

COMSTOCK CONDOMINIUMS HOA
RECORDS INSPECTIONS RULES/POLICY
March 16, 2010

WHEREAS, the Board understands the need to establish written guidelines related to inspection of HOA records for the Association; and

WHEREAS, California law provides guiding regulations in this areas in Civil Code Sections 1363(f) and 1365.2, and Corporations Code Section 8330, and

NOW, THEREFORE,

Pursuant to California law, we hereby adopt the following Records Inspection Policy:

REQUEST MUST BE IN WRITING: All requests to inspect and/or copy records of the Association must be made in writing **on the attached form or in similar format**. The Owner requesting the list shall state the purpose for which the list is requested which purpose shall be reasonably related to the requester's interest as an Owner. If the Board reasonably believes that the information in the list will be used for another purpose, it may deny the Owner access to the list. If the request is denied, in any subsequent action brought by the Owner to enforce the right to receive records, the association shall have the burden to prove that the Owner would have allowed use of the information for purposes unrelated to his or her interest as an Owner.

WHAT MAY BE INSPECTED/COPIED/PROVIDED: The following records shall either be made available for inspection or copied pursuant to an Owner request (on the terms, requirements and timelines stated below):


"Association Records" which include:
Financial and Accounting Records

- Any financial document required to be provided to an Owner in Section 1365 (which relate to Association financial disclosures to Owners).
- Any financial document or statement required to be provided in Section 1368 (which relate to documents provided by seller at time of sale).
- Interim unaudited financial statements, periodic or as compiled, containing any of the following: balance sheet, income and expense statement, budget comparison, general ledger (a report that shows all transactions that occurred in the association account over a specified period of time), all of which are prepared in accordance with an accrual or modified accrual basis of accounting.
- Executed contracts not otherwise privileged under law.
- Written board approval of vendor or contractor proposals or invoices.State and federal tax returns.
- Reserve account balances and records of payments made from reserve accounts.
- Agendas and minutes of meetings of the Owners, the board and any committees appointed by the board of directors; excluding, however, agendas, minutes, and other information from executive sessions of the board of directors as described in Section 1363.05.
- Check registers.



Membership lists, including only the name, property address, and mailing address of Owners. An Owner of the association may opt out of the sharing of his or her name, property address, and mailing address by notifying the association in writing that he or she prefers to be contacted via the alternative process in subdivision (c) of Section 8330 of the Corporations Code. To do so, an Owner must send his or her written request to "opt out" the Association. What this

means is that if any Owner requests a copy of the Association Membership list to send out any communication, that Owner will not receive the names and addresses of those Owners who have "opted out". However, the "alternative" is that Owner may request that the Association send out the communication to all Owners or those who opted out, at the expense of the Owner requesting the service. This opt-out shall remain in effect until changed by the Owner.

 **"Enhanced Association Records"** which include invoices, receipts and canceled checks for payments made by the association, purchase orders approved by the association, credit card statements for credit cards issued in the name of the association, statements for services rendered, and reimbursement requests submitted to the association, provided that the person submitting the reimbursement request shall be solely responsible for removing all personal identification information from the request.

The timeline for records available for inspection and for providing said records is:

**DOCUMENT
TIME TO PROVIDE**

Association records/enhanced records for the current fiscal year within 10 business days of written request.

Association records/enhanced records for prior three fiscal years within 30 business days of written request.

Minutes of Board/Association Meetings - all years available per timeline above.

Minutes of meetings of committees with decision-making authority for meetings commencing on or after January 1, 2007 within 15 calendar days following approval.

WHO MAY INSPECT/VIEW/COPY: The inspection and/or copying may be done by an Owner of the association, or the Owner's designated representative, subject to payment of certain costs by the Owner, as specified below. The Owner shall make this designation in writing.

WHERE/HOW DOES ONE INSPECT? The records shall be made available for inspection and copying [these are the options: in the association's business office within the common interest development - note that if the association does not have a business office within the development, the association must make the specified association records available for inspection and copying at a place that the requesting Owner and the association agree upon. If the association and the requesting Owner cannot agree upon a place for inspection and copying pursuant to paragraph (2), or if the requesting Owner submits a written request directly to the association for copies of specifically identified records, the association may satisfy the requirement to make the association records available for inspection and copying by mailing copies of the specifically identified records to the Owner by first-class mail within the timeframes set forth above.

ELECTRONIC DELIVERY: A requesting Owner may make a request for specifically identified records by electronic transmission or machine-readable storage media. To the extent the Association can produce the requested records by electronic means and they can be transmitted in a redacted format that does not allow the records to be altered, the Board may satisfy the request via electronic records.

WHAT ARE THE COSTS/WHO PAYS? The requesting Owner will be billed for the direct and actual cost of copying and mailing requested documents if copies are required. If the association (or manager) is going to make the copies, the Board/management shall inform the Owner of the

amount of the copying and mailing costs, and the Owner must agree to pay those costs, before the copying and mailing of the requested documents will occur.

The Board/management may as an alternative, require that Owner provide a copy service to copy any documents desired, in which case the Association and Owner have to agree upon a location for the copying to take place.

For electronic records production, the cost of duplication shall be the direct cost of producing the copy of a record in that electronic format.

REDACTION/COSTS - The association may withhold or redact information from the association records for any of the following reasons:

The release of the information is reasonably likely to lead to identity theft. For the purposes of this section, "identity theft" means the unauthorized use of another person's personal identifying information to obtain credit, goods, services, money, or property.

Examples of information that may be withheld or redacted pursuant to this paragraph include bank account numbers of Owners or vendors, social security or tax identification numbers, and check, stock, and credit card numbers

The release of the information is reasonably likely to lead to fraud in connection with the association.

The information is privileged under law. Examples include documents subject to attorney-client privilege or relating to litigation in which the association is or may become involved, and confidential settlement agreements.

The release of the information is reasonably likely to compromise the privacy of an individual Owner of the association.

Personnel records other than the payroll records required to be provided as clarified below.

Interior architectural plans, including security features, for individual homes.

Agendas, minutes, and other information from executive sessions of the board of directors as described in Section 1363.05

The information contains any of the following:

- Records of a-la-carte goods or services provided to individual Owners of the association for which the association received monetary consideration other than assessments.
- Records of disciplinary actions, collection activities, or payment plans of Owners other than the Owner requesting the records.
- Any person's personal identification information, including, without limitation, social security number, tax identification number, driver's license number, credit card account numbers, bank account number, and bank routing number.

Executed contracts that not are otherwise privileged will not be withheld. Privileged contracts do not include contracts for maintenance, management, or legal services. However, to the extent said contracts contain sensitive information that could lead to identity theft, that information shall be redacted.

Except as provided by the attorney-client privilege, the association may not withhold or redact information concerning the compensation paid to employees, vendors, or contractors. Compensation information for individual employees shall be set forth by job classification or title, not by the employee's name, social security number, or other personal information.

In addition to the direct and actual costs of copying and mailing, the association shall bill the requesting Owner ten dollars (\$10) per hour, not to exceed a total of two hundred dollars (\$200) total per written request, for the actual time involved in redacting the enhanced association records as provided above. The association shall inform the Owner of the estimated costs, and the Owner must agree to pay those costs, before retrieving the requested documents.

NO LIABILITY FOR FAILURE TO REDACT: No association, officer, director, employee, agent or volunteer of the association shall be liable for damages to an Owner of the association, or a third party, as the result of identity theft or other breach of privacy because of the failure to withhold or redact that Owner's information under this subdivision unless the failure to withhold or redact the information was intentional, willful, or negligent.

If requested by the requesting Owner, the association shall provide a written explanation specifying the legal basis for withholding or redacting the requested records.

LIMITATIONS ON USE/COURT ACTION TO STOP USE: The association records, and any information from them, may not be sold, used for a commercial purpose, or used for any other purpose not reasonably related to an Owner's interest as an Owner. The association may bring an action against any person who violates this section for injunctive relief and for actual damages to the association caused by the violation.

There is not a limit herein to the right of the association to seek damages for misuse of information obtained pursuant to this policy or to limit the right to injunctive relief to stop the misuse of this information.

The association may recover reasonable costs and expenses, including reasonable attorney's fees, in a successful action to enforce its rights under this section.

An Owner may bring an action to enforce the Owner's right to inspect and copy the association records. The Owner may seek reasonable costs and expenses, including reasonable attorney's fees, and a civil penalty of up to five hundred dollars (\$500) for the denial of each separate written request.

Any cause of action under this section may be brought in small claims court if the amount of the demand does not exceed the jurisdiction of that court. The association may recover any costs if the court finds the action to be frivolous, unreasonable, or without foundation.

I, the secretary of **COMSTOCK CONDOMINIUM HOMEOWNERS ASSOCIATION**, hereby declare that the above Resolution was duly adopted on March 16, 2010.

SECRETARY

RECORDS REQUEST FORM FOR COMSTOCK CONDOMINIUM HOA

My purpose for asking to see/copy the following records is

____ I would like to OR

____ I would like to appoint as my agent, _____, on my behalf

_____ Review/Inspect
_____ Copy
_____ Receive copies of

Association documents from

_____ Prior Fiscal Year OR
_____ Prior 3 fiscal Years

These are the documents that are requested:

In order satisfy my request, (check all that apply)

I [_____ am _____ am not willing] to come to the management office to review these records.
[If you checked that you are not willing, then can you suggest a place that you would agree to review the records? _____ . (If there is no agreement the Board has the right as an alternative to provide copies in lieu of the review.)

I [_____ want _____ do not want] copies and understand that it is up to me to arrange for a copy service if I want copies, or if the manager or board member is willing to make copies, I agree to pay for them upon delivery, understanding that the Board/management or copy service will provide me the cost figures before reproduction.

I understand that if any of the information requested requires redaction, in the opinion of the Association, to protect privacy and protect from identity theft, the redaction shall be done at my expense (limit of \$10 per hour up to a maximum of \$200) and I understand also that I will be responsible to pay the reasonable cost of copying the records requested.

Owner Name

Address of property in HOA

Owner Signature

Date of request

Office Use Only:

Date request received: _____

Documents provided/inspected: _____