CHECKLIST · HAMILTON MIKES, P.A.

Official Records Request Checklist

Handling an Incoming Request From Receipt to Closure

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Applies to: Condominiums · HOAs · Cooperatives

Association _____ Completed by _____ Date _____

Records requests are the cheapest claim an owner can bring and the easiest one for a board to lose. The statute does not ask whether the board acted in good faith. It asks whether the records were produced within the window, and it presumes willfulness if they were not. This checklist runs one request from the day it lands to the day the file closes.

Work down it in order. The chapters are not the same, so the citation under an item tells you which one you are reading. Where a step applies to only one chapter, the item says so. For the underlying rules see our official records guide and the page on responding to records requests.

1 Log the request the day it arrives

- [ ] Record the date the request was received, not the date it was written or postmarked.
  The clock runs from receipt by the board or its designee. A request sitting unopened at the management office is still received.
  § 718.111(12)(b); § 719.104(2)(b); § 720.303(5)(a)
- [ ] Record how it arrived: hand delivery, regular mail, certified mail, e-mail or management portal. Keep the envelope or the transmittal.
  In an HOA the rebuttable presumption of willful failure attaches only to a written request sent by certified mail, return receipt requested. Chapters 718 and 719 attach it to any written request.
  § 720.303(5)(b); § 718.111(12)(c)1.a.; § 719.104(2)(c)
- [ ] Confirm the requester is a member or a member's authorized representative, and obtain the written authorization where someone is acting for an owner.
- [ ] Treat an e-mail or portal message as a written request unless a valid rule says otherwise.
  A rule that will only accept a paper form is where associations most often lose the argument that no request was made.
- [ ] Open one file for this request and keep everything in it: the request, the response, the checklist, the invoice and the proof of delivery.

2 Start the right clock

- [ ] Condominium and cooperative: 10 working days from receipt. HOA: 10 business days from receipt.
  The two phrases are not identical in the statutes even if they usually land on the same date. Use the words your chapter uses.
  § 718.111(12)(b); § 719.104(2)(b); § 720.303(5)(a)
- [ ] Calendar the deadline the same day the request is logged, and calendar a check-in three days before it.
- [ ] Confirm the records will be made available within 45 miles of the property or within the county in which the association is located.
  § 718.111(12)(b); § 720.303(5)(a)
- [ ] If you cannot produce everything in time, produce what you have by the deadline and state in writing what is still being gathered.
  Partial production on time beats complete production late. The presumption attaches to the deadline, not to completeness.
- [ ] Know what missing the deadline costs: a rebuttable presumption that the failure was willful, and minimum damages of $50 per calendar day for up to 10 days beginning on the 11th day.
  § 718.111(12)(c)1.a.; § 719.104(2)(c); § 720.303(5)(c)

3 What you may and may not ask the requester

- [ ] Do not ask why the owner wants the records.
  Both chapters say it outright: the association may not require a member to demonstrate a purpose or state a reason.
  § 718.111(12)(c)1.a.; § 720.303(5)(g)
- [ ] Do not make use of an association form a condition of responding.
  You may adopt reasonable rules on frequency, time, location, notice and manner. Conditioning the statutory right on a form is a different thing.
- [ ] Check your written inspection rules against the statute before relying on them. An HOA rule may not cut a parcel owner's inspection right to less than one 8-hour business day per month.
  § 720.303(5)(g)
- [ ] If the request does not identify records, ask the owner in writing to narrow it, and do not treat the exchange as pausing the clock.
  The statute does not stop the response period while you negotiate scope.
- [ ] Ask whether the owner wants to inspect or wants copies. They are different obligations with different costs.

4 Pull the records and build the checklist

- [ ] Search every place the records actually live: the management company's system, the association's own drive and e-mail, the prior manager's files, counsel's file, and any director holding paper.
- [ ] Condominium only: prepare a checklist of all records made available for inspection and copying.
  § 718.111(12)(c)1.b.
- [ ] Condominium only: make the checklist identify the official records that were not made available to the requester.
  The checklist is where you disclose a withholding. Silence about a withheld record is what turns a defensible exemption into a denial.
  § 718.111(12)(c)1.b.

- [ ] Condominium only: deliver the checklist simultaneously with the response, not afterward.
  Delivering the checklist creates a rebuttable presumption that the association complied. Delivering it late gives that presumption up.
  § 718.111(12)(c)1.b.
- [ ] Condominium only: file the checklist and keep it for 7 years.
  § 718.111(12)(c)1.b.
- [ ] HOA and cooperative: produce a checklist anyway.
  Chapters 719 and 720 do not require one. It is still the cheapest evidence you will ever create that the response was complete.

5 Identify protected material and withhold it properly

- [ ] Read your chapter's exemption list before withholding anything, and match each withheld document to a specific item on that list.
  § 718.111(12)(c)5.; § 719.104(2)(c); § 720.303(5)(g)
- [ ] Pull records protected by the lawyer-client privilege and attorney work product prepared for the association.
  § 718.111(12)(c)5.; § 720.303(5)(g)
- [ ] Pull personnel records of association employees and medical records of owners.
  The employee's file is exempt. The board's decision to hire or fire, if it was a board action, is in the minutes and is not.
- [ ] Pull information obtained in connection with the approval of a lease, sale or other transfer of a unit or parcel.
  § 718.111(12)(c)5.; § 720.303(5)(g)
- [ ] Pull electronic security measures and passwords, and the association's software and operating systems.
  § 718.111(12)(c)5.; § 720.303(5)(g)
- [ ] Redact rather than withhold where redaction will do: social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone and facsimile numbers, and emergency contact information.
  Withholding an entire contract because one page carries a password is the most common over-withholding error. Redact the page and produce the contract. See records exempt from inspection.
- [ ] HOA only: gated-community records of guest visits appear on the Chapter 720 exemption list and do not appear on the condominium list.
  § 720.303(5)(g)
- [ ] Identify the withheld record and the exemption item it falls under. Do not write the owner a legal opinion explaining the privilege.

6 Copy charges and delivery

- [ ] HOA: charge no more than 25 cents a page for copies made on the association's photocopier.
  § 720.303(5)(g)
- [ ] HOA: charge personnel time only where retrieval and copying exceeds one-half hour, at no more than $20 an hour, and never on a request producing 25 or fewer pages.
  § 720.303(5)(g)
- [ ] HOA: if there is no photocopier where the records are kept, or the request exceeds 25 pages, you may use an outside duplicating service and charge the actual cost supported by the vendor invoice.
  § 720.303(5)(g)
- [ ] Condominium and cooperative: there is no per-page figure in the statute. Charge actual costs of preparing and furnishing the documents, and be able to show how the figure was built.
  Do not borrow the HOA's 25 cents as if it were a condominium cap. It is not, and an inflated invoice is a denial of access by another route.
  § 718.111(12)(c)5.
- [ ] Let the owner photograph or scan the records with a portable device, and do not charge for use of the device.
  § 718.111(12)(c)5.; § 720.303(5)(a)
- [ ] Where the record is already posted on the association website or app, you may direct the owner there.
  The statutes let the association comply by making records available electronically via the Internet or by allowing them to be viewed on a computer screen and printed on request. That is an option, not an excuse: if the record is not actually posted, or the owner cannot reach it, the duty is unchanged. See the electronic records management checklist.
  § 718.111(12)(b); § 719.104(2)(b); § 720.303(5)(a)

7 Close the file

- [ ] Send the response in a way that proves delivery and the date of delivery.
- [ ] Keep a copy of exactly what was produced, in the form it was produced, including the redacted versions.
- [ ] HOA: remember that access to the official records is one of the disputes subject to a presuit mediation demand before it can be filed in court.
  That cuts both ways. It buys the association a forum before suit, and it means a demand for mediation is a signal the matter is heading to court.
  § 720.311(2)(a)
- [ ] If the request arrived while a dispute is brewing, tell counsel before anything responsive is destroyed or overwritten.
  A retention period is a floor. It is not permission to destroy under a hold. Use the record preservation checklist.

> Denying access is not only a civil problem. In a condominium, a director, board member or manager who willfully and knowingly or intentionally violates the inspection provision commits a misdemeanor of the second degree and is deemed removed from office. In an HOA the same offense requires knowing, willful and repeated violations. Refusing to produce records with intent to avoid detection, arrest, trial or punishment is a felony of the third degree under both chapters.

Statutes and authorities referenced

- § 718.111(12)(b) , Fla. Stat. (condominium records location, 10 working days, electronic compliance)
- § 718.111(12)(c)1.a. -b., Fla. Stat. (inspection right, presumption, damages, checklist of records)
- § 718.111(12)(c)5. , Fla. Stat. (copy costs, portable devices, records not accessible to unit owners)
- § 719.104(2)(b) -(c), Fla. Stat. (cooperative records, 10 working days, exemptions)
- § 720.303(5)(a) -(c), Fla. Stat. (HOA inspection, certified-mail presumption, damages)
- § 720.303(5)(g) , Fla. Stat. (HOA inspection rules, copy charges, records not accessible to members)
- § 720.311(2)(a) , Fla. Stat. (HOA presuit mediation, including records access disputes)

Talk to association counsel

When the checklist turns up a question about what a statute or your documents require, ask association counsel before the board acts. **Hamilton Mikes, P.A.** represents condominium, HOA and cooperative associations, clubs and marinas throughout Southwest Florida. **239-594-7227 · HamiltonMikes.com**

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