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What Are The Record Retention Obligations For My Association?

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Frequently, we receive questions from managers and directors about record retention. In addition to its governing documents, a planned community or condominium in Arizona is governed by the planned community statutes (ARS § 33-1801 et seq) or the Condominium Act (ARS § 33-1201 et seq), as well as the Nonprofit Corporations Act. Some helpful information is in these statutes, some in other sources.

Pursuant to A.R.S. 10-11601 of the Arizona Nonprofit Corporations Act, all planned community and condominium associations that are incorporated as nonprofit corporations are obligated to keep certain documents as permanent records of the corporation. These records include:

- Governing Documents (Articles, Bylaws, CC&Rs, Rules & Regulations, amendments)
- Minutes of all meetings of its members and board of directors
- Records of all actions taken by members of the board of directors without a meeting (i.e. unanimous written consent resolutions)
- Records of all actions taken by a committee of the board of directors on behalf of the corporation
- Accounting records (IRS regulations recommend that you keep all financial records for at least 7 years, including bank records and receipts)
- 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 number of votes each member is entitled to cast and the class of memberships held by each member

A.R.S. 10-11601 also requires an association to keep a copy of all of the following records at its principal office, at its known place of business, or at the office of its statutory agent:

- An association's articles of incorporation and all amendments currently in effect
- Bylaws and any amendments
- Resolutions adopted by the board of directors
- Minutes of all members' meetings and records of all actions taken by members without a meeting for the past 3 years
- All written communications to members within the past 3 years (Notices, e-mails, letters, ballots, web-pages, newsletters, etc.), including the financial

- statements furnished for the past 3 years under A.R.S. § 10-11622
- A list of the names and business addresses of the association's current directors and officers
- The association's most recent annual report
- Any and all agreements among members under A.R.S. § 10-3732

Pursuant to A.R.S. § 33-1813 (planned community) and A.R.S. § 33-1243 (condominium), an association must keep all records relating to the removal of a Board member for one year.

What about miscellaneous emails, lot file information of former owners, election materials, etc. that are not expressly covered by statute? Every Association should consider adopting a document retention policy as a means of regulating what information and records are retained, how the records are stored (e.g. paper files, electronically stored, etc.) the location of these records, and the length of time that they will be retained by the Association. Then, records can be destroyed according to the written policy at the appropriate time.

If you need assistance in developing a record retention policy for you community, please contact Kellie Callahan or any of our attorneys.