

BOXWOOD GREEN HOMEOWNERS ASSOCIATION DISCLOSURE PACKET AND FEE POLICY

Purpose of Policy. To advise Lot Owners, their agent brokers, potential purchasers, and settlement agents of the Board of Directors' (Board) policy for complying with Section 55-509.5 of the Code of Virginia's Property Owners' Association Act (Act) and the fees established for obtaining information required by the Act.

Background. The Act has required property owners associations for many years to provide information through an "association disclosure packet" to Lot owners selling their property. Boxwood Green has consistently followed those requirements. The State of Virginia amended the Act effective July 1, 2008 and again effective July 1, 2009 and July 1, 2010, requiring several changes to the Association's policies and procedures, the most significant of which is the way the Association must prepare and deliver the packet and apply and collect fees for producing it. In general, the Act has added a significantly heavier burden on the Association than previously existed and reduced the Association flexibility in providing the packet.

Previously, the Act required that the Association provide within 14 days of receiving a request one copy of the association disclosure packet only to Lot Owners selling a property or to their agent. The seller was required to provide the buyer with a copy. A fee not to exceed the lower of \$50 or the cost of preparing the packet was collected at the time the packet was delivered. The Association charged \$25 for a packet and generally made the packet available within 3-4 days.

Revised Association Disclosure Packet Requirements Required by the Act.

Now the Act requires the Association to deliver within 14 days of receiving a request from Lot Owner sellers or their agents association disclosure packets either by hard copy or electronic means. If the request is to send the packet electronically, the sellers may request two additional recipients at no additional cost. A fee not to exceed the lower of \$100 or the cost of preparing the packet may be applied. As before, the fee is collected when the packet is delivered.

Additionally, the Association must provide:

1. Sellers, buyers, or their agents within 10 days of receiving a request as many "disclosure packet updates" as requested, if the packet was issued within the last 12 months.
2. Settlement agents within 3 days of receiving a request a "financial update."
3. Buyers or their agents an updated inspection of the property, which is routinely included as part of the original association disclosure packet.

The Association may charge a reasonable fee, not to exceed \$50, for disclosure packet and financial updates and inspections. Beginning July 1, 2010, these fees must be collected at the time of the delivery of the updates and inspections.

Inaccurate information contained in the association disclosure packet could result in a waiver of any claim for delinquent assessments and/or of any violation of the covenants or bylaws. If a packet is not provided to the seller, the Association may be liable for actual damages not to exceed \$500.

Hard Copy Vs Electronic Copy. While the Act consistently states that the Association must provide either a hard copy or an electronic copy of the information requested by those authorized, it also states: “The association shall advise the requestor if electronic delivery of the disclosure packet or the disclosure packet update or financial update is not available, if electronic delivery has been requested by the seller or his authorized agent.” The Board believes this statement is intended to provide relief for small voluntary Associations, such as ours, that do not have the means to provide electronic delivery of the information requested. However, the Board has taken steps to provide as much information as possible through its web-site www.boxwoodgreen.org.

The Board’s decision not to provide full electronic disclosure packets is based on the following:

1. The disclosure packet required is approximately 60 pages contained in 23 attachments. Some of the information in those documents is subject to continuous review and change. It would be a significant burden on the Association’s part-time staff to develop the knowledge to create and maintain an electronic file that large. Additionally, there would a greater chance that changes incorporated into original documents used as attachments would not be properly transferred to this large electronic file.
2. The Association’s computer does not have internet access because its limited use would not be worth the cost and access to the internet could expose the computer to debilitating viruses.
3. The Association’s financial records are maintained on Intuit’s Quick Books, a program normally not used by recipients of the disclosure packages and, therefore, unreadable. This would necessitate providing a hard copy of those documents anyway.
4. The time it would take to ensure that all the documents contained in an electronic file are updated properly could significantly increase the time to provide the requestors with the disclosure packet from the 3 to 4 days average we currently maintain. The Board believes one reason for the changes to the Act was pressure from the brokerage industry to facilitate settlements because of delays they experience with other homeowner associations.

5. Two of the documents contained in the packet are signed by association officers and attest to the status of the sellers' financial obligations to the Association and compliance with the covenants. Mailing these documents on the internet could subject them to abuse and could result in financial losses to the Association.

As an alternative to a full electronic packet, the Board has developed an alternative hybrid package that includes both hard copy documents and web-site access. This alternative reduces the size of the hard copy packet by as many as 12 attachments and 47 pages, all of which are available on the Association's web-site.

General Guidelines. The Board adopted the following policies and procedures for providing parties required by law association disclosure packets and updates.

Assistant Treasurer's Responsibilities

The Assistant Treasurer is responsible for the preparation, signature approval, and delivery of association disclosure packets, disclosure packet updates, financial updates, and inspection update reports as required by the Code of Virginia Sections 55-509.5 and 55-507.7. Association disclosure packets and all updates will be provided only to Lot Owners within the Boxwood Green Home Owners Association and to individuals (agents, potential buyers, and settlement agents) who have the written authorization from the requesting Lot Owners. Upon being notified of the potential sale of a property, the Assistant Treasurer will ask the Lot Owner for the names of the approved agents, potential buyers, their agents, and the settlement agents so that delays will not occur at a later date.

Association Disclosure Packet

1. The Assistant Treasurer, upon receipt of a written request for an association disclosure packet will initiate the following steps to process the request.
 - a. Contact the Architectural Review Committee by E-mail or telephone to initiate the inspection of the Lot Owners' property.
 - b. Review the Association and Water Company fee file to determine the status of the Lot Owner.
 - c. Review water usage reports to determine if the Lot Owner has exceeded the annual base usage permitted before an excess water usage fee is imposed.
 - d. Notify the requester, if an electronic copy is requested, that one is not available and provide the delivery options (hard copy or web copy).
 - e. Notify the requester of the delivery options if an option has not been stated.
 - f. Note: the original date of the written request sets the beginning of the 14 day response period, even if a request for an electronic copy is made or the delivery option is not detailed. If, after notifying a Lot Owner or an authorized party of their delivery options, the requesting party does not

- indicate an acceptable method, the Assistant Treasurer will assume a web copy has been selected and prepare that package for delivery.
2. The Assistant Treasurer will prepare the association disclosure packet considering the information obtained in Item 1 above, prepare an invoice for the disclosure packet fee, and notify the requester by telephone or E-mail of its availability. Once the disclosure packet fee is received, the Assistant Treasurer will provide the requester with the packet and a receipt for the fee.

Disclosure Packet Update

1. The Assistant Treasurer, upon receipt of a written request for a disclosure packet update will initiate the following steps to process the request.
 - a. Determine the requester is an authorized recipient of the financial information.
 - b. Determine from the requester exactly what information is being requested.
 - i. If a complete association disclosure packet is being requested, complete steps 1. a. to f. under Association Disclosure Packet above, noting that the response date is 10 days rather than 14 days.
 - ii. If a complete packet is not requested, determine which information is being requested.
 - c. Document the request either by E-mail from the requester or a memorandum supporting the requester's telephone request.
2. The Assistant Treasurer will prepare the association disclosure packet update considering the information obtained in Item 1 above, prepare an invoice for the disclosure packet update fee, and notify the requester by telephone or E-mail of its availability. The Assistant Treasurer will provide the requester with the packet and collect the fee.

Financial Update

1. The Assistant Treasurer, upon receipt of a verbal or written request from a settlement agent for a financial update, will initiate the following steps to process the request.
 - a. Determine the Settlement Agent is an authorized recipient of the financial information.
 - b. Determine exactly what information is being requested and how that information is to be provided.
 - i. If the response is limited to an update of the status of annual fees due the association and can be provided telephonically or by E-mail, the information should be provided and no fee will be imposed.
 - ii. If the response requires the delivery of financial reports, the Assistant Treasurer will inform the Settlement Agents that they can be delivered only in hard copy and that a fee will be imposed.

2. If the response requires the delivery of financial reports, the Assistant Treasurer will prepare the reports and an invoice for the financial update fee, and notify the requester by telephone or E-mail of its availability.
3. The Assistant Treasurer will provide the settlement agent with the update and collect the fee.

Additional Inspection

1. The Assistant Treasurer, upon receipt of a written request for an additional inspection, will initiate the following steps to process the request.
 - a. Determine the recipient is an authorized to request the additional inspection.
 - b. Determine the extent of the inspection requested and how the results are to be provided:
 - i. If the results can be provided (telephonically or) by E-mail, the information should be provided and no fee will be imposed.
 - ii. If the request requires a written report, the Assistant Treasurer will inform the requester that a fee will be imposed.
 - c. Contact the Architectural Review Committee by E-mail or telephone to initiate the inspection of the homeowners' property.
2. If the response requires the delivery of a written report, the Assistant Treasurer will prepare the report and an invoice, and collect the fee.

Association Disclosure Packet, Disclosure Packet Update, Financial Update, and Inspection Update Fees

The actual cost of preparing the hard copy and web copy association disclosure packets are \$100 and \$75, respectively. The Assistant Treasurer will be paid from the fees collected \$75 for the hard copy and \$50 for the Web copy. The remaining \$25 will be applied to operating expenses to cover the cost of reproduction. Fees for requests for packet and financial updates will be paid to the Assistant Treasurer. Requests for Inspection updates will be applied to operating expenses.

The Board has authorized the following fee schedule.

	HARD	COPY	WEB	COPY
DOCUMENT	First Copy	Additional	First Copy	Additional
Association Disclosure Packet	\$100.00	\$15.00	\$75.00	\$10.00
Disclosure Packet Update	\$50.00	\$25.00	\$25.00	\$10.00
Financial Update	\$10.00	N/A	N/A	N/A
Inspection Update	\$20.00	N/A	N/A	N/A

Revised by the Board August 18, 2010