

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 594

An Act to amend and reenact §§ 55-79.74:1 and 55-510 of the Code of Virginia, relating to condominium and property owners' associations; access to association books and records.

[H 1632]

Approved March 27, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-79.74:1 and 55-510 of the Code of Virginia are amended and reenacted as follows:

§ 55-79.74:1. Books, minutes and records; inspection.

A. The declarant, the managing agent, the unit owners' association, or the person specified in the bylaws of the association shall keep detailed records of the receipts and expenditures affecting the operation and administration of the condominium and specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or on behalf of the association. ~~All such records, minutes of the meetings of the unit owners' association and the executive organ, and any other records pertaining to the condominium, including the names and addresses of the unit owners, shall be available for examination by all the unit owners and contract purchasers of a unit in the condominium at convenient hours on working days that shall be set and announced for general knowledge.~~ Subject to the provisions of subsections B and C and D of this section, upon request, any unit owner shall be provided a copy of such records and minutes. All financial books and records shall be kept in accordance with generally accepted accounting practices.

B. Subject to the provisions of subsection C, all books and records kept by or on behalf of the unit owners' association, including, but not limited to, the unit owners' association membership list, addresses and aggregate salary information of unit owners' association employees, shall be available for examination and copying by a unit owner in good standing or his authorized agent so long as the request is for a proper purpose related to his membership in the unit owners' association, and not for pecuniary gain or commercial solicitation. This right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five days' written notice reasonably identifying the purpose for the request and the specific books and records of the unit owners' association requested.

~~B. C.~~ Books and records kept by or on behalf of a unit owners' association may be withheld from examination or copying by unit owners and contract purchasers to the extent that ~~the they are drafts not yet incorporated into the unit owners' association's books and records or if such books and records concern:~~

1. Personnel matters or a person's medical records;
2. Communications with legal counsel or attorney work product;
3. Transactions currently in *or under* negotiation ~~and agreements containing confidentiality requirements;~~
4. Pending *or probable* litigation;
5. ~~Pending~~ Matters involving *administrative or other* formal proceedings for enforcement of the ~~association documents~~ *condominium instruments* or rules and regulations promulgated pursuant thereto;
6. Disclosure of information in violation of law; ~~or~~
7. Meeting minutes or other records of an executive session of the executive organ held pursuant to subsection B of § 55-79.75;

8. *Documentation, correspondence or management or executive organ reports compiled for or on behalf of the unit owners' association or the executive organ by its agents or committees for consideration by the executive organ; or*

9. *Individual unit owner or member files, other than those of the requesting unit owner, including any individual unit owner's files kept by or on behalf of the unit owners' association.*

~~C. D.~~ The unit owners' association may impose and collect a charge, reflecting the actual costs of materials and labor, prior to providing copies of any books and records.

§ 55-510. Access to association records; meetings of the board of directors.

A. The association shall keep detailed records of receipts and expenditures affecting the operation and administration of the association. All financial books and records shall be kept in accordance with generally accepted accounting practices.

B. Subject to the provisions of subsection C ~~of this section~~, all books and records kept by or on behalf of the association, including, but not limited to, the association's membership list and addresses, which shall not be used for purposes of *pecuniary gain or commercial solicitation*, and *aggregate salary information of employees of the association*, shall be available for examination and copying by a member in good standing or his authorized agent *so long as the request is for a proper purpose related*

to his membership in the association. This right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five days' written notice reasonably identifying the purpose for the request and the specific books and records of the association requested.

C. Books and records kept by or on behalf of an association may be withheld from inspection and copying to the extent that they concern:

1. Personnel matters or a person's medical records;
2. Communications with legal counsel or attorney work product;
3. Transactions currently in *or under* negotiation ~~and agreements containing confidentiality requirements~~;
4. Pending *or probable* litigation;
5. ~~Pending~~ Matters involving *administrative or other* formal proceedings for enforcement of the association documents or rules and regulations promulgated pursuant thereto;
6. Disclosure of information in violation of law; ~~or~~
7. Meeting minutes or other records of an executive session of the board of directors held in accordance with subsection E ~~of this section~~;
8. *Documentation, correspondence or management or board reports compiled for or on behalf of the association or the board by its agents or committees for consideration by the board; or*
9. *Individual unit owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.*

D. The association may impose and collect a charge, reflecting the actual costs of materials and labor, prior to providing copies of any books and records to a member in good standing under this section.

E. All meetings of the board of directors shall be open to all members of record. Minutes shall be recorded and shall be available as provided in subsection B of this section. The board of directors may convene in closed session to consider personnel matters, consult with legal counsel; discuss and consider contracts, potential or pending litigation and matters involving violations of the declaration or rules and regulations adopted pursuant thereto for which a member, his family members, tenants, guests or other invitees are responsible; or discuss and consider the personal liability of members to the association upon the affirmative vote in open meeting to assemble in closed session. The motion shall state specifically the purpose for the closed session. Reference to the motion and the stated purpose for the closed session shall be included in the minutes. The board of directors shall restrict the consideration of matters during the closed portions of meetings only to those purposes specifically exempted and stated in the motion. No contract, motion or other action adopted, passed or agreed to in closed session shall become effective unless the board of directors, following the closed session reconvenes in open meeting and takes a vote on such contract, motion or other action which shall have its substance reasonably identified in the open meeting. The requirements of this section shall not require the disclosure of information in violation of law.