

Tip of the Week - June 24, 2011

## Letters to the HOA: Should You Show Owners All?

A growing number of boards are attaching copies of all the letters board members receive to the HOA's minutes that are distributed. Their reasoning is that the letters inform members of issues in the association and show them the grief--and expense--that some unreasonable owners cause board members and HOAs. In this week's tip, we discuss the pros and cons.

In most states, owners' correspondence to the HOA is an official record, and therefore all owners are permitted to review it. Florida is typical. "Under Florida law for both HOAs and condos, all correspondence, such as letters that come into the board, is part of the association's official records and is accessible to all owners, anyway," says Dennis J. Eisinger, a partner at Eisinger, Brown, Lewis & Frankel PA in Hollywood, Fla., who represents more than 500 condo and HOA associations.

Why are such letters part of the record? "Owners aren't sending a personal letter, but a letter to the association or to a person sitting in a capacity of a board member," says Ben Solomon, an attorney and founder of the Association Law Group in Miami Beach, Fla., who advises more than 500 associations and also represents developers through his second law firm, Solomon & Furshman LLP. "Because of that, it could technically constitute an association record, not something of a private nature."

The rule is much the same in Minnesota. "One of the things to consider is what the association is required to maintain as a record under state law," says Nancy Polomis, a partner at Hellmuth & Johnson PLLC in Edina, Minn., who advises associations. "Under Minnesota's Common Interest Ownership Act, records the association has to maintain include material correspondence and memoranda relating to its operations. The association would have to retain owners' letters."

While owners are entitled to review other owners' correspondence to your board, the question is whether you should release all letters without requests from owners. That's a tougher question. Find out how our experts answered when you read our new article: <http://www.hoaleader.com/public/588.cfm>