POLICY NO. 5: ASSOCIATION RECORDS

1. Introduction. Colorado law requires the Association to adopt policies, procedures, and rules and regulations concerning inspection of Association records by Owners. C.R.S. § 38-33.3-209.5(1)(b)(V). In addition, Colorado law contains detailed records requirements. *See* C.R.S. §§ 39-33.3-317 and -209.4(2). In order to comply with these requirements, the Association has adopted this records policy.

2. Annual Disclosures.

2.1. Within ninety days after the end of each fiscal year (September 30), the Association shall make certain information available to the Owners, which shall be known as the "Annual Disclosure."

2.2. The Annual Disclosure shall be accomplished by one of the following means: Posting on an internet web page with accompanying notice of the web address sent to each Owner via first-class mail or e-mail; the maintenance of a literature table or binder at the Association's principal place of business; or mail or personal delivery to the Owners.

2.3. The Association will give each Owner notice when the Annual Disclosure is available indicating the method of disclosure via first class mail or e-mail.

2.4. The cost of distributing the Annual Disclosure shall be accounted for as a common expense liability in the Association budget.

2.5. The Board of Directors may delegate the responsibility for preparing and distributing the Annual Disclosure to the financial administrator, but the Annual Disclosure will be approved by the secretary each year prior to distribution.

2.6. The Annual Disclosure shall consist of the following:

(i) The date on which the association's fiscal year commences;

(ii) The association's operating budget for the current fiscal year;

(iii) A list, by unit type, of the association's current assessments, including both regular and special assessments;

(iv) The association's annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current Annual Disclosure;

(v) The results of the association's most recent available financial audit or review;

(vi) A list of all association insurance policies, including, but not limited to, property, general liability, association director and officer professional liability, and fidelity policies. Such list shall include the company names, policy limits, policy deductibles, additional named insureds, and expiration dates of the policies listed;

(vii) All the association's bylaws, articles, and rules and regulations;

(viii) The minutes of the Board of Directors and member meetings for the fiscal year immediately preceding the current Annual Disclosure; and

(ix) The association's responsible governance policies adopted under Colorado Revised Statute § 38-33.3-209.5.

3. Required Records. In addition to the records required as part of the Annual Disclosure and any records specifically defined in the Association's governing documents as they may be amended from time to time, the Association must maintain the following, all of which shall be deemed to be the sole records of the Association for purposes of document retention and production to owners (the "Records"):

(a) Detailed records of receipts and expenditures affecting the operation and administration of the association;

(b) Records of claims for construction defects and amounts received pursuant to settlement of those claims;

(c) Minutes of all meetings of its owners and Board of Directors, a record of all actions taken by the owners or Board of Directors without a meeting, and a record of all actions taken by any committee of the Board of Directors;

(d) Written communications among, and the votes cast by, Board of Directors members that are:

(I) Directly related to an action taken by the board without a meeting pursuant to Colorado Revised Statute § 7-128-202; or

(II) Directly related to an action taken by the board without a meeting pursuant to the association's bylaws;

(e) The names of owners in a form that permits preparation of a list of the names of all owners and the physical mailing addresses at which the association communicates with them, showing the number of votes each unit owner is entitled to vote;

(f) Its current declaration, covenants, bylaws, articles of incorporation, rules and regulations, responsible governance policies adopted pursuant to Colorado Revised Statute § 38-33.3-209.5, and other policies adopted by the Board of Directors;

(g) Financial statements as described in Colorado Revised Statute § 7-136-106 (requiring reasonable detail of the association's assets and liabilities and results of its operations) for the past three years and tax returns of the association for the past seven years, to the extent available;

(h) A list of the names, electronic mail addresses, and physical mailing addresses of its current Board of Directors members and officers;

(i) Its most recent annual report delivered to the secretary of state, if any;

(j) Financial records sufficiently detailed to enable the association to comply with Colorado Revised Statute § 38-33.3-316(8) concerning statements of unpaid assessments;

(k) The association's most recent reserve study, if any;

(l) Current written contracts to which the association is a party and contracts for work performed for the association within the immediately preceding two years;

(m) Records of Board of Directors or committee actions to approve or deny any requests for design or architectural approval from Owners;

(n) Ballots, proxies, and other records related to voting by Owners for one year after the election, action, or vote to which they relate;

(o) Resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members; and

(p) All written communications within the past three years to all owners generally as owners.

To the extent that any of the Records are not available going backward from the adoption of this policy, it shall be sufficient to maintain them going forward, and in that case the secretary shall maintain a record of unavailable Records and include it with the Records.

4. Details Concerning Action Without Meeting.

4.1. Paragraph 3(d) above requires the Association to maintain written communications, and the votes cast by, Board of Directors members that are related to certain actions taken by the board without a meeting. To clarify this requirement, the members of the Board of Directors are permitted to communicate generally between and among themselves with respect to Association business without this constituting a meeting that must comply with meeting requirements. The Board of Directors may also be permitted to take action on behalf of the Association without a meeting under the Bylaws and applicable Colorado law. However, to the extent that the Board of Directors does take action on behalf of the Association without a meeting, the written communications relating to that action (such as e-mail correspondence) must be maintained as Records.

4.2. The secretary is responsible for maintaining such written communications and this duty may be delegated to the managing agent. The president may issue protocols for complying with this rule such as that Board of Directors members must utilize special e-mail accounts for communications between and among themselves, that communications must take place in a designated electronic forum, or that all communications must be copied to a certain e-mail account for tracking purposes.

4.3. In most cases, the Board of Directors should take action at a formal meeting.

4.4. Nothing herein shall prevent the members of the Board of Directors from discussing outside of a formal meeting matters that will come before the Board of Directors at a formal meeting, and, so long as the actual action is taken at a meeting, any written communications relating to such discussions need not be maintained as Records.

4.5. To the extent that the Board of Directors authorizes an agent such as a managing agent, committee member, or officer, to take action on behalf of the Association, written communications to or from that agent in carrying out the authorized action need not be maintained by the Association.

5. Owner Right to Inspection or Production of Records and Request Process.

5.1. Subject to the limitations stated below, the Records must be available for examination and copying by an Owner or the Owner's authorized agent.

5.2. An Owner wishing to obtain any Record or the Records must submit a written request to the Association, describing with reasonable particularity the Record or Records sought, at least ten (10) calendar days prior to inspection or production of the documents. The request shall state whether the Owner wishes to inspect the Record or Records or wishes to have them produced. The requirement that a request be stated with "reasonable particularity" means that the scope of a request shall be limited to a limited number of Records rather than simply a request for all Records.

5.3. To the extent that an Owner requests to inspect a Record or Records, the Association shall notify the Owner of a date, time, and place where such inspection may occur. The inspection may be limited to normal business hours or the next regularly scheduled Board of Directors meeting if the meeting occurs within thirty days after the request.

5.4. To the extent that an Owner requests production of a Record or Records, the Owner shall designate whether the Owner wishes to receive the documents by photocopying or through a means of electronic transmission, if available. The Association may impose a reasonable charge for copies of Records. The charge will be $15 per hour or fraction thereof for copying plus 20 cents per page. The Association may require an Owner to pay the charge, or a deposit of the estimated amount thereof, in advance. The ten days' notice provided in paragraph 5.2 above shall run from when the charge or deposit is paid, not from the date of the request. However, the Association shall provide the Owner with the amount of the charge or deposit amount within ten days following any request.

6. Limitations on Record Requests.

6.1. Membership Lists. A membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to an Owner's interest as an Owner without consent of the Board of Directors. A request by an Owner for a membership list or any part thereof shall be accompanied by a statement of the purpose for the request so that the Association can ensure compliance with this provision. Without limiting the generality of the foregoing, without the consent of the Board of Directors, a membership list or any part thereof may not be:

(i) Used to solicit money or property unless such money or property will be used solely to solicit the votes of the Owners in an election to be held by the association;

(ii) Used for any commercial purpose; or

(iii) Sold to or purchased by any person.

6.2. Other Documents. The Association may withhold Records from Owners to the extent that they are or concern:

(i) Architectural drawings, plans, and designs, unless released upon the written consent of the legal owner of the drawings, plans, or designs;

(ii) Contracts, leases, bids, or records related to transactions to purchase or provide goods or services that are currently in or under negotiation;

(iii) Communications with legal counsel that are otherwise protected by the attorney-client privilege or the attorney work product

doctrine, including fee agreements with legal counsel and legal invoices, even if the communication relates to action taken by the Board of Directors without a meeting;

(iv) Disclosure of information in violation of law;

(v) Records of an executive session of the Board of Directors;

(vi) Individual units other than those of the requesting owner;

(vii) Personnel, salary, or medical records relating to specific individuals; or

(viii) Personal identification and account information of members, including bank account information, telephone numbers, electronic mail addresses, driver's license numbers, and social security numbers.

6.3. Additional Limitations. The Association is not obligated to compile or synthesize information for Owners. Records and the information contained within those Records shall not be used for commercial purposes. The Association may adopt such rules concerning the publication or dissemination of Records by Owners as the Association deems reasonably necessary. The Association may request reasonable information or assurances from Owners prior to disclosing Records in order to ensure compliance with the stated limitations.

7. Statement of Account.

7.1. The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's unit.

7.2. The charge for preparing such statement shall be $50.00.

7.3. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and payment of the charge.

7.4. The statement shall be sent to the Owner or holder of a security interest or his or her designee, personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party.

8. Audit or Review of Financial Information.

8.1. With respect to paragraph 2.6(v) above, the books and records of the Association may be subject to an audit, using generally accepted auditing standards, or a review, using

statements on standards for accounting and review services, by an independent and qualified person selected by the Board of Directors. Such person need not be a certified public accountant except in the case of an audit. A person selected to conduct a review shall have at least a basic understanding of the principles of accounting as a result of prior business experience, education above the high school level, or bona fide home study. The audit or review report shall cover the Association's financial statements, which shall be prepared using generally accepted accounting principles or the cash or tax basis of accounting.

8.2. An audit or review may be initiated at any time in the discretion of the Board of Directors.

8.3. An audit shall be required when both of the following conditions are met:

(i) The Association has annual revenues or expenditures of at least two hundred fifty thousand dollars; and

(ii) An audit is requested by the Owners of at least one-third of the units represented by the Association.

8.4. A review shall be required when requested by the Owners of at least one-third of the units represented by the Association.

8.5. In addition to the requirement to disclose an audit or review as part of the Annual Disclosure, copies of any audit or review shall be made available upon request to any Owner beginning no later than thirty days after its completion.

9. Disclosure of Budget. Within ninety (90) calendar days after adoption of any proposed budget, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the bylaws. The Board of Directors shall give notice to the Owners of the meeting as allowed for in the bylaws.

10. Disclosure of Secret Ballot Information. There are provisions of the applicable law pertaining to disclosure of voting information that could be read in conflict. On the one hand, C.R.S. § 38-33.3-110 indicates circumstances under which votes may or must be taken by secret ballot, and further requires "results of a vote taken by secret ballot shall be reported without reference to the names, addresses, or other identifying information of unit owners participating in such vote." On the other hand, C.R.S. § 38-33.3-317, which is reflected in Paragraph 3(n) above, requires the Association to disclose "[b]allots, proxies, and other records related to voting by Owners for one year after the election, action, or vote to which they relate." The Association interprets the law to mean that the general requirement to disclose ballots does not apply to the disclosure of secret ballots because that would absurdly defeat the purpose of the secret ballots. Rather, the Association's interpretation is that the more specific provisions of Section 110 cited above apply in the case of secret ballots and the Association will only disclose such information as is provided in that section of the law with respect to secret ballots and related information.

11. Miscellaneous Provisions.

11.1. With respect to paragraph 3(a) and (j) above, the Records shall be considered sufficiently "detailed" if they include a record of the date, amount, subject, and payee for each transaction. The Records need not include actual receipts and evidence of payment.

11.2. With respect to paragraph 3(n) above, the secretary shall be responsible for collecting the required documents relating to any votes. This duty may be delegated to the managing agent.

CERTIFICATION:

The foregoing policy was adopted effective ____July 29, 2023_____ (date).

_____Brad Lingle
Secretary of the Association