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THE COMMUNITY ASSOCIATION LAW SPECIALISTS

AB 1098: Virtually Unfettered Access to Association Records - Start Preparing!

AB 1098 significantly expands the extent and scope of members' right to inspect or copy association records. Furthermore, associations are also now required to adhere to strict procedures when responding to a member's request to inspect or copy.

In general, members are entitled to inspect or copy records defined as "Association Records" and

"Enhanced Association Records."

"Association Records" include:

- Records required by *Civil Code* Sections 1365 and 1368
- Interim, unaudited financial statements
- Executed contracts
- Written Board approval of contract proposals or invoices
- Tax returns

- Reserve account balances and records of payments
 - Agenda and minutes of meetings, except executive session
 - Membership lists
 - Check registers
- "Enhanced Association Records" include:
- Invoices, receipts and cancelled checks

(Continued on page 3)

...AB 1098 - Association Records

(Continued from page 1)

- Approved purchase orders
- Credit card statements
- Statements for services rendered
- Reimbursement requests

Records must be made available for the current fiscal year and for the two previous fiscal years. Minutes must be made permanently available.

Associations must allow members to inspect or provide copies of records for the current fiscal year within 10 business days of receipt of the request, and records for the previous two fiscal years within 30 calendar days.

Associations may redact certain, limited information from its records. Associations may also charge requesting members direct and actual costs for copying and mailing the records, and for its time actually and reasonably involved in redacting information, at \$10.00 per hour, not to exceed \$200. However, strict procedures must be followed before so charging a requesting owner.

Lastly, AB 1098 imposes restrictions on associations, totally unrelated to the inspection or copying of records, from granting members exclusive use to common area. In essence,

associations cannot grant members exclusive use of common area unless 67% of the members approve the transaction.

Now more than ever it is crucial that all associations 1) adopt a records retention policy that complies with AB 1098 and generally accepted accounting practices and 2) adopt a records inspection and copying policy that will respect members' rights under AB 1098 while at the same time protect the association from potential identity theft and/or fraud. Please contact *RG&B* for sample policies and further, more specific, information on AB 1098.