

IDR Supporting Document

I IDR

This meeting is for an appointed Board Director and a member of the Association to confer *Civil Code* §5900(a), and either party may be supported by an attorney *Civil Code* §5915(b)(4).

II Reasons for the IDR

Denial of inspection and copying rights to any Architectural Committee document and the failure to satisfy my requests for other documents mandated by the Davis-Stirling Act.

The following is a list of requested documents:

1. The Association contract with Associa ([9 Mar](#), [10 Mar](#), [12 Mar](#) 2020). *Civil Code* §5200(a)(4).
2. Associa billing for work on Architecture Committee documents ([9 Mar](#), [13 Mar](#) 2020). *Civil Code* §5200(b).
3. Board Agenda until such time as this material is available ([16 Feb](#), [9 Mar](#) 2020). *Civil Code* §4045(a), §5200(a)(8), §5205(a).
4. Board Minutes, otherwise unavailable, until such time as this material is available ([16 Feb](#), [9 Mar](#) 2020). *Civil Code* §4045(a), §5200(a)(8), §5205(a).
5. Architecture Committee Agenda and Minutes ([29 Oct](#), [10 Dec](#) 2019, [8 Jan](#), [10 Feb](#), [9 Mar](#) 2020, *Civil Code* §5200(a)(4), §5200(a)(8), §5210(b)(1), §5215(1)(5)(D).

III Independent Summary

Independent of local analysis, the below given quote serves to amplify my request for Architecture Committee documentation.

see: <https://findhoalaw.com/committee-meeting-minutes/>

Committees with “Decisionmaking Authority”

Committees with “decisionmaking authority” must keep and maintain minutes, and must make them available for inspection by members within fifteen (15) calendar days following approval. (*Civ. Code* § 5210; See also “[Deadlines for Producing Records](#).”) Committees with “decisionmaking authority” typically include [architectural committees](#) that have the power to approve or deny a member’s [architectural application](#).

IV Position

My position is that the Board is unlawfully preventing access to, or delivery of, documentation that has been requested. This unlawful action is given by a simple reading of the relevant statutes, the Park

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Paseo Homeowner Association (PPHOA) governing documents. In fact, where the statutes are silent our governing documents grant the rights requested.

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Association CC&Rs

Section	Title	Article Text
I(2)	Definitions	<u>Architectural Committee</u> ” shall mean and refer to the committee provided for in Article VI hereof entitled “Architectural Control.
VI(1)	Approval Required	... with such conditions as the committee may impose
VI(1)	Approval Required	... representatives appointed by the Board of Directors ...
VI(3)	Powers	Approval of said plans and specification may be withheld ...
VI(5)	Appeal	... parties making such submission may appeal to the Board ...

Association Bylaws

Article	Title	Statement
III(5)	Notice of Meeting	Written notice of each meeting shall be given by ... mailing a copy ... to each member ...
III(8)	Action Without Meeting	Any action ... may be taken without a meeting if authorized ... by members ...
IV(2)	Special Meeting	The notice shall specify ... the nature of any special business to be considered. The notice shall be... posted in a manner prescribed for notice of regular meetings
IV(4)	Board Action without a Meeting	The directors shall have the right to take any action in the absence of a meeting ... by obtaining the written approval of all the directors.
VI(2)	Special Meetings	The notice shall ... be posted ...
VI(4)	Right of Member to Attend	Regular and special meetings ... shall be open to all members of the Association.
VII(3)(1)	Duties	It shall be the duty of the Board or Directors to: Cause to be kept a complete record of all its acts

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Association Bylaws

Article	Title	Statement
VIII8)(c)	Secretary	The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the members
IX	Committees	The Association shall appoint an Architecture Control Committee ...
X(1)	Inspection and Copying	The membership register, books of account and minutes of meetings of the members, of the Board of Directors and of committees of the Board of Directors of the Association shall be made available for inspection and copying by any member of the Association ...

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***Civil Code* References**

Ref	Title	“Statute Text”
<u>4045(a)</u>	General Delivery or Notice	If a provision of this act requires “general delivery” or “general notice,” the document shall be provided by one or more of the following methods:
<u>4765(a)(1)</u>	Architectural Review Procedures	... procedure shall be included in the association’s governing documents.
<u>4765(a)(4)</u>	Architectural Review Procedures	A decision on a proposed change shall be in writing ...
<u>4765(a)(5)</u>	Architectural Review Procedures	If a proposed change is disapproved, the applicant is entitled to reconsideration by the board, at an open meeting of the board.
<u>4900</u>	Open Meeting Act	
<u>4910(a)</u>	Board Meetings Required for Actions; Exceptions	The board shall not take action on any item of business outside of a board meeting.
<u>4920(a)</u>	Board Meeting Notices and Agenda; Timing	,... the association shall give notice of the time and place of a board meeting
<u>4920(b)(2)</u>	Board Meeting Notices and Agenda; Timing	,... board meeting is held solely in executive session, the association shall give notice of the time and place of the meeting... .
<u>4920(c)</u>	Board Meeting Notices and Agenda; Timing	Notice of a board meeting shall be given by general delivery ...
<u>4920(d)</u>	Board Meeting Notices and Agenda; Timing	Notice of a board meeting shall contain the agenda for the meeting.
<u>4925(a)</u>	Right to Attend and Speak	Any member may attend board meetings, ,... except in, executive session. ..., a member of the association shall be entitled to attend a teleconference meeting ,...
<u>4930(a)</u>	Agenda Required for Board Discussion	... the board may not discuss or take action on any item at a nonemergency meeting unless the item was placed on the agenda,...
<u>4930(b)</u>	Agenda Required for Board Discussion	,... a director, a managing agent or other agent of the board, or a member of the staff of the board
<u>4930(e)</u>	Agenda Required for Board Discussion	Any matter discussed in executive session shall be generally noted in the minutes of the

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Ref	Title	“Statute Text”
		immediately following meeting that is open to the entire membership.
4935(a)	Board Executive Sessions	The board may adjourn to ...executive session to consider litigation, matters relating to the ,... personnel matters
4950(b)	Board Minutes	The annual policy statement ... shall inform the members of their right to obtain copies of board meeting minutes and of how and where to do so
4955(a)	Civil Action to Enforcing Meeting Requirements	A member of an association may bring a civil action ... for a violation of this article
4955(b)	Civil Action to Enforcing Meeting Requirements	A member who prevails in a civil action to enforce the member’s rights ... shall be entitled to reasonable attorney’s fees and court costs, and the court may impose a civil penalty of up to five hundred dollars (\$500)
5105(a)	Election Rules Required	... is provided access to ... newsletters
5200(a)(4)	Association Records	Executed contracts not otherwise privileged under law.
5200(a)(8)	Association Records	Agendas and minutes of meetings of the members, the board, and any committees appointed by the board ,... .
5205(a)	Procedures Concerning Availability of Association Records	The association shall make available association records ... for inspection and copying by a member of the association... .
5205(c)	Procedures Concerning Availability of Association Records	The association shall make the specified association records available for inspection and copying in the association’s business office
5205(h)	Procedures Concerning Availability of Association Records	Requesting parties shall have the option of receiving ... records ... by electronic transmission
5210(a)(2)	Board Meetings Required for Actions; Exceptions	... minutes of member and board meetings are subject to inspection permanently. If a committee has decision making authority, minutes of the meetings of that committee shall be , ... permanently subject to inspection.

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***Civil Code* References**

Ref	Title	“Statute Text”
<u>5210(b)(1)</u>	Time Periods Concerning Availability of Association Records	Association records prepared during the current fiscal year, within 10 business days following the association’s receipt of the request.
<u>5210(b)(5)</u>	Time Periods Concerning Availability of Association Records	Minutes of meetings of committees with decision making authority
<u>5215(1)(5)</u> (D)	Withholding and Redacting Association Records	... except for executed contracts not otherwise privileged. Privileged contracts shall not include contracts for maintenance, management, or legal services.
<u>5215(d)</u>	Withholding and Redacting Association Records	If requested by the requesting member, an association that denies or redacts records shall provide a written explanation specifying the legal basis for withholding or redacting the requested records.
<u>5235(a)</u>	Enforcement Options Concerning Inspection Rights	A member may bring an action to enforce that member’s right to inspect and copy the association records.
<u>5240(b)</u>	Applicability and Nonapplicability of Inspection Rights	... members of the association shall have access to association records
<u>5260(c) - (f)</u>	Member Delivery of Requests to Association	All requests for documents should be sent by email (see 4040).
<u>5320(a)(2)</u>	Right to Distribute	Instructions on how to request a complete copy of the report at no cost to the member shall be printed ... on the first page of the summary.
<u>5501</u>	Review of Financial Statements	... review is ratified at the board meeting ... and that ratification is reflected in the minutes of that meeting.
<u>5900(a)</u>	Applicability to Disputes between Association and Member	This article applies to a dispute between an association and a member
<u>5915(b)(1)</u>	Default IDR	The party may request the other party to meet and confer
<u>5915(b)(4)</u>	Default IDR	The parties shall meet promptly at a mutually convenient time and place The parties may be assisted by an attorney

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Civil Code References

Ref	Title	“Statute Text”
<u>5925(b)(1)</u>	ADR Definitions	Enforcement of this act
<u>5925(b)(3)</u>	ADR Definitions	Enforcement of the governing documents.
<u>5930(b)</u>	ADR Required Before Filing Certain Actions	This section applies only to an enforcement action that is solely for declaratory, injunctive, or writ relief
<u>5935(a)(3)</u>	Initiating ADR by Request for Resolution	A notice that the party receiving the Request for Resolution is required to respond within 30 days of receipt or the request will be deemed rejected.
<u>5935(c)</u>	Initiating ADR by Request for Resolution	A party on whom a Request for Resolution is served has 30 days following service to accept or reject the request. If a party does not accept the request within that period, the request is deemed rejected by the party