

WESTBANK MESA HOMEOWNERS ASSOCIATION
POLICY REGARDING
INSPECTION & COPYING *of*
ASSOCIATION RECORDS

Adopted December 20, 2018

The following policy and procedures have been adopted by the Westbank Mesa Homeowners Association (“Association”) pursuant to the provisions of C.R.S. 38-33.3-209.5

Purpose: To establish a uniform policy and procedures for the inspection and copying of Association records by Association Owners; to establish the type of records kept by the Association or its agent; and to establish the cost of copying Association records.

WHEREAS, the Colorado Common Interest Ownership Act, in C.R.S. 38-33.3-317, gives all Owners the right, during reasonable business hours, to examine and copy the financial and certain other records of the Association.

THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following policy governing the inspection and copying of Association records:

1. Association Records. The following shall be the sole records of the Association for purposes of document retention and production to Owners:
 - A. Detailed records of receipts and expenditures affecting the operation and administration of the Association;
 - B. Records of claims for construction defects and amounts received pursuant to settlement of those claims;
 - C. Minutes of all meetings of its Owners and Board, a record of all actions taken by the Owners or Board without a meeting, and a record of all actions taken by any committee of the Board;
 - D. Written communications among, and the votes cast by, Board members that are:
 - i. Directly related to an action taken by the Board without a meeting pursuant to section 7-128-202, C.R.S.; or

ii. Directly related to an action taken by the Board without a meeting pursuant to the Association's bylaws;

E. The names of Owners in a form that permits preparation of a list of the names of all Owners and the physical mailing addresses at which the Association communicates with them, showing the number of votes each Owner is entitled to vote;

F. Its current Declaration, Covenants, Bylaws, Articles of Incorporation, Rules and Regulations, responsible governance policies adopted pursuant to section 38-33.3-209.5, and other policies adopted by the Board;

G. Annual financial statements and most recently published financial statements, if any, showing in reasonable detail its assets and liabilities and results of its operations for the past three years and tax returns of the Association for the past seven years, to the extent available;

H. A list of the names, electronic mail addresses, and physical mailing addresses of its current Board members and officers;

I. Its most recent annual report delivered to the Secretary of State;

J. Financial records sufficiently detailed to enable the Association to comply with section 38-33.3-316(8) concerning statements of unpaid assessments;

K. The Association's most recent reserve study, if any;

L. Current written contracts to which the Association is a party and contracts for work performed for the Association within the immediately preceding two years;

M. Records of Board or Committee actions to approve or deny any requests for design or architectural approval from Owners;

N. Ballots, proxies, and other records related to voting by Owners for one year after the election, action, or vote to which they relate;

O. Resolutions adopted by the Board relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members;

P. All written communications within the past three years to all Owners generally as Owners;

Q. The Association's operating budget for the current fiscal year; and

R. A list of all Association insurance policies, including, but not limited to, property, general liability, Association director and officer professional liability, and fidelity policies, which list shall include the company names, policy limits, policy deductibles, additional named insured, and expiration dates of the policies listed.

2. Request for Records. All records maintained by the Association shall be available for examination and copying (including electronic transmission if available) by an Owner or the Owner's authorized agent. Any Owner or authorized agent requesting records must submit a written request, describing with reasonable particularity the records sought, at least ten (10) days prior to inspection or production of the documents. Records may be inspected and copied during a scheduled meeting time with the Secretary, at the discretion of the Board.

Notwithstanding the above, at the discretion of the Board, all records may also be inspected at the next regularly scheduled meeting if such meeting occurs within thirty (30) days after the request to inspect has been received. Any permitted inspection must not disrupt the ordinary business activities of the Association or its managing agent.

3. Charges for Records. The Association may impose a reasonable charge, which may be collected in advance and may cover the costs of labor and material, for copies of Association records, which may include the cost or recovery and re-storage of off-site records. The charge may not exceed the estimated cost of production and reproduction of the records. Unless otherwise provided in a Board resolution or in the management agreement for the Association, the pertinent parts of which shall be attached to the policy, the Association will charge twenty-five cents (\$.25) per page for copies, including electronic scans, of records. If after payment of the deposit it is determined that the actual cost was more than the deposit, Owner shall pay such amount prior to delivery of the copies. If after payment of the deposit it is determined that the actual cost was less than the deposit, the difference shall be returned to the Owner with the copies. There shall be no cost to any Owner accessing records which are required to be disclosed by Colorado law at no cost to Owners.

4. Purpose of Records Request. The Association may not condition the production of records upon the statement of a "proper purpose," except that Association records and the information contained therein shall not be used for any commercial purpose.

5. Membership Lists. A membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to an Owner's interest as an Owner without the prior consent of the Board. Without limiting the foregoing sentence, without the consent of the Board, a membership list, or any part thereof, may not be (a) used to solicit money or property unless such money or property will be used solely to solicit the votes of the Owners in an

election to be held by the Association; (b) used for any commercial purpose; or (c) sold to or purchased by any person.

6. Records That May Be Withheld. Records maintained by the Association may be withheld from inspection and copying at the Board's discretion to the extent that they are or concern:

A. Architectural drawings, plans, and designs, unless released upon the written consent of the legal owner of the drawings, plans, or designs;

B. Contracts, leases, bids, or records related to transactions to purchase or provide goods or services that are currently in or under negotiation;

C. Communications with legal counsel that are otherwise protected by the attorney-client privilege or the attorney work product doctrine, including but not limited to confidential litigation files and matters covering consultation with legal counsel concerning disputes that are subject of pending or imminent court proceedings or are privileged or confidential between attorney and client.;

D. Disclosure of information in violation of law;

E. Files dealing with investigative proceedings concerning possible or actual criminal misconduct;

F. Records of an executive session;

G. Individual Units other than those of the requesting Owner;

H. Inter-office memoranda, preliminary data, working papers and drafts, and general information or investigations which have not been formally approved by the Board of Directors; or

I. Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.

7. Records That Must Be Withheld. Records maintained by the Association are not subject to inspection and copying, and shall be withheld, to the extent that they are or concern:

A. Personnel, salary, or medical records relating to specific individuals; or

B. Personal identification and account information of members and residents, including bank account information, telephone numbers, electronic mail addresses, driver's license numbers, and social security numbers. However, if a member or resident provides the

Association with prior written consent, either by electronic mail or other writing, to the disclosure of either their telephone numbers or electronic mail addresses, or both, the Association may publish that information to other members and residents. The written consent must be kept as a record of the Association and remains valid until the person withdraws it by providing the Association with a written notice of withdrawal of the consent. If a person withdraws his or her consent, the Association is under no obligation to change, retrieve, or destroy any document or record published prior to the notice of withdrawal.

8. Board's Discretionary Rights. At the discretion of the Board, certain records may only be inspected in the presence of a Board member. No records may be removed from the Association's principal office without the express written consent of the Board. If an Owner requests to inspect records, the Association may photocopy and provide the requested records to the Owner in lieu of the Owner's inspection of the records, if consented to and paid for by the Owner.

9. Commercial Purpose. Association records and the information contained therein shall not be used for commercial purposes.

10. No Obligation to Create Documents. The Association is not obligated to compile or synthesize information in its records. If the Association agrees to compile or produce information or documents not identified in this policy as an Association record, the Association may charge additional fees to the requesting Owner to cover the actual expenses associated with such compilation or production.

11. Damages. The Association reserves the right to pursue any individual for damages or injunctive relief or both, including reasonable attorneys' fees, for abuse of these rights, including, but not limited to, use of any records for a prohibited purpose.

12. Deviations. The Board or its agent may deviate from the procedures set forth in this policy if in its sole discretion such deviation is reasonable under the circumstances.

13. Supersedes Prior Policy. This policy supersedes in its entirety any other policy previously adopted by the Board addressing the inspection and copying of Association records.

Westbank Mesa Homeowners Association
By *Roger Brown*, President

This policy regarding inspection and copying of Association records was adopted by the Board of Directors on the 20th day of December 2018, effective the 20th day of December 2018, and is attested to by the Secretary of Westbank Mesa Homeowners Association.

Kristen Blizzard, Secretary