

**SUDDEN VALLEY COMMUNITY ASSOCIATION
RECORDS REQUEST POLICY AND PROCEDURE**

Sudden Valley Community Association (SVCA) is required by RCW 64.38.045 (Homeowners Association Act) and RCW 24.03A.215 (Nonprofit Corporation Act) [the foregoing statutes shall be collectively referred to as the “Records Review Statutes”] to make “Records” available for examination by owners, mortgage holders and their agents (“Requestors”).

This policy establishes the procedures SVCA will follow to comply with the Records Review Statutes.

The purpose of this policy is to strike a balance between providing timely assistance to Requestors for documents that are subject to examination under the Records Review Statutes while allowing SVCA to manage requests in such a way as to avoid interference with essential Association functions for the benefit of all members.

The Records Review Statutes do not obligate SVCA to respond to questions, do research, or to give information that is not the subject of a Record or to compile or synthesize information.

Except where these guidelines are mandated by statute, the guidelines in this policy are discretionary and advisory only and shall not impose any affirmative duty on SVCA. SVCA reserves the right to apply and interpret this policy as it deems appropriate, and to revise or change the policy at any time.

Failure to comply with any provision of these rules shall not result in any liability imposed upon SVCA.

DEFINITIONS

1. “Record” means an identifiable Record of SVCA which SVCA must be retained by SVCA according to law and made available for examination pursuant to either of the Records Review Statutes. Not every document or writing prepared, retained or used by SVCA or its staff is a “Record” that must be disclosed pursuant to the Records Review Statutes. The term “Record” is defined as the following:

- a. The current budget.
- b. Detailed records of receipts and expenditures affecting the operation and administration of SVCA, and other appropriate accounting records within the last seven (7) years.
- c. Minutes of all member meetings and board meetings other than executive sessions; a record of all actions taken by the owners or board without a meeting, and a record of all actions taken by a committee in place of the board on behalf of the Association.
- d. The names of current owners, addresses used by SVCA to communicate with them, and the number of votes allocated to each lot (“Member List”). Provided, however, that prior to receiving a Member List, a Requestor shall be required to confirm that the Member List will: (i) not be used to solicit cash or other property unless the cash or other property will be used solely to solicit the votes of the members in an election to be held by the nonprofit corporation; (ii)

used for any commercial purpose; or (iii) sold to or purchased by any person. See RCW 24.03.240.

e. SVCA's declaration and amendments thereto (if any), organizational documents and amendments thereto (if any).

f. All Rules and Regulations currently in effect.

g. All financial statements and tax returns of SVCA for the seven (7) years preceding a request for records.

h. A list of the names and addresses of SVCA's current board members and officers.

i. The most recent annual report delivered to the Washington Secretary of State.

j. Contracts to which SVCA is or was a party within the seven (7) years preceding a request for records.

k. Materials relied upon by the board or any committee to approve or deny any requests for Architectural Control Committee (ACC) approval for a period of seven (7) years after the decision is made.

l. Materials relied upon by the board or any committee concerning a decision to enforce the governing documents for a period of seven (7) years after the decision is made.

m. Insurance policies under which SVCA is a named insured.

n. Any current warranties provided to the association.

o. Copies of all notices provided to owners or the association in accordance with this chapter or the governing documents.

p. Ballots, proxies, absentee ballots, and other records related to voting by owners for one (1) year after the election, action, or vote to which they relate.

2. "Exempt Record" includes all Records that are specifically exempted or prohibited from disclosure by state or federal law.

3. "Records Officer" means the General Manager or designee.

4. "Requester" means an owner of property in SVCA, holders of mortgages on a lot in SVCA and their respective agents as designated in writing by the owner or mortgage holder.

PROCEDURE

1. **Requesting Records:** Any Requestor requesting access to Records must complete and sign the Records Request Form attached as Attachment 1 and deliver the completed form to the General Manager in person or via e-mail as follows: office@suddenvally.com).

1.1 Unsigned or incomplete Records Request Forms will not be acted upon by the Association but will be returned to the Requester for completion and/or signature.

1.2 Members must, as required by RCW 24.03A.215(4):

- a. Confirm that their request to review Records are made in good faith and for a proper purpose;
- b. Agree to reasonable restrictions required by the Board on the use or distribution of Records;
- c. Confirm that the requested Records are directly connected with a proper purpose; and
- d. Confirm that the requested Records will not be used for a commercial purpose.

2. **Processing of Requests:** SVCA will ordinarily acknowledge receipt of a Request within three (3) business days. Within ten (10) business days of receiving a request, SVCA will either (a) provide the Record; (b) provide a reasonable time estimate of the time it will need to complete the request; (c) deny the request; or (d) request clarification from the Requester. SVCA will also provide an estimate of the cost to be billed to the Requester for fulfilling the Request per section 6 below.

2.1 Ordinarily, requests will be processed in the order in which they are received. However, SVCA reserves the right to process requests in the most efficient manner as the Records Officer deems appropriate, in light of budgetary and staff constraints. The Records Officer may ask a Requestor to prioritize the Records they are requesting so that the most important Records may be provided first.

2.2 SVCA reserves the right not to process a Request until the required deposit is made per section 6.1 below.

2.3 Additional time to respond may be based on the need to clarify the intent of the request, to locate and assemble the Records, and to review for information that is exempt under law or confidential.

2.4 If SVCA receives a request for records identified in terms of “any and all documents related to” or similar language and the Requestor is unable or unwilling to help narrow the scope of the documents being sought in order to expedite SVCA’s response and/or reduce the volume of potentially responsive documents, the Records Officer may deny the request until such time as the Requestor can narrow the scope. SVCA personnel shall not be obligated to interpret broad, general requests in order to decipher which specific documents may be of interest to the Requestor, and the Records Review Statutes do not allow a Requestor to search through SVCA’s files for Records which cannot be identified or described to SVCA.

2.5 SVCA is prohibited from providing Records to Requesters for commercial purposes.

2.6 If the Requestor is asked to clarify an ambiguous request and fails to clarify it within fifteen (15) business days, SVCA will treat the request as having been withdrawn.

2.7 If a responsive Record is posted on SVCA’s website, SVCA may direct the Requestor to the online Record in lieu of allowing inspection or copies.

3. **No Duty to Create Records or Synthesize Information:** This policy does not require SVCA to answer written questions, summarize data or information, create new Records, or provide information in a format that is different from original Records; however, SVCA may in its

discretion, create such a new Record to fulfill the request where it may be easier for SVCA to create a Record responsive to the request than to collect and make available voluminous Records that contain small pieces of information responsive to the request.

4. **No Duty to Provide Information:** This policy applies solely to requests for Records. It does not require SVCA to answer questions, to conduct research, to issue opinions or give advice or to compile or synthesize information. If the requester is not seeking specific Records but merely has questions regarding Sudden Valley, the requester should contact the administration office during normal business. Requests for information, research, opinions, advice, or similar requests will not be responded to pursuant to this policy.

5. **No Duty to Supplement Responses:** Once a Request has been fulfilled, SVCA is under no duty to supplement when responsive Records are later created.

6. **Fees and Charges:** In accordance with RCW 64.38.045 SVCA is entitled to collect a reasonable charge for copies and costs incurred by it in providing access to Records. SVCA will therefore assess the following charges for responding to Records requests:

a. Ten (10) cents per page or the actual per-page cost, whichever is greater. SVCA reserves the right to have Records copied by a third-party copier service;

b. The actual costs of mailing copies of Records;

c. Staff time for performing the following activities:

- Searching for, collecting, and compiling Records
- Copying and/or scanning Records
- Communicating with Requester regarding Requests that are unclear
- Redacting Records or removing information required by law to be withheld
- Supervising the owner's inspection will be billed to the Requester

d. Staff time will be billed to the Requester at the hourly rate paid to the staff member(s) performing the work, billed in one-tenth-hour increments. SVCA reserves the right to decide which staff will be assigned to a particular Request in light of current workload and demands; and

e. An owner is entitled to receive a free annual electronic or paper copy of the Member List. RCW 64.38.045(8)(b).

6.1 The Records Officer shall require a deposit ("Deposit") from any Requestor before initiating efforts to respond to a Records request. The Deposit, if any, shall constitute the Records Officer's good faith estimate as to the costs to be incurred by SVCA in responding to the request. If the Requestor does not tender the Deposit to SVCA within five (5) business days after being notified by the Records Officer, the Request will be deemed satisfied.

6.2 Fees may, in the Records Officer's discretion, be waived due to the de minimis nature of a Request or other circumstances.

6.3 Any portion of a Deposit not utilized shall be returned to the Requestor within seven (7) days after the Request has been satisfied. Upon completion of the Request, the Member will be provided a Statement of Charges detailing the charges assessed.

6.4 If the actual fees will exceed the Deposit, SVCA may require the balance to be paid prior to production of the requested Records. If the additional amount is not paid within ten (10) business days after receiving such notice, the Deposit shall be forfeited and the Request closed.

7. **Inspection of Records**: No member may remove a Record from a viewing area, disassemble, or alter, fold, mark, deface, tear, damage or destroy any Record. Records maintained in a file jacket or binders, or in chronological order, may not be dismantled except for the purpose of copying, and then only by SVCA staff. Copies of Records may be copied only on copying machines of SVCA unless other arrangements are made by the Records Officer. No food or drink will be permitted during the inspection of Records. Access to file cabinets, shelves, vaults and other SVCA storage areas is restricted to authorized SVCA staff.

8. **Closing Abandoned or Unpaid Requests**: If the Requestor withdraws the request, fails to fulfill their obligations to inspect the Records within thirty (30) days of notice that the Records are available for inspection, or fails to pay the deposit, the Request will be deemed satisfied, and the Request will be closed.

9. **Records Exempt from Disclosure**: SVCA is not required to permit inspection and copying of Records for which disclosure of the Record is prohibited, restricted or limited by common law, state law, federal statute, regulation or by Civil Rules for Superior Court. Without limiting the generality of the foregoing, the following Records are deemed to be exempt from disclosure:

- a. Any Records requested for commercial purposes;
- b. Protected Health Information of any employee, member or resident. See Uniform Health Care Information Act, RCW 70.02; Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); Health Information Technology and Clinical Health Act ("HITECH Act");
- c. Legal advice or communications that are otherwise protected by the attorney-client privilege or the attorney work product doctrine, including communications with SVCA's managing agent or another agent of SVCA;
- d. Personnel and medical records related to specific individuals;
- e. Contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated;
- f. Existing or potential litigation or mediation, arbitration, or administrative proceedings;
- g. Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for enforcement of the governing documents;
- h. Information the disclosure of which would violate a court order or law;
- i. Records of an executive session of the board;
- j. Individual lot files other than those of the requesting owner;
- k. Unlisted telephone number or electronic address of any owner or resident;
- l. Security access information provided to SVCA for emergency purposes;
- m. Agreements that for good cause prohibit disclosure to the members; and

n. Any other records not set forth above for which disclosure, in SVCA's reasonable discretion, would violate an individual's right to privacy.

9.1 SVCA's failure to identify an exemption above shall not affect the effectiveness of the exemption.

10. **Redactions and Withholding**: SVCA will redact and/or withhold the following information as allowed by law:

a. The address of any member who is known to SVCA to be a participant in the address confidentiality program described in chapter [40.24](#) RCW or any similar program established by law;

b. Those portions of records, which, if disclosed, would be reasonably likely to result in harm to SVCA or a third party, such as disciplinary actions involving nondirector members, identities of job applicants, discussions of strategic acquisitions, records that are required to be kept confidential under obligations to a third party, etc.; or

c. Any information that a nonprofit corporation is required to keep confidential under any other law.

11. **Loss of Right to Inspect**: Inspection shall be denied and the Records withdrawn by the Records Officer if the Requestor, when reviewing the Records, acts in a manner which will damage or substantially disorganize the Records or interfere excessively with other essential functions of SVCA.

12. **Disclaimer of Liability**: Neither SVCA nor any officer, employee, official or custodian shall be liable, or shall a cause of action exist, for any loss or damage based upon a release of Records if the person releasing the Records acted in good faith in attempting to comply with this policy. Despite the use of any mandatory terms such as "shall", nothing in this policy is intended to impose mandatory duties on SVCA beyond those imposed by state and federal law.

13. **Denial of Records**: A Requester who believes they have been wrongfully denied the opportunity to inspect a Record shall notify the Board of Directors within twenty (20) days of the denial. The Board will review the matter in closed session and determine if the denial was appropriate. The Requester will be notified of the decision.