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1 message

Marc Rohatiner <mrohatiner@wrslawyers.com>

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To: Dave Schultz <DSchultz@polsinelli.com>, Diana Ungerleider <dianaunger3@gmail.com>, "Dr. Francine Kirkpatrick" <drfkirk@verizon.net>, Karen Olan <karenolan@beckermed.com>, Kim Bantle <ksbantle@gmail.com>, Larry Friedman <lpfriedman1@gmail.com>, Miriam Schulman <miriamschulman@hotmail.com>, Syd Vinnedge <syd.vinnedge@gmail.com>

SUBJECT TO ATTORNEY-CLIENT PRIVILEGE

Dear Board Members:

As a follow up to my prior e-mail and specifically the association records an individual homeowner association is entitled to see, I spoke to my partner, Dan Shapiro, who heads our community associations department. He noted that since 2014, Civil Code, Section 5205 provides that an association must make available "association records" to members of the association. What constitutes association record is defined in Civil Code, Section 5200. There is a long list of items but plans (approved or otherwise) does not appear on that list.

The statutory scheme also lists items that may be withheld by an association. Those are set forth in Civil Code, Section 5215. Included in the list is "interior architectural plans, including security features, for individual homes." What is interesting that including this on the list suggests that other portions of the architectural plans do not have to be withheld, yet as stated, the list of items that must be made available does not include any portion of architectural plans.

Dan's conclusion, consistent with reported Board practice, is that an association is certainly acting within its rights to not share architectural plans with individual members. Accordingly if Mr. Ball insists on seeing those plans, it will be up to Mr. Affifi to decide whether to authorize Mr. Ball to see them.

As an aside, I will note that in the context of litigation, I am virtually certain that a party would be able to formally subpoena those records and the general discovery rules would take precedence these statutes.

Since I last wrote you, I spoke to Mr. Affifi and confirmed that he is still willing to participate in the mediation.

Finally, I do have a copy of the policy and if given the go ahead, I can tender the claim.

Please contact me if you have any questions.

Marc Rohatiner
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP
11400 W. Olympic Blvd.
9th Floor
Los Angeles, California 90064
PH: [310-478-4100](tel:310-478-4100) Ext. 6619
FAX: [310-479-1422](tel:310-479-1422)
E-Mail: mrohatiner@wrslawyers.com

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