

HOA Documentation Sellers Must Provide to Buyers

Effective January 1, 2019, the standard residential real estate contract form includes additional documents that sellers must disclose to buyers. This means that associations and their management companies will receive requests for different documents starting January 1st.

Declarations

Articles of incorporation

Bylaws

Articles of organization

Operating agreements

Rules and regulations

Party wall agreements

Responsible governance policies adopted under § 38-33.3-209.5, C.R.S.

Minutes of the annual owners' or members' meeting; such minutes include those provided under the most current annual disclosure required under § 38-33.3-209.4, C.R.S. and minutes of meetings, if any, subsequent to the minutes disclosed in the Annual Disclosure. If none of the preceding minutes exist, then the most recent minutes, if any.

Minutes of any executive boards' or managers' meetings; such minutes include those provided under the most current annual disclosure required under § 38-33.3-209.4, C.R.S. and minutes of meetings, if any, subsequent to the minutes disclosed in the Annual Disclosure. If none of the preceding minutes exist, then the most recent minutes, if any.

List of all Association insurance policies as provided in the Association's last Annual Disclosure, including, but not limited to, property, general liability, association director and officer professional liability and fidelity policies. The list must include the company names, policy limits, policy deductibles, additional named insureds and expiration dates of the policies listed.

A list by unit type of the Association's assessments, including both regular and special assessments as disclosed in the last Annual Disclosure.

The most recent financial documents which consist of:

- (1) the Association's operating budget for the current fiscal year
- (2) the Association's most recent annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the Association's last Annual Disclosure
- (3) the results of the Association's most recent available financial audit or review
- (4) list of the fees and charges (regardless of name of title of such fees or charges) that the Association's community association manager or Association will charge in connection with the Closing including, but not limited to, any fee incident to the issuance of the Association's statement of assessments (Status Letter), any rush or update fee charged for the Status Letter, any record change fee or ownership record transfer fees (Record Change Fee), fees to access documents
- (5) list of all assessments required to be paid in advance, reserves or working capital due at Closing
- (6) reserve study, if any.

Any written notice from the Association to Seller of a "construction defect action" under § 38-33.3-303.5, C.R.S. within the past six months and the result of whether the Association approved or disapproved such action.

These changes to the contract incorporate annual disclosure requirements that have applied to community associations since 2005 under [Section 209.4 of the Colorado Common Interest Ownership Act](#) ("CCIOA"). Even though associations must provide many of these documents at no cost to individual owners pursuant to CCIOA, associations can charge to fulfill title company requests for these documents.

These documents in official and current version should be available to home owners at any time through the HOA's web site, readily available at the clubhouse, or upon request to the custodian of such documents. The only charges to the home owner related to producing the above documentation should be related to copying/reproduction or any extraordinary, nonrecurring, and unique expenses incurred by the property management company due to the sale of the home. The costs to post this documentation to the web site, maintain in the clubhouse or other facility, or to update documents has

already been paid for with home owner HOA dues and thus any charges other than those mentioned would be demonstrating duplicate billing. HOA Boards, Realtors, and home owners should demand that any HOA home sale transfer fee relating to producing the above documents be accompanied by a detailed invoice indicating what unique and extraordinary services were completed related to the sale of the home justifying the transfer fee else the fees represent duplicate billing and should be voided.