for responding to member requests to copy and inspect Association books and records.

Evaluating the Request

Requests must be (1) by a member in good standing and (2) for a proper purpose related to membership in the association. Although the statutes do not define what constitutes a *proper purpose*, the statutes do provide that membership lists and addresses cannot be used for purposes of pecuniary gain or commercial solicitation.

All books and records kept by or on behalf of the association may be requested *except* for books and records that concern

- Personnel matters or member files relating to specific individuals;
- Contracts under negotiation;
- Pending or probable litigation or other formal proceedings before a government tribunal;
- Communications protected by the attorney-client privilege or work product doctrine;
- Communications, documents, and similar records protected by confidentiality of executive meetings;
- Information that if disclosed is in violation of law.

Books and records subject to the foregoing exclusions may be withheld from examination and copying – but only if the exclusion applies to the *entire content* of such books and records. If a portion of a book and record may not be withheld, the book and record must be redacted to the extent permitted and otherwise provided to the member.

Allowing Access

Associations must make books and records available for examination and copying by Association members (i) during reasonable business hours or at a mutually convenient time and location and (ii) upon five business days' written notice for associations managed by a common interest community manager or ten business days' written notice for self-managed associations.

The requesting member must reimburse the Association for any *reasonable costs* incurred by the Association. Associations may also impose and collect a charge but *only if* the executive board has adopted a cost schedule that (i) specifies the charges for materials and labor, (ii) applies equally to all members, and (iii) is provided to the requesting member at the time of request for access to books and records.

Boards of directors should adopt a policy for requesting access to Association books and records that incorporates a cost schedule and a form for making requests.