

FAIR WOODS HOMEOWNERS ASSOCIATION

POLICY RESOLUTION 2022 - d

(Amending and Replacing Policy Resolution No. 14-01

**REQUESTS FOR EXAMINATION / COPYING OF
ASSOCIATION RECORDS AND COST SCHEDULE**

WHEREAS, on May 29, 2014, the Fair Woods Homeowners Association’s (“Association”) Board of Trustees approved and adopted Policy Resolution No. 14-01;

WHEREAS, since that date, the Association has changed management agents and the Virginia General Assembly enacted a new Title 55.1, thereby changing the enumeration of the statutory references relevant to the 2014 Resolution;

WHEREAS, Section 55.1-1815 of the *Virginia Property Owners Association Act* (“the Act”) provides that certain books and records of the Association must be made available for examination and copying by Members in good standing; and,

WHEREAS, Section 55.1-1815E of the Act provides that, prior to providing copies of any books and records, the Association may require the Member to pay a charge to cover the costs of material and labor; and

WHEREAS, the contract for management services between the Association and Rosewood Management & Consulting Services (“Management Agent”) establishes a fee to the Association for researching and preparing responses to a unit owner’s request to review the Association’s books and records; and,

WHEREAS, Section 55.1-1815E of the Act provides that charges for providing copies may be imposed only in accordance with a cost schedule adopted by the Board.

WHEREAS, the Board of Trustees deems it necessary to substantively amend and replace Policy Resolution No.: 2014-01 and further states that in the event of any conflict between his resolution and Va. Code 55.1-1815, or in the event of any omission from this Resolution of any provision of the statute, the statute shall govern. Relevant portions of Virginia Code § 55.1-1815 are attached hereto (Exhibit C) for reference.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts and approves this Policy Resolution 2022- to amend and replace the existing Policy Resolution 2014-01.

Access to Records

1. Any Association member in good standing¹ shall have the right to examine and/or request copies of Association books and records requests. The request must be for a proper purpose related to his/her membership in the Association and shall not be for pecuniary gain or commercial solicitation. The requesting member must expressly state his/her purpose for the request.

2. To exercise the aforementioned right, a member must complete the attached Exhibit A and submit it to the Association's management agent (e-mail transmission is permissible). The Association's Community Manager shall respond to the request within five (5) business days of receiving the request.

3. The Association's response to the request shall state the monetary charge (if any), reflecting the reasonable costs of material and labor, not to exceed the actual costs of material and labor. The estimate shall be based upon the cost schedule attached hereto at Exhibit B. The Association shall impose and collect this charge *prior to* providing copies of any books and records to the requestor. The Association's management agent shall not provide the member with any requested copies until or unless the management agent receives from the member payment in full of the applicable charges as calculated by the management agent in accordance with the then-current cost schedule specified below, as may be revised from time to time.

4. If the member requests to examine in person the books and records, an employee of the management agent or a member of the Association's Board of Trustees shall serve as the custodian of records and shall be present at all times during the requesting member's examination. In the event the Association will incur costs for management time so expended, an estimate of that cost will be included in the Association's response. The in-person examination must occur during normal business hours and at a time and location mutually convenient to the requestor and to the management agent.

5. Upon receipt of the requestor's payment (or successful negotiation of a personal check), the management agent shall arrange for a meeting with the requesting member (if an in-person examination is requested) or shall arrange for the transmission to the requestor of the copies (including electronic copies) of the requested books or records.

6. Upon the completion of the member's examination or upon his/her receipt of the requested records, the Association shall refund to the requesting member any money received from the requestor in excess of the actual costs incurred by the Association. If the actual costs exceeded the estimate, the Association shall invoice the member for the difference and the member shall be obligated to pay that invoiced amount.

¹ "Good standing" is here defined as current in all assessment obligations owed by the member to the Association and not in violation of any recorded restrictive covenant or duly approved rule or regulation of the Association.

Records exempt from inspection/examination right

The Association shall withhold the following books and records from inspection or copying by requesting members:

1. Personnel matters relating to specific, identified persons or a person's medical records;
2. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;
3. Pending or probable litigation. For purposes of this subdivision, "probable litigation" means those instances where there has been a specific threat of litigation from a person or the legal counsel of such person;
4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the association documents or rules and regulations promulgated pursuant to § 55.1-1819;
5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;
6. Disclosure of information in violation of law;
7. Meeting minutes or other confidential records of an executive session of the board of Trustees held in accordance with subsection C of § 55.1-1816;
8. Documentation, correspondence, or management or board reports compiled for or on behalf of the association or the board by its agents or committees for consideration by the board in executive session; or
9. Individual lot owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.

Requests involving minimal cost

The Association and its management shall have the discretion to waive the imposition and collection of monetary costs to respond to requests which are of minimal cost to the Association.

Amending cost schedule

The Board of Trustees may publish amended cost schedules as necessary. The Cost Schedule applies equally to all members in good standing. The management agent will provide a copy of the Cost Schedule to a requesting member with the Association's estimate in response to a member's request to inspect or receive copies of Association books and records.

EXHIBIT A
RECORD REQUEST FORM

This form shall be submitted by Association members to request inspection or copies of Fair Woods Homeowners Association books or records. The form must be completed in its entirety and submitted by hand-delivery, mail or e-mail to the Association's Community Manager:

Fair Woods Homeowners Association
c/o Rosewood Management & Consulting Services
3900 Jermantown Road, Suite 470
Fairfax, Virginia 22030

Name of Requesting Party: _____

Mailing Address: _____

Address of Property within Association (if different than mailing address):

Phone: _____ Indicate by circling: (Home) (Work) (Cell)

Describe in detail records you wish to have copied or to inspect. Include dates, names or any other identifying information:

(attach extra pages as necessary)

Purpose for request:

Check as appropriate:

I request to receive copies of the records described above.

I request an in-person examination of the above-referenced records at a time/date to be agreed to by the management agent and myself. Such examinations shall be conducted at the office of the management agent.

Note that records that are exempt by statute and this Resolution from the inspection/copying right shall be withheld. Only members in good standing (as defined in this Resolution) are eligible to request examination or copies of Association books and records.

This form must be signed and dated by the requestor. Unsigned/dated forms shall be disregarded.

Signature: _____

Date: _____

Printed Name: _____

Received by: _____

Date: _____

EXHIBIT B

COST SCHEDULE

The Association shall impose and collect this charge *prior to* providing copies of any books and records to the requestor. The Association's management agent shall not provide the member with any requested copies until or unless the management agent receives from the member payment in full of the applicable charges as calculated by the management agent in accordance with the then-current cost schedule specified below, as may be revised from time to time.

Hourly rate for time in researching, locating, scanning and transmitting the documents requested: **\$100.00 per hour**

Hourly rate for serving as custodian of records: **\$75.00 per hour**

The charges shall be billed in **15-minute increments**.

Copies shall be billed at a rate of **\$0.50 per page**

EXHIBIT C

RELEVANT STATUTORY AUTHORITY (excerpt)

Effective: July 1, 2021

VA Code Ann. § 55.1-1815

Formerly cited as VA ST § 55-510

§ 55.1-1815. Access to association records, etc.;

A. The association shall keep detailed records of receipts and expenditures affecting the operation and administration of the association. All financial books and records shall be kept in accordance with generally accepted accounting practices.

B. Subject to the provisions of subsection C and so long as the request is for a proper purpose related to his membership in the association, all books and records kept by or on behalf of the association shall be available for examination and copying by a member in good standing or his authorized agent, including:

1. The association's membership list and addresses, which shall not be used for purposes of pecuniary gain or commercial solicitation; and

2. The actual salary of the six highest compensated employees of the association earning over \$75,000 and aggregate salary information of all other employees of the association; however, individual salary information shall not be available for examination and copying during the declarant control period. Notwithstanding any provision of law to the contrary, this right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five business days' written notice for an association managed by a common interest community manager and 10 business days' written notice for a self-managed association, which notice reasonably identifies the purpose for the request and the specific books and records of the association requested.

C. Books and records kept by or on behalf of an association may be withheld from inspection and copying to the extent that they concern:

1. Personnel matters relating to specific, identified persons or a person's medical records;

2. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;

3. Pending or probable litigation. For purposes of this subdivision, "probable litigation" means those instances where there has been a specific threat of litigation from a person or the legal counsel of such person;

4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the association documents or rules and regulations promulgated pursuant to § 55.1-1819;

5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;

6. Disclosure of information in violation of law;

7. Meeting minutes or other confidential records of an executive session of the board of directors held in accordance with subsection C of § 55.1-1816;

8. Documentation, correspondence, or management or board reports compiled for or on behalf of the association or the board by its agents or committees for consideration by the board in executive session; or

9. Individual lot owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.

D. Books and records kept by or on behalf of an association shall be withheld from inspection and copying in their entirety only to the extent that an exclusion from disclosure under subsection C applies to the entire content of such books and records. Otherwise, only those portions of the books and records containing information subject to an exclusion under subsection C may be withheld or redacted, and all portions of the books and records that are not so excluded shall be available for examination and copying, provided that the requesting member shall be responsible to the association for paying or reimbursing the association for any reasonable costs incurred by the association in responding to the request for the books and records and review for redaction of the same.

E. Prior to providing copies of any books and records to a member in good standing under this section, the association may impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs of such materials and labor. Charges may be imposed only in accordance with a cost schedule adopted by the board of directors in accordance with this subsection. The cost schedule shall (i) specify the charges for materials and labor, (ii) apply equally to all members in good standing, and (iii) be provided to such requesting member at the time the request is made.

