

**ANCHOR RESORT CO-OWNERS ASSOCIATION, INC. ("ASSOCIATION")**  
**RESOLUTION**  
**OPEN RECORDS AND RECORDS RETENTION**

Chapter 82 Texas Property Code ("TPC") imposes certain requirements on condominium associations regarding the production, inspection, disclosure, and retention of Condominium Association records. S.B. 318, passed by the 87<sup>th</sup> legislature, effective September 1, 2021, adopted 82.1141 and amended 82.114(b) TPC dealing with association records.

The Board hereby Adopts the following records production, inspection, disclosure and retention policy. As used herein "TPC" means Texas Property Code.

**Section 1.**

82.114 and 82.1141 TPC are hereby acknowledged as governing the issues therein addressed. It is the intent of this Resolution to be consistent with said statutory enactments.

**Section 2.**

2.1 The source of the following is 82.114 TPC Association Records part (b). All financial and other records of the Association shall be reasonably available at its registered office or its principal office in this state for examination and production in accordance with this Resolution.

2.2 The source of the following is Section 82.1141 TPC Access to Association Records. The subsection 2.2 subparts (a) – (p) below are based on the same subparts (a) – (p) of 82.1141 TPC.

(a) This subpart (a) is intentionally omitted as being unnecessary.

(b) Notwithstanding a provision in a dedicatory instrument, the Association shall make the books and records of the Association, including financial records, open to and reasonably available for examination by a unit owner, or a person designated in a writing signed by the unit owner as the unit owner's agent, attorney, or certified public accountant. A unit

owner is entitled to obtain from the Association copies of information contained in the books and records.

(c) Except as provided by this subsection, an attorney's files and records relating to the Association, excluding invoices requested by a unit owner for attorney's fees and other costs relating only to a matter for which the Association seeks reimbursement of fees and costs from the unit owner, are not records of the Association and are not subject to inspection by the unit owner or production in a legal proceeding. If a document in an attorney's files and records relating to the Association would be responsive to a legally authorized request to inspect or copy Association documents, the document shall be produced by using the copy from the attorney's files and records if the Association has not maintained a separate copy of the document. This subsection does not require production of a document that constitutes attorney work product or that is privileged as an attorney-client communication.

(d) A unit owner or the unit owner's authorized representative must submit a written request for access or information under Subsection (b) by certified mail, with sufficient detail describing the Association's books and records requested, to the mailing address of the Association or authorized representative as reflected on the most current management certificate filed under Section 82.116 TPC. The request must contain an election either to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records and:

(1) if an inspection is requested, the Association, on or before the 10th business day after the date the Association receives the request, shall send written notice of dates during normal business hours that the unit owner may inspect the requested

books and records to the extent those books and records are in the possession, custody, or control of the Association; or

(2) if copies of identified books and records are requested, the Association shall, to the extent those books and records are in the possession, custody, or control of the Association, produce the requested books and records for the requesting party on or before the 10th business day after the date the Association receives the request, except as otherwise provided by this section.

(e) If the Association is unable to produce the books or records requested under Subsection (d) on or before the 10th business day after the date the Association receives the request, the Association must provide to the requestor written notice that:

(1) informs the requestor that the Association is unable to produce the information on or before the 10th business day after the date the Association received the request; and

(2) states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the 15th business day after the date notice under this subsection is given.

(f) If an inspection is requested or required, the inspection shall take place at a mutually agreed on time during normal business hours, and the requesting party shall identify the books and records for the Association to copy and forward to the requesting party.

(g) The Association may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the Association.

(h) The following records production and copying policy prescribes the costs the Association will charge for the compilation, production, and reproduction of information

requested under this section. The prescribed charges are and shall be those set forth under 1 Texas Administrative Code Sections 70.3 and 70.10 for an item produced by the Association and may not exceed actual costs for an item produced by a third party. The Association may not charge a unit owner for the compilation, production, or reproduction of information requested under this Resolution unless the policy prescribing those costs has been recorded. A unit owner is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by this policy. The Association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the estimated costs are lesser or greater than the actual costs, the Association shall submit a final invoice to the unit owner on or before the 30th business day after the date the information is delivered. If the final invoice includes additional amounts due from the unit owner, the additional amounts, if not reimbursed to the Association before the 30th business day after the date the invoice is sent to the unit owner, may be added to the unit owner's account as an assessment. If the estimated costs exceeded the final invoice amount, the unit owner is entitled to a refund, and the refund shall be issued to the unit owner not later than the 30th business day after the date the invoice is sent to the unit owner.

- (i) The Association must estimate costs under this section using amounts prescribed by the policy adopted under Subsection (h).
- (j) Except as provided by Subsection (k) and to the extent the information is provided in the meeting minutes, the Association is not required to release or allow inspection of any books or records that identify the dedicatory instrument violation history of a unit owner, a unit owner's personal financial information, including records of payment or nonpayment

of amounts due the Association, a unit owner's contact information, a unit owner's address, or information related to an employee of the Association, including personnel files. Information may be released in an aggregate or summary manner that would not identify an individual unit owner.

(k) The books and records described by Subsection (j) shall be released or made available for inspection if:

- (1) the express written approval of the unit owner whose records are the subject of the request for inspection is provided to the Association; or
- (2) a court orders the release of the books and records or orders that the books and records be made available for inspection.

(l) The Association establishes the following document retention policy:

- (1) certificates of formation, bylaws, dedicatory instruments, and all amendments to the certificates of formation, bylaws, and dedicatory instruments shall be retained permanently;
- (2) financial books and records shall be retained for seven years;
- (3) account records of current unit owners shall be retained for five years;
- (4) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;
- (5) minutes of meetings of the unit owners and the board shall be retained for seven years; and
- (6) tax returns and audit records shall be retained for seven years.

(m) A member of an Association who is denied access to or copies of Association books or records to which the member is entitled under this section may file a petition with the

justice of the peace of a justice precinct in which all or part of the condominium is located requesting relief in accordance with this subsection. If the justice of the peace finds that the member is entitled to access to or copies of the records, the justice of the peace may grant one or more of the following remedies:

(1) a judgment ordering the Association to release or allow access to the books or records; or

(2) a judgment against the Association for court costs and attorney's fees incurred in connection with seeking a remedy under this section.

(n) If the Association prevails in an action under Subsection (m), the Association is entitled to a judgment for court costs and attorney's fees incurred by the Association in connection with the action.

(o) On or before the 10th business day before the date a person brings an action against an Association under this section, the person must send written notice to the Association of the person's intent to bring the action. The notice must:

(1) be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service to the mailing address of the Association or authorized representative as reflected on the most current management certificate filed under Section 82.116; and

(2) describe with sufficient detail the books and records being requested.

(p) For the purposes of this section, "business day" means a day other than Saturday, Sunday, or a state or federal holiday.

Section 3.

This Resolution must be recorded as a dedicatory instrument in accordance with Section 202.006 Texas Property Code.

Passed the 16 day of NOVEMBER, 2021, to be Effective September 1, 2021.

ANCHOR RESORT CO-OWNERS  
ASSOCIATION, INC.

By:   
Board President of ARCOA