

IN WITH THE NEW, OUT WITH THE TRASH

SAFELY PURGING ASSOCIATION RECORDS

by Mark Rabe, Esq.



It's the start of a new year and everyone likes to make resolutions about how they will make themselves better or do things differently. People often want to lose weight or start a new exercise routine. Or maybe they want to de-clutter their life by getting rid of excess piles of old "paper fat" that has accumulated over the years and that no one looks through anymore. While this last idea can be helpful, board members and community managers of property owners associations need to be careful about what they keep and what they throw away.

The Texas Property Code has detailed categories for some of the POA records that must be kept and how long they must be kept. Beyond this, the POA board will need to determine what types of association records need to be kept and for how long before getting rid of them. As for condominium associations, the Property Code provisions discussed in this article do not apply to condominium regimes. But they could still be used as guidelines to create a retention policy for a condominium owners association, to the extent that the Property Code provisions do not conflict with the Texas Uniform Condominium Act, the Uniform Condominium Act, or the governing documents of the condominium owners association.

The document categories listed in the Property Code cover the main groups of association documents. The governing documents - specifically the restrictive covenants applicable to the POA, the by-laws, the certificate of formation for the POA, all amendments to these documents, rules and regulations, and policies adopted by the POA - must be kept permanently. There are three different categories of documents that must be kept for seven years: 1) the POA's financial books, such as budgets, balance sheets and bank statements; 2) minutes from all board meetings and meetings of POA members, such as annual meetings; and 3) tax returns and audit records for the POA. The current members' account records are considered separate from the POA's financial books and you need to hold on to these for five years. Finally, any contracts to which the POA is a party and has a term of one year or more has to be retained for four years following the end of the contract term.

So what about the association documents that are not covered by the

Property Code categories? For example, how long should a POA hold on to the member ballots approving an amendment to a restrictive covenant? The Property Code requires the amendment to be kept forever but says nothing about the ballots proving up the vote. Similarly, how long should the POA keep the ballots from an election of board members when the Property Code says such an election is only open to a recount for fifteen days after the date of the election? The Property Code is also silent on how long to keep rules and regulations or policies of a POA - both of which fall under the definition of dedicatory instruments and are required to be filed in the real property records - and prior insurance policies, which could become an issue if an insurance claim is made based on an old policy. There could be specific reasons for a particular POA to keep these records for shorter or longer periods of time, so the board will need to consider all categories of documents not covered by the Property Code and determine how long these categories should be retained based on their specific situation. The board may also want to confer with the POA's attorney to discuss any issues with time limits for keeping the designated categories of association records.

Once the POA has determined the time limits for keeping these additional categories, the board should discuss these goals with their property manager and HOA attorney. It may make sense to adopt a formal record retention policy that addresses certain records above and beyond what is required by statute, and it may not (it could have the unintended consequence of setting the association up to violate its own rules). Associations should ask advice from their HOA professionals as to best practices as well as any supplemental legal

documentation. The Property Code requires POA's consisting of more than fourteen lots to adopt and comply with a record retention policy that covers some basic documents listed in the Property Code as outlined in the second paragraph above. If your POA does not have such a policy already, you can get with the POA's attorney to assist in drafting the policy. Once the policy has been drafted and adopted by the board, it must be filed in the real property records of the county or counties in which the POA is located.

Once the record retention policy has been discussed and as appropriate, formally adopted, figuring out what documents can stay and which can go is an easy task. One way to approach the task is January (or whatever month the board chooses to purge records, so long as it is done regularly), the POA's secretary or the community manager can pull the expired year of documents from each category and dispose of them. For example, if the policy matches the Property Code and requires minutes of board meetings and member meetings to be kept for seven years, then all the meeting minutes that are eight or more years old can be disposed of safely. By regularly reviewing the POA's records and doing away with outdated records in accordance with the record retention policy, the POA will be able to trim away the "paper fat" which accumulates every year in the POA's files while maintaining the documents it is required to keep.

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MAKE YOUR LANDSCAPE THE CENTERPIECE FOR MULTI-GENERATIONAL LIVING.

HOW AND WHY YOUR LANDSCAPE SERVES, BENEFITS AND KEEPS YOUR MULTI-GEN COMMUNITY HAPPY, HEALTHY AND ENGAGED.

by Hank Wilson

If you are a property manager or association board member faced with serving the ever-changing needs and lifestyle preferences of a multi-generational community, the best amenity for all ages is the one right outside your door.

Strong evidence shows that when people have access to landscaped or natural open areas, they exercise more and are generally happier and healthier. When communities include diverse open areas—trail systems and pathways for bicycling, hiking or walking the dog; recreational play areas, tennis courts and swimming pools, or bodies of water to wetland habitats—it's an invitation to residents of all ages to interact.



“Go outside; planet Earth is a gym and we’re already members.”
Steve Maraboli, *Unapologetically You: Reflections on Life and the Human Experience*

Your green space is a blank slate upon which to build asset value while adding environmental benefits. And if you are looking to differentiate your property to suit healthier consumer lifestyle preferences, offering plenty of green space is a business strategy that can deliver fresh opportunities to community residents who may span four generations, from Traditional to Baby Boomer to Gen X to Millennial.

Following are seven examples

1 Your landscape can make everyone nicer to be around. Research confirms that the impact of being in a healthy outdoor environment extends far beyond social and psychological health. When people are in green—natural or landscaped—settings, they are more generous and sociable, have stronger neighborhood ties and a greater sense of community. There is growing evidence that landscapes are important on a human level. Plants lower blood pressure, reduce muscle tension related to stress, improve attention and reduce feelings of fear and anger or aggression.

2 Your landscape can prevent obesity and slow ageing. Access to nature and outdoor recreation promotes better health for all ages. According to the American Public Health Association, people of all ages and abilities enjoy higher levels of health and well-being and lower levels of illness, stress and obesity when they interact with nature, whether parks, gardens, greenways, naturalized schoolyard and playgrounds, or natural landscaping around homes and workplaces.

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