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## The Trouble with Association Membership Lists

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Everyone is concerned about privacy these days. From concerns about security cracks in online communities like Facebook to websites that gather personal information like [spokeo.com](http://spokeo.com), folks are concerned about how companies keep personal information private. Our personal information is more public and more available to third parties than ever before and certainly more available than we care to think about. The HOA and Condominium Association and its members also share similar concerns about the propriety of an owner's personal information. Boards and community management companies alike are sensitive to what information to keep, what information to shred and what information must be given to other owners.

Arizona's HOA and Condo statutes require a certain level of transparency with association records, specifically anything related to the Association's finances and "other records of the association". But, what about the membership list? Does an Association have to give a homeowner the list of names and addresses of all of the homeowners?

Yes, even putting aside whether the "other records" portion of the association statutes requires it (probably), Arizona's nonprofit corporations (A.R.S. § 10-11601(C)) statute requires that the alphabetical membership list, complete with names, addresses and membership classes, be prepared and kept as part of corporate records. The language is not suggestive, but compulsory: "a corporation or its agent shall maintain a record of its members in a form that permits preparation of a list of the names and addresses of all members and in alphabetical order by class of membership showing the number of votes each member is entitled to cast and the class of memberships held by each member." The statute (A.R.S goes on to require Arizona nonprofits (and therefore most HOAs and Condos) to produce that list to any member who requests it. The list must be available for inspection and copying within 5 days of a homeowner's request.

There are a few limitations on the timely disclosure of a membership list in the nonprofit statute. Homeowners that make such a request must do so "in good faith" and the homeowner must state "a proper purpose" for which the list will be used. The Arizona statute does not define "proper purpose", but the nonprofit act does prohibit the member from using the list for any of the following: 1) to solicit money or property; 2) for any commercial purpose; or 3) to sell to any third party. If the homeowner is not openly intending to use the list for pecuniary gain, then preparing and producing the list is required by Arizona law.

The bottom line is that associations need to produce membership lists to owners/ members who request them, with names and addresses, to allow them to communicate with other members. Associations do not need to produce phone numbers or email addresses or other information under these statutes (although some associations prefer to have members communicate by email and have directories with that information).

If you have questions, contact Roger Wood or another attorney in the firm.

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