

**Effective 5/12/2015**

**57-8a-227 Records -- Availability for examination.**

- (1)
  - (a) Subject to Subsection (1)(b), an association shall keep and make documents available to lot owners in accordance with Sections 16-6a-1601 through 1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610, regardless of whether the association is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
  - (b) An association may redact the following information from any document the association produces for inspection or copying:
    - (i) a Social Security number;
    - (ii) a bank account number; or
    - (iii) any communication subject to attorney-client privilege.
- (2)
  - (a) In addition to the requirements described in Subsection (1), an association shall make documents available to lot owners in accordance with the association's governing documents.
  - (b) If a provision of an association's governing documents conflicts with a provision of this section, the provision of this section governs.
- (3) In a request to inspect or copy documents, a lot owner may:
  - (a) elect whether to inspect or copy the documents;
  - (b) if the lot owner elects to copy the documents, request hard copies or electronic scans of the documents; or
  - (c) subject to Subsection (4), request that:
    - (i) the association make the copies or electronic scans of the requested documents;
    - (ii) a recognized third party duplicating service make the copies or electronic scans of the requested documents; or
    - (iii) the lot owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents.
- (4)
  - (a) An association shall comply with a request described in Subsection (3).
  - (b) If an association produces the copies or electronic scans:
    - (i) the copies or electronic scans shall be legible and accurate; and
    - (ii) the lot owner shall pay the association the reasonable cost of the copies or electronic scans, which may not exceed:
      - (A) the actual cost that the association paid to a recognized third party duplicating service to make the copies or electronic scans; or
      - (B) if an employee, manager, or other agent of the association makes the copies or electronic scans, 10 cents per page and \$15 per hour for the employee's, manager's, or other agent's time making the copies or electronic scans.
  - (c) If a lot owner requests a recognized third party duplicating service make the copies or electronic scans:
    - (i) the association shall arrange for the delivery and pick up of the original documents; and
    - (ii) the lot owner shall pay the duplicating service directly.
  - (d) If a lot owner requests to bring imaging equipment to the inspection, the association shall provide the necessary space, light, and power for the imaging equipment.
- (5) If, in response to a lot owner's request to inspect or copy documents, an association fails to comply with a provision of this section, the association shall pay:
  - (a) the reasonable costs of inspecting and copying the requested documents; and

- (b) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies of the requested documents.
- (6)
  - (a) In addition to any remedy in the association's governing documents or otherwise provided by law, a lot owner may file an action in court under this section if:
    - (i) an association fails to make documents available to the lot owner in accordance with this section, the association's governing documents, or as otherwise provided by law; and
    - (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
  - (b) In an action described in Subsection (6)(a):
    - (i) the lot owner may request:
      - (A) injunctive relief requiring the association to comply with the provisions of this section;
      - (B) \$500 or actual damage, whichever is greater; or
      - (C) any other relief provided by law; and
    - (ii) the court shall award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.
  - (c)
    - (i) In an action described in Subsection (6)(a), upon motion by the lot owner, notice to the association, and a hearing in which the court finds a likelihood that the association failed to comply with a provision of this section, the court shall order the association to immediately comply with the provision.
    - (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the lot owner files the motion.
  - (d) At least 10 days before the day on which a lot owner files an action described in Subsection (6)(a), the lot owner shall deliver a written notice to the association that states:
    - (i) the lot owner's name, address, telephone number, and email address;
    - (ii) each requirement of this section with which the association has failed to comply;
    - (iii) a demand that the association comply with each requirement with which the association has failed to comply; and
    - (iv) a date by which the association shall remedy the association's noncompliance that is at least 10 days after the day on which the lot owner delivers the notice to the association.
- (7)
  - (a) The provisions of Section 16-6a-1604 do not apply to an association.
  - (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- (8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the lot owner has under this section.

Enacted by Chapter 325, 2015 General Session