



So you want ALL the minutes, ALL the budgets, ALL the everything - well, think about what you are asking for - are you being realistic by asking for ALL of it ?

The West Virginia Organization of Homeowners Associations does not provide legal advice; however, we do provide known information to assist homeowners and their Board of Directors toward transparency in good faith and in the best interests for the greater good of their communities.

WVOHOA receives public inquiries about access to their community's records. This type of inquiry is normal, not unexpected and particularly popular with new homeowners in planned communities.

**Q:** Why the hype to obtain previous records, and ALL of them?

**A:** Homeowners may be basing their inquiry on word-of-mouth issues or simply old-fashioned neighborhood gossip. Some may want to develop a compiled resource of their own or perhaps they are considering running for the board of directors and need to review what is in place and the procedures. It's not a one-off answer at all.

Moons ago, West Virginia established the Uniform Common Interest Ownership Act, 36B and then later the Nonprofit Corporation Act, 31E. Followed by a West Virginia court case decision, [Civil Action 11-C-75](#), that outlined a list specifically for which HOA records are to be made available to all homeowners, as well as records that are *not* to be available and included the cost to provide requested records to the homeowner members.

WVOHOA has discussed records access & retention in past education sessions. Now with our membership increasing (2,200 lots just in the first 8 months of 2023) we know it will be most helpful to provide named documents for recent homeowner inquiries for a variety of retained records.

State law is quite clear, West Virginia Code Chapters [§31E-15-1501](#), [§36B-3-118](#) and for potential buyers [§36B-4-109](#), all are regarding what documents and information you are entitled to request from the Board of Directors.

Minutes<sup>1</sup> of meetings are listed as one of the many documents homeowners can request. Yes, there are exceptions – and there is a valid reason why: exposing confidential & personal information. You may not necessarily get everything you want – and that's a good thing in the end.

ONWARD:

All financial and other records must be made reasonably available for examination by any homeowner and their authorized representatives, the list of records include:

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<sup>1</sup> minutes by request *must be approved minutes* – draft minutes are not approved, not available

### 1. Financial Records

- Annual financial statements & budget
- Completed Audit, Review or compilation
- Current balance sheet and income statement

### 2. Membership List:

- Current names and addresses of all members, in alphabetical order, no telephone numbers or e-mail address.

Tip: not required - some communities provide a separate annual neighborhood directory that includes members & renters with phone & e-mail – that type of directory remains confidential and circulated within only their individual community and has proven to be good-neighbor transparency & communication.

### 3. Governing Documents:

- Articles of Incorporation & its Amendments (usually filed with the WV Secretary of State)
- Bylaws (not all Bylaws in WV are required to be recorded)
- Declaration of Covenants, Conditions and Restrictions<sup>2</sup> (Declaration & all its Amendments must be recorded in every county where the HOA is physically located)
- Rules, regulation policies and procedures pertaining to enforcement, assessment collection or architectural control (may or may not be recorded)
- Minutes of all meetings of the members and the board of directors
- All actions taken and decisions made at Members' meetings or Board of Director meetings
- Minutes and a record of all actions taken by the Members or the Board of Directors without a meeting
- A record of all actions taken by a committee of the Board of Directors on behalf of the corporation
- Resolutions adopted by the Board of Directors relating to the characteristics, qualifications, rights, limitations and obligations of Members, and
- A current list of all the names and business addresses of the current directors and officers.

### 4. Some documents may be withheld from Members who request to view them:

- Privileged communication between an attorney for the HOA and the HOA
- Pending litigation
- Meeting minutes or other records of executive session, and/or hearing of a Board meeting that is not required to be open to all members
- Personal, health, or financial records of
  - an individual Member of the community
  - an individual employee of the community, or
  - an individual employee of a contactor for the community,

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<sup>2</sup> Some Declarations differ by title: Covenants Reservations Restrictions Easements and Owners Maintenance, Reservation of Restrictive Covenants, Protective Covenants, Declaration of Road Maintenance, Constitution of Covenants, and other variations on a theme.

- including records of the community directly related to the personal, health or financial information about an individual Member of the community,
- an individual employee of the community or
- an individual employee of a contractor for the community, and
- Records relating to the job performance of, compensation of, health records of or
- specific complaints against an individual employee of the community, or
- an individual employee of a contractor of the community who works under the direction of the community.

**5. The general procedure for records requests and cost:**

- A homeowner makes a request to view HOA records in writing<sup>3</sup> setting forth in good faith the purpose for which they seek to inspect and a description of the requested documents,
- The HOA has ten (10) business days to fulfill a request by a homeowner to view HOA records or to provide a written response as to why the request will not be granted,
- The HOA may not charge a homeowner, or any person designated by the homeowner in writing for making records available for review, even if the HOA must spend money to prepare the records for review by the homeowner, and
- If a homeowner or their representative requests copies of documents, the HOA must provide copies of the requested records within ten (10) business days. The HOA may charge a fee for making copies of not more than fifteen (15) cents per page.

31E. WEST VIRGINIA NONPROFIT CORPORATION ACT  
 §31E-15-1501. Corporate records.  
 §31E-15-1502. Inspection of records by members.  
 §31E-15-1503. Scope of inspection right.  
 §31E-15-1504. Circuit court-ordered inspection.  
 §31E-15-1505. Inspection of records by directors.  
 §31E-15-1506. Exception to notice requirement.  
 §31E-15-1520. Financial statements for members.

36B. UNIFORM COMMON INTEREST OWNERSHIP ACT  
 §36B-3-118. Association records.  
 §36B-4-109. Resales of units.

<sup>3</sup> Some planned communities provide the option and accept a Member's e-mail requests for document(s)