

***Records Inspection and Email Communications
Policy and Procedures***

This Is A State Required Update

To

The Higby Estates

Homeowners Association Bylaws

(Dated 8 Jun 1998)

July 1, 2013

WAYNE W. WILLIAMS
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El Paso County, CO



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Higby Estates Homeowners Association - Communication Policy

Records Inspection and Email Communications Policy and Procedures

Effective Date: July 1, 2013

In compliance with the Colorado Common Interest Ownership Act, The Board of Directors desires to adopt a uniform and systematic records inspection policy. The Board of Directors further wishes to adopt a policy regarding email communications.

The Association hereby adopts the following policies and procedures for records inspections and email communications.

Records

1. In addition to any records specifically required by the Association declarations or bylaws, the Association shall maintain the following records:
 - A. Detailed records of receipts and expenditures affecting the operation and administration of the Association;
 - B. Records of claims for construction defects and amounts received pursuant to settlement of those claims;
 - C. Minutes of Membership meetings, minutes of Board of Directors's meeting, a record of all actions taken by Members or the Board without a meeting (i.e., by written ballot or written consent in lieu of a meeting), and a record of all actions taken by a committee of the Board;
 - D. Written communications among, and the votes cast by, Board members that are directly related to an action taken by the Board without a meeting pursuant to the Association's Bylaws or Colorado law;
 - E. The names of Members in a form that permits preparation of a list of names and physical mailing addresses of all Members, showing the number of votes each member is entitled to vote ("Membership list");
 - F. The current articles of incorporation, declaration, covenants, bylaws, rules and regulations, responsible governance policies required pursuant to Colorado law, Operations and Procedures Manuals, and any other policies adopted by the Board.
 - G. Annual financial statements for the past three years;
 - H. Financial statements, to the extent available, showing, in reasonable detail, the Association's assets and liabilities and results of its operations for the past three years;

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- I. Tax returns for the past seven years, to the extent available;
- J. A list of the names, electronic mail addresses and physical mailing addresses of its current Board of Directors;
- K. Its most recent annual report delivered to the Colorado Secretary of State;
- L. Financial records sufficiently detailed to enable the Association to provide statements of unpaid assessments in accordance with the Colorado Common Interest Ownership Act;
- M. The Association's most recent Reserve Study, if any;
- N. Current written contracts to which the Association is a party;
- O. Written contracts for work performed for the Association within the immediately preceding two years;
- P. Records of Board or committee actions to approve or deny landscape design or architectural approval from Members;
- Q. Ballots, proxies, and other records related to voting by Members for one year after the election, action, or vote to which they relate;
- R. Resolutions adopted by the Board relating to characteristics, qualifications, rights, limitations, and obligations of Members;
- S. Written communications within the past three years to Members generally as members; and
- T. The following additional information as required by C.R.S. 38-33.3-209.4 as part of the Association's annual disclosures:
 - i. The date on which the fiscal year commences;
 - ii. The operating budget for the current year;
 - iii. A list, by Lot, of the Association's current assessments;
 - iv. The annual financial statements, including any amounts held in reserve, for the fiscal year immediately preceding the current annual disclosure; and
 - v. A list of all Association insurance policies, including company names, policy limits, policy deductibles, additional named insureds, and expiration dates.

These records shall be the sole records of the Association. If the Association stores other types of documentation, or stores documentation for a longer time period than may be required above, such documents shall not be considered records of the Association.

2. The records set forth in Paragraph 1 shall be made reasonably available for inspection and copying by a member or the Member's authorized agent. "Reasonably available" means available during

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normal business hours after written request of at least 10 days or at the next regularly scheduled meeting, if such meeting occurs within 30 days after the request. The written request shall describe the records sought with reasonable specificity. The Board may require that requests be submitted on the form found in the current version of the Higby Estates Homeowners Association Operations and Procedures Manual.

3. No Member may use Association records such as email address lists, or allow Association records to be used for commercial purposes.
4. In addition, a Membership list may not be:
 - A. Used to solicit money or property unless such money or property will be used solely to solicit votes of the Members in an election held by the Association;
 - B. Used for any commercial purpose;
 - C. Sold to or purchased by any person;
 - D. Used for any purpose unrelated to the Member's interest as a Member; or
 - E. Used for any other purpose prohibited by law.

Any Member requesting a Membership list shall be required to sign the agreement attached to this policy indicating that he/she will not use the list for any of the purposes stated above.

5. Pursuant to Colorado law, the following records may be withheld from inspection and copying to the extent that such records concern:
 - A. Architectural drawings, plans, and designs, unless the legal owner of such drawings, plans, or designs provides written consent to their release;
 - B. Contracts, leases, bids or records related to transactions to purchase or provide goods or services that are still in or under negotiation;
 - C. Communication with legal counsel protected by the attorney-client privilege or the attorney work product doctrine;
 - D. Disclosure of information in violation of law;
 - E. Records of an executive session of the Board; and
 - F. Records related to an individual lot other than the Member's.

If such records are made available for inspection, the procedure set forth in Paragraph 2 shall apply.

6. Pursuant to Colorado law, the following records are not subject to review, inspection and/or copying and will be withheld from any inspection;

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- A. Personnel, salary, or medical records related to specific individuals; and
 - B. Personal identification and account information of Members, including:
 - i. Bank account information
 - ii. Telephone numbers
 - iii. Electronic mail addresses
 - iv. Driver's license numbers
 - v. Social security numbers
 - vi. Vehicle identification information
7. Upon receipt of a request, the Association shall make an appointment with the Owner, at a time convenient to both parties (subject to the requirements in Paragraph 2 above), to conduct the inspection. Unless otherwise agreed, all records shall be inspected at the home of the member of the Board responsible for keeping the records. All appointments for inspection will be limited to a maximum of 4 hours. If additional time is needed, another appointment will be made within 2 weeks, at a time convenient to both parties.
8. At the direction of the Board of Directors, records will be inspected only in the presence of a Board member or other person designated by the Board.
9. During inspection, an owner may designate pages to be copied with a paperclip, post-it note, or other means provided by the Association. Copies will be made at a cost based on the standard schedule of fees charged by the Association (as established through a Monument based copying business). The owner shall be responsible for paying the total copying cost prior to receiving the copies.
10. Records may not be removed from the home of the Director in which they are inspected without the express written consent of the Board, which consent may be conditioned on receipt of a cash deposit in the amount of \$100 that shall be refunded upon return of the records.
11. Nothing contained in these policies shall be construed to require the Association to create records that do not exist or compile records in a particular format or order.
12. The Association may pursue any owner for damages or injunctive relief or both, including reasonable attorney fees, for abuse of inspection and copying rights, including use of any records for a commercial purpose.

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Email Communications

1. Email Communication. The Association's Board of Directors recognizes the limitations involved in email correspondence, and due to the increased burden to the Board posed by email correspondence, the Association enacts the following policies and procedures:

- A. **Separate email addresses:** The Board members may have individual email addresses to be used during the time such person serves on the Board. In such a case, Board members shall use these email addresses exclusively for Association business.
- B. **Board action taken outside of a meeting via email:** The Board shall endeavor to limit action outside of a meeting, but at times action needs to be taken between Board meetings. If the Board feels a decision needs to be made outside of a Board meeting and the vote will be taken by email, a Board member shall state the motion or issue in a distinct email, which shall be sent to all Board members, with a copy to the Association's primary record keeper. Board members shall respond to the email so that all may see the vote and a chain is created. The purpose of this procedure is to assist the record keeper in determining which email correspondence relates to the actions taken outside of a meeting. Failure to strictly follow this procedure will not negate or invalidate the action.
- C. **Copies of emails:** All Board members are to be included in any email discussion regarding Association business.
- D. **Email retention:** Except as required by Paragraph 1.D above and with regard to matters related to anticipated or pending litigation, other email communications may be purged after three years.
- E. **Email communication between individual Board members and Owners:** No individual Board member is authorized to speak for the Board as a whole. No individual Board member is authorized to communicate with residents on behalf of the Board regarding community business via email. Instead, persons who submit an inquiry to an individual Board member shall be directed to submit their concerns and/or questions to the community email address (**higbyestateshoa@aol.com**) for inclusion on the agenda of the next Board meeting. The Board as a whole will then have the opportunity to consider the issues which have been properly included on the agenda. The Board will designate a person to respond to the Owner on behalf of the Board as a whole.

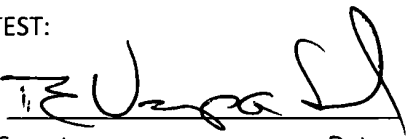
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IN WITNESS WHEREOF, the undersigned certify that this **Records Inspection and Email Communications Policy** document was adopted by resolution of the Board of Directors of the Higby Estates Homeowners Association, Inc, this 1st day of July, 2013.

Higby Estates Homeowners Association, Inc.,
A Colorado nonprofit corporation

By:  6-28-13
President Date

ATTEST:

By:  6-28-13
Secretary Date