



Right to Inspect Records



June 24, 2020

As a member of Yosemite Lakes Owners' Association you have the right to inspect certain Association Records.

To make this easier for members, we post many of the most frequently requested documents on our website yloa.org. For example, Agendas and Minutes of Board Meetings, Governing Documents, Annual Disclosures (including: our annual budget, collection policy, summary of reserves, summary of insurance policies, statement of fees and fines, and annual policy statement), handouts and video recordings of our Town Halls, Committee Agendas and Minutes, and many other communications including copies of our weekly e-newsletter and monthly printed newsletter.

While not all of this information is required to be shared, we want to facilitate easy access and open communication.

To save on printing and mailing costs, we do not include the full line item budget in our Annual Disclosure, however, a full copy of the current budget is available to any member upon request and will be mailed (at association expense) within 5 business days of calling our office at 559-517-3499.

We have a records request form available in the office, however, as the office is presently closed due to Covid-19, we are preparing an electronic copy for records requests by members.

If you would like to inspect records that are not already posted, we will facilitate that, however please be aware that not ALL records are subject to inspection and that confidential information like account numbers, member information and personally identifiable information must be redacted. The member requesting those records is responsible for the cost to prepare and copy them. We are also required to provide the information in a non-editable format.

The first 15 minutes and 10 pages of records preparation are provided at no cost, but additional time and cost for preparation and copying is \$10/hr + 0.04/page.

For your convenience, the following pages include additional information from Davis-Stirling regarding the records request process and what is and isn't available for member inspection.



YosemiteLakesPark.org
559.658.7466





REQUEST FOR RECORDS

NAME _____ LOT # _____

MAILING ADDRESS _____

EMAIL ADDRESS _____

PHONE # _____

Pursuant to the Yosemite Lakes Owners Association (the "Association") Governing Documents, I hereby request access to the records of the Association for the purpose of examination and/or copying. I request the following records. **BE SPECIFIC:**

The records [belong to the association](#) and any [misuse of records](#) by a member may subject the person to legal action for injunctive relief and damages. My reason for wanting to review the records of the Association. **BE SPECIFIC:**

I acknowledge and accept that records of the Association will be made available to me during reasonable business hours at the Association's Administrative Office. A member's request to inspect records must be for a proper purpose reasonably related to his or her interests as a member of the association. ([Civ. Code §5230](#)), ([Corp. Code §8330](#), [Corp. Code §8333](#).)

OWNER/MEMBER SIGNATURE: _____

There may be costs to prepare and copy the records you request. If so, the Association will provide an estimate of this cost and obtain your approval before proceeding:

OWNER/MEMBER SIGNATURE: _____

THE ASSOCIATION OFFICE WILL RESPOND TO THIS REQUEST WITHIN TEN (10) BUSINESS DAYS

ASSOCIATION OFFICE USE ONLY	
DATE REQUEST RECEIVED _____ / _____	SIGNATURE _____
ESTIMATED COST TO PREPARE/PROVIDE RECORDS: _____	
DATE REQUEST FULFILLED _____ / _____	SIGNATURE _____
_____. INSPECTION ONLY	
_____. COPIES PROVIDED	
DATE AND REASON REQUEST DENIED _____ / _____	SIGNATURE _____

DATE MEMBER NOTIFIED BY LETTER _____ / _____	SIGNATURE _____





Right to Inspect Records:

Subject to [time limitations](#), members have the right to inspect and copy the association's [books and records](#). This includes [electronic records](#). However, [not all records](#) are subject to inspection. Further, a [request for information](#) is not the same as a request for records. Finally, members' inspection rights cannot be limited by contract or by the association's articles or bylaws. ([Corp. Code §8313](#).)

Specific Records Should Be Requested. Members cannot make a sweeping request for every record ever produced by the association over the past ten years. The request must be specific, must be for a statutorily approved time period (current and prior two years), and for a proper purpose. For example, a proper request would be to review the financial statements for the past twelve months.

Copying and Redacting Costs. Associations may charge for the [cost of copying](#) the requested documents and [redacting](#) sensitive information. Directors who request copies can also be charged for the [cost of copying](#).

Proper Purpose. A member's request to inspect records must be for a proper purpose reasonably related to his or her interests as a member of the association. ([Civ. Code §5230](#)), ([Corp. Code §8330](#), [Corp. Code §8333](#).) The records [belong to the association](#) and any [misuse of records](#) by a member may subject the person to legal action for injunctive relief and damages.

Right to Designate Agent. Members may designate another person, agent or attorney to inspect records. The member shall make the designation in writing. ([Civ. Code §5205\(b\)](#), [Corp. Code §8311](#).)

Deadlines for Production. The association must produce records within [time frames](#) established by the Davis-Stirling Act. If the association refuses to produce records which members have a right to review, the requesting member can [go into court](#) for an order that records be produced.

Inspection Location. Records must be made available at the association's onsite business office or, if there is none, at a mutually agreed upon location. If the parties cannot agree on a location or if the member submits a request for copies of specifically identified records, the association may copy the documents and mail them to the member. ([Civ. Code §5205\(c\)](#).)

Requests for Information:

Sometimes owners mix requests for information with requests for records. The Davis-Stirling Act provides for an owner's [limited right to inspect](#) books and records but does not create an obligation that associations compile information.

Creating Documents. For example, if an owner were to request a list of all parking violations for the past three years, the association is not required to comb through its files and create a list. If a list already exists, the association could produce it (minus any personal information that might be in the document), although it is not required to do so since the list is not part of the statutorily authorized "[books and records](#)" associations are required to produce. Many records are [not subject to review](#).





Records Subject to Inspection:

A member's right to inspect records is not open-ended. It is subject to [statutory limitations](#) that include a proper purpose and may include redaction of information and copy costs.

Current & Two Prior Years. Except for [minutes](#) which are permanently available, associations need only produce records for the current fiscal year and two previous [fiscal years](#). ([Civ. Code §5210\(a\)](#).) Older records may be disposed of in accordance with a duly adopted [records disposal policy](#).

Records Subject to Review. While some records are [not subject to review](#), most can be [inspected](#) and [copied](#) by [members](#). ([Civ. Code §5200\(a\)](#).) Following is a list of records subject to membership review:

1. Financial Records

- financial documents required by [Civil Code §5300](#) (budget, reserves, lien policies, insurance, [financial statements](#), etc.);
- [interim financial statements](#), including (i) [balance sheet](#), (ii) [income and expense statement](#), (iii) budget comparison, and (iv) [general ledger](#);
- [salaries](#) paid to employees, vendors, or contractors (except as provided by attorney-client privilege) which shall be set forth by job classification or title, not by the employee's name, social security number, or other personal information;
- state and federal [tax returns](#);
- reserve account balances and payments from reserves; and
- invoices, receipts, canceled checks, purchase orders approved by the association, credit card statements for credit cards issued in the name of the association, statements for services rendered, and reimbursement requests submitted to the association ([Civ. Code §5200\(b\)](#)).

2. Governing Documents

- CC&Rs, articles of incorporation, bylaws, condominium plan, operating rules, election rules, etc. ([Civ. Code §5200](#)); and
- schedule of monetary penalties used in rules enforcement.

3. [Contracts](#) (attorney fee agreements, employment agreements, labor union contracts, etc.)

4. [Minutes](#) (board, committee and membership meeting agendas and minutes, except for executive session minutes)





5. Election Materials

6. Miscellaneous

- [insurance policies](#)
- [architectural plans](#)
- escrow documents (required by [Civil Code §4525](#) between buyer and seller such as governing documents, assessments, violation notices (the general membership does not have the right to other members' violation notices), construction defects, etc.)
- [membership lists](#)

Electronic Records. [Members](#) who request records have the option of receiving them in electronic form if the records can be transmitted in a redacted format that does not allow the records to be altered. ([Civ. Code §5205\(h\)](#).)

a. *Format of Files.* Compliance with the statute can best be accomplished by burning the files to be produced to a non-rewritable CD or DVD. Although the file, regardless of format, could still be copied and the copy manipulated, the files burned to the disk could not, thus preserving the integrity of the production. Emailing a .pdf or other editable format may not be fully compliant with the statute because the actual file produced could be manipulated. Unsecured .pdf files and files in other formats can be edited by legitimate commonly available software. Even secured .pdf files can have their security removed by unscrupulous websites. However, a court could find that a good faith attempt at compliance could be met by transmitting either a password protected secure .pdf, or by producing an image file of the document, such as a .tif format, converted from a .pdf file.

b. *Reasonable Fee.* The association may charge a reasonable fee for this service based upon the association's actual cost to procure, [redact](#), prepare, and reproduce the requested items. ([Civ. Code §4530\(b\)](#).) The cost of duplication shall be limited to the direct cost of producing the copy of a record in that electronic format. ([Civ. Code §5205\(h\)](#).)

Written Request. Requests to inspect records should be in writing. The request must be sufficiently detailed so there is no confusion over what is being requested from the association. The other benefit to a written request is that it sets a clear start date for the applicable time period for the association to produce the records.

Creating Documents. The right to review documents does not give owners the right to demand that documents [be created](#) for them.





Records Not Subject to Inspection:

The following records are not subject to inspection by members (see [Civ. Code §4935](#) and [§5215](#)):

- audit [management representation](#) letters
- [bids and contract proposals](#)
- [board packets](#) and manager reports
- correspondence between members, vendors or others with the board (unless a letter is used as evidence in a disciplinary action against another owner, in which case the disciplined owner has a right to see it)
- [disciplinary actions](#), collection activities, or payment plans of other owners
- email between directors
- [executive session minutes](#)
- information privileged by law, such as documents subject to [attorney-client privilege](#) or relating to litigation in which the association is or may become involved, and confidential settlement agreements
- [interior architectural plans](#) of homes
- [legal invoices](#)
- personal information, including social security number, tax id number, driver's license number, credit card account numbers, bank account number, and bank routing number
- personnel records (other than [salaries](#))
- records likely to lead to identity theft
- records likely to lead to fraud
- records reasonably likely to compromise the privacy of an individual member ([Civ. Code §5215\(a\)\(4\)](#))
- [security camera recordings](#)





Timelines for Producing Records:

Board & Member Meeting Minutes: Shall be available to members within **30 days** of the meeting and distributed upon request ([Civ. Code §4950](#)); minutes prepared during the current fiscal year, within **10 business days** following the association's receipt of the request ([Civ. Code §5210\(b\)](#)); minutes of prior years within **30 calendar days** receipt of the request ([Civ. Code §5210\(b\)\(2\)](#));

Committee Minutes: Minutes of committees with decision making authority for meetings commencing on or after January 1, 2007, within **15 calendar days** following approval ([Civ. Code §5210\(b\)\(5\)](#));

Fiscal Records & Governing Documents: Any record or statement available pursuant to [Civil Code §5300](#) (budget, reserves, lien policies, insurance, financial statement, etc.) or [Civil Code §4525](#) (governing documents, assessments, violations, construction defects, etc.), within the time frame specified;

- *Current Fiscal Year:* Records for the current fiscal year, within **10 business days** receipt of the request ([Civ. Code §5210\(b\)\(1\)](#));
- *Prior Fiscal Years:* Records for the previous 2 fiscal years, within **30 calendar days** receipt of the request ([Civ. Code §5210\(b\)\(2\)](#));

