

Checklist of Documents Required from Associations in Litigation

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Winter 1998 - When an association enters into any form of litigation, whether with a homeowner, a builder or contractor, the association's attorney will turn to the manager. Managers often get the call from litigation counsel, "we need all of the association documents ASAP" It is realistic to expect that a manager will have to provide association documents for any litigation in which your association is involved. However, what documents you provide are often not clearly outlined.

The following is a general checklist of documents that a manager may be required to provide for associations. It provides a detailed framework for almost all forms of litigation.

Governing Documents:

- Articles
- Bylaws
- CC&Rs
- Supplementary CC&Rs
- Rules & Regulations
- Final Subdivision Report (Dept. of Real Estate)

Insurance Documents:

- Copy of Association's Policy (present/existing policy)
- Copy of Prior Policies (dating back to when damages were first discovered)
- Correspondence of Policy Coverage to/from broker or insurance Company(ies)

Architectural/Engineering Documents:

- Plans/Drawings
- Specifications
- Soil Engineering Reports
- Plot Plan
- Association ARC Guidelines (if any)

Information Re Defects:

- List of Defects
- Correspondence with Developer/Contractor
- Homeowner Surveys of Defects
- Homeowner Complaints
- Board Minutes re Defects
- Expert Reports/Correspondence
- Correspondence with Management Company(s)
- Correspondence/Claims with Insurance Companies
- Correspondence with Attorneys
- Photographs

- Repair Estimates
- Releases

Prior Repairs:

- Invoices
- Contracts
- Paid Receipts
- Photographs

Future Repairs:

- Estimates/Proposals
- Reports & Correspondence

Sales/Promotions:

- Advertising Circulars
- Sales Brochures

Reserve Studies

- Reserve Studies
- Budgets
- Proposed Budgets

The documents noted above will usually be requested early in the litigation. However, invariably, the needs of the case may require the identification or production as the matter gets closer to resolution. The manager should, during the lawsuit, be sure to maintain a current list of information that may, and probably will, have to be provided at a later date. This information could include, for example, copies of minutes or complaint letters generated after a suit is filed and repair invoices are paid to consultants or repairing contractors to deal with the issues included in the lawsuit. The manager and the attorney should keep in close touch to be sure that all documents needed by counsel are provided to enhance the likelihood of the best possible recovery for the Association.