

Q&A: Access to Financial Documents

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Q: How often do HOAs need to provide financial reports that include a balance sheet, receipts for work contacted and bank statements to the contributing members?

A: It is not readily apparent from the question whether the reader is asking on behalf of a condominium association, or a homeowner's association, as many use the term "HOA" interchangeably. Here, however, the answer is the same for both.

The New Jersey Condominium Act ("Condominium Act") requires condominium associations to maintain accounting records, "in accordance with generally accepted accounting principles [GAAP], open to inspection at reasonable times by unit owners." According to the Condominium Act, such records include "(i) a record of all receipts and expenditures and (ii) an account for each unit setting forth any shares of common expenses or other charges due, the due dates thereof, the present balance due, and any interest in common surplus." Thus, all those records required to be kept in accordance with GAAP, should be made available for inspection by any member upon request. New Jersey case law has also found that the right of access set forth in the Condominium Act applies to other types of associations, such as cooperative and homeowners associations.

Importantly, the Condominium Act only requires that documents kept in accordance with GAAP be **open to inspection** upon reasonable notice. Thus, there is no requirement under the law to provide financial reports to members of an association, unless your governing documents specifically require that you do so. For example, many Bylaws require community associations to conduct an annual audit and distribute same to its members. If your Bylaws do not have such a requirement, then documents such as balance sheets, receipts for work and bank statements need only be open to inspection.

Finally, while the Condominium Act is silent as to whether owners have a right to make copies, and New Jersey case law has not resolved this precise issue, the New Jersey Department of Community Affairs takes the position that the right of inspection includes the right to copies of those documents. Thus, we recommend that you allow members to make copies of financial records that are required to be open to inspection. And, unless your Bylaws provide otherwise, the association may charge the cost for the copying.