

Subject:

Requesting records from ACC

**There have been a number of inquiries as to how one requests records from the ACC administrative office. The documents in the attachment explain the procedure and are provided for your convenience.**

[ACC Office Policy and Procedures](#)

[ACC Bylaws](#)

[Texas Law](#)

### **Office policy on requesting ACC records**

#### **Alamo Country Club Owners' Association**

#### **Procedure for Member Review of Association Records**

**Purpose: The process of allowing an Association member or their representative to review the Association's records.**

Implementation and Scope:

#### Document Requests

Upon receipt of a signed request for examination of the Association's records, the Association shall make all books and records available for review, with the following conditions:

- The request must be made by certified mail, signed by the member and describing in detail what records are requested.
- The member may designate an authorized representative by signing a statement naming the representative.
- The request must contain an election either to inspect the books and records before obtaining copies or to have the association forward copies of the requested books and records.
- Only those records described in sufficient detail in the certified letter will be produced.
- An attorney's files and records relating to the Association, excluding invoices requested by the member, are not records of the association and are not subject to inspection by the member or production in a legal proceeding. If a document in an attorney's files and records relating to the association would be responsive to a legally authorized request to inspect or copy association documents, the document shall be produced. Documents that constitute an attorney's work product or a privileged conversation are not to be produced.
- The request must contain an election either to inspect the books and records before obtaining copies or to have the property owners' association forward copies of the requested books and records.

#### Actions Required

The Association, upon receipt of a valid request for documents per above, has 10 business days from the date the request was received to:

- if an inspection is requested, send written notice of dates during normal business hours that the member or their representative may inspect the requested books and records to the extent those books

and records are in the possession, custody, or control of the association; or • if copies of identified books and records are requested, produce the requested books and records

for the requesting party, to the extent those books and records are in the possession, custody, or control of the association.

- If the Association is unable to produce the books or records requested on or before the 10<sup>th</sup> business day after the date the Association receives the request, the Association must provide to the requester written notice that:
- informs the requester that the Association is unable to produce the information on or before the 10<sup>th</sup> business day after the date the Association received the request; and
- states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the 15<sup>th</sup> business day after the date notice is given.

The Association may produce books and records requested in hard copy, electronic, or other format reasonably available to the association.

The Board of Directors must adopt a records production and copying policy that prescribes the costs the Association will charge for the compilation, production, and reproduction of information requested.

The prescribed charges may include all reasonable costs of materials, labor, and overhead but may not exceed costs that would be applicable for an item under Texas Administrative Code, Title 1, Section 70.3. The required policy must be recorded as a dedicatory instrument. The Association may not charge a member for the compilation, production, or reproduction of information requested unless the policy prescribing those costs has been recorded as required.

A member is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by the policy adopted by the Association.

The Association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. The Association must estimate costs using amounts prescribed by the policy adopted by the Board of Directors. If the estimated costs are lesser or greater than the actual costs, the Association shall submit a final invoice to the member on or before the 30<sup>th</sup> business day after the date the information is delivered.

- If the final invoice includes additional amounts due from the member, the additional amounts, if not reimbursed to the Association before the 30<sup>th</sup> business day after the date the invoice is sent to the member, may be added to the member's account as an assessment.
- If the estimated costs exceeded the final invoice amount, the member is entitled to a refund, and the refund shall be issued to the member not later than the 30<sup>th</sup> business day after the date the invoice is sent to the member.

The Association is not required to release or allow inspection of any books or records that identify the dedicatory instrument violation history of an individual member, a member's personal financial information, including records of payment or nonpayment of amounts due the Association, a member's contact information, other than the member's address, or information related to an employee of the Association, including personnel files, except that the requested books and records shall be released or made available for inspection if;

- the express written approval of the member whose records are the subject of the request for inspection is provided to the Association; or
- a court orders the release of the books and records or orders that the books and records be made available for inspection.

Responsible Parties: General Manager, Office Staff, Board of Directors, ACC requesting member

Associated Resources: TPC Title 11, Sec. 209.005

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Adopted: 16/11/2020

Revised:

## **By-laws**

### **Article 11 - Books and Records**

**11.01** All books and records of the Association, except those exempted by Federal or State of Texas statute may be inspected by any Member or his agent or attorney for any purpose at any reasonable time.

## **Texas Law**

Sec. 209.005. ASSOCIATION RECORDS. (a) Except as provided by Subsection (b), this section applies to all property owners' associations and controls over other law not specifically applicable to a property owners' association.

(b) This section does not apply to a property owners' association that is subject to Chapter [552](#), Government Code, by application of Section [552.0036](#), Government Code.

(c) Notwithstanding a provision in a dedicatory instrument, a property owners' association shall make the books and records of the association, including financial records, open to and reasonably available for examination by an owner, or a person designated in a writing signed by the owner as the owner's agent, attorney, or certified public accountant, in accordance with this section. An owner is entitled to obtain from the association copies of information contained in the books and records.

(d) Except as provided by this subsection, an attorney's files and records relating to the property owners' association, excluding invoices requested by an owner under Section [209.008\(d\)](#), are not records of the association and are not subject to inspection by the owner or production in a legal proceeding. If a document in an attorney's files and records relating to the association would be responsive to a legally authorized request to inspect or copy association documents, the document shall be produced by using the copy from the attorney's files and records if the association has not maintained a separate copy of the document. This subsection does not require production of a document that constitutes attorney work product or that is privileged as an attorney-client communication.

(e) An owner or the owner's authorized representative described by Subsection (c) must submit a written request for access or information under Subsection (c) by certified mail, with sufficient detail describing the property owners' association's books and records requested, to the mailing address of the association or authorized representative as reflected on the most current management certificate filed

under Section [209.004](#). The request must contain an election either to inspect the books and records before obtaining copies or to have the property owners' association forward copies of the requested books and records and:

(1) if an inspection is requested, the association, on or before the 10th business day after the date the association receives the request, shall send written notice of dates during normal business hours that the owner may inspect the requested books and records to the extent those books and records are in the possession, custody, or control of the association; or

(2) if copies of identified books and records are requested, the association shall, to the extent those books and records are in the possession, custody, or control of the association, produce the requested books and records for the requesting party on or before the 10th business day after the date the association receives the request, except as otherwise provided by this section.

(f) If the property owners' association is unable to produce the books or records requested under Subsection (e) on or before the 10th business day after the date the association receives the request, the association must provide to the requestor written notice that:

(1) informs the requestor that the association is unable to produce the information on or before the 10th business day after the date the association received the request; and

(2) states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the 15th business day after the date notice under this subsection is given.

(g) If an inspection is requested or required, the inspection shall take place at a mutually agreed on time during normal business hours, and the requesting party shall identify the books and records for the property owners' association to copy and forward to the requesting party.

(h) A property owners' association may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the association.

(i) A property owners' association board must adopt a records production and copying policy that prescribes the costs the association will charge for the compilation, production, and reproduction of information requested under this section. The prescribed charges may include all reasonable costs of materials, labor, and overhead but may not exceed costs that would be applicable for an item under 1 T.A.C. Section 70.3. The policy required by this subsection must be recorded as a dedicatory instrument in accordance with Section [202.006](#). An association may not charge an owner for the compilation, production, or reproduction of information requested under this section unless the policy prescribing those costs has been recorded as required by this subsection. An owner is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by the policy adopted under this subsection. The association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the estimated costs are lesser or greater than the actual costs, the association shall submit a final invoice to the owner on or before the 30th business day after the date the information is delivered. If the final invoice includes additional amounts due from the owner, the additional amounts, if not reimbursed to the association before the 30th business day after the date the invoice is sent to the owner, may be added to the owner's account as an assessment. If the estimated costs exceeded the final invoice amount, the owner is entitled to a refund, and the refund shall be issued to the owner not later than the 30th business day after the date the invoice is sent to the owner.

(j) A property owners' association must estimate costs under this section using amounts prescribed by the policy adopted under Subsection (i).

(k) Except as provided by Subsection (l) and to the extent the information is provided in the meeting minutes, the property owners' association is not required to release or allow inspection of any books or records that identify the dedicatory instrument violation history of an individual owner of an association, an owner's personal financial information, including records of payment or nonpayment of amounts due the association, an owner's contact information, other than the owner's address, or information related to an employee of the association, including personnel files. Information may be released in an aggregate or summary manner that would not identify an individual property owner.

(l) The books and records described by Subsection (k) shall be released or made available for inspection if:

(1) the express written approval of the owner whose records are the subject of the request for inspection is provided to the property owners' association; or

(2) a court orders the release of the books and records or orders that the books and records be made available for inspection.

(m) A property owners' association composed of more than 14 lots shall adopt and comply with a document retention policy that includes, at a minimum, the following requirements:

(1) certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;

(2) financial books and records shall be retained for seven years;

(3) account records of current owners shall be retained for five years;

(4) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;

(5) minutes of meetings of the owners and the board shall be retained for seven years; and

(6) tax returns and audit records shall be retained for seven years.

(n) A member of a property owners' association who is denied access to or copies of association books or records to which the member is entitled under this section may file a petition with the justice of the peace of a justice precinct in which all or part of the property that is governed by the association is located requesting relief in accordance with this subsection. If the justice of the peace finds that the member is entitled to access to or copies of the records, the justice of the peace may grant one or more of the following remedies:

(1) a judgment ordering the property owners' association to release or allow access to the books or records;

(2) a judgment against the property owners' association for court costs and attorney's fees incurred in connection with seeking a remedy under this section; or

(3) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Subdivision (2) from any future regular or special assessments payable to the property owners' association.

(o) If the property owners' association prevails in an action under Subsection (n), the association is entitled to a judgment for court costs and attorney's fees incurred by the association in connection with the action.

(p) On or before the 10th business day before the date a person brings an action against a property owners' association under this section, the person must send written notice to the association of the person's intent to bring the action. The notice must:

(1) be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service to the mailing address of the association or authorized representative as reflected on the most current management certificate filed under Section [209.004](#); and

(2) describe with sufficient detail the books and records being requested.

(q) For the purposes of this section, "business day" means a day other than Saturday, Sunday, or a state or federal holiday.

Added by Acts 2001, 77th Leg., ch. 926, Sec. 1, eff. Jan. 1, 2002.

Amended by: Acts 2007, 80th Leg., R.S., Ch. 1367 (H.B. [3674](#)), Sec. 6, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1026 (H.B. [2761](#)), Sec. 2, eff. January 1, 2012.