

PATS Reference to Financial Transparency

A Guide for Owners to Take Back Control and Demand Accountability

Introduction

This guide is designed to help every owner force their community association to be completely open about its finances. It explains the right of every owner and board member to see a clear and full financial picture of their community. By using this guide, owners can challenge the control that any dishonest property management company might have over the community's shared assets.

Key Documents for Financial Transparency

Below is a working list to be completed with links to where you store each document (e.g., Google Drive folders). This section is designed to make it easy to access oversee the association's finances.

| Document Name | Source | Requestor | Storage Location (Link) | Explanation |
|---|--------------------------|---------------------|--|--|
| Monthly Board Meeting Minutes (Open and Closed) | Board Packet, Section 19 | Owner, Board Member | Why Board Meeting Minutes Matter [Google Drive Link] | These are the official records required to show what the board discussed, decided, and voted on. They prove the board is acting openly and handling money responsibly. In Illinois, these minutes must be kept for at least 7 years and made available to any unit owner who requests them in writing. |

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Required Disclosures in Private (Closed) Session Minutes

If the board meets privately (in "closed" or "executive" sessions) to discuss sensitive issues, minutes must still be kept. These private minutes must disclose these three specific things:

- Attendance: Who was present at the meeting?
- Logistics: The time, date, and place of the meeting.
- Legal Basis: The specific legal reason or state law (like the Condominium Property Act) that allowed the board to meet in private.

What is NOT Required or Allowed in Private Session Minutes

Discussion Details: The minutes do not have to (and should not) include the details of the discussion. This protects the confidentiality of sensitive matters (like legal strategies or personnel issues).

Voting: Boards are generally prohibited from voting on regular association business during a private session. Any final vote or decision must typically be made in the open portion of a board meeting. Therefore, private session minutes should not record votes on association business.

Permitted Topics for Private Sessions

The legal reason for meeting privately must be one of the following authorized topics: Pending or probable lawsuits (litigation).

- Hiring, firing, or disciplining employees or contractors.

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| | | | | <ul style="list-style-type: none"> Interviews of potential employees or agents. Violations of rules and regulations by unit owners. Unpaid owner fees (assessments). Consultation with the association's lawyer. |
| Monthly Financial Statements, including Executive Summary, Major Variances, Balance Sheet, Statement of Revenues and Expenses, Summary of Revenues and Expenses, Statement of Revenues and Expenses, General Ledger Trial Balance, Cash Disbursements Journal, Accounts Receivable Aging Schedule, Monthly Bank Statements, and Monthly Bank Reconciliations | Financial Packet, Section 19 | Owner, Board Member | [Google Drive Link] | <p>Why it matters: This provides a complete picture of the association's money—what came in, what went out, what is owed, and what cash is on hand. It's essential for checking if the budget is being followed and for spotting financial mistakes or fraud. Bank statements confirm the association's cash balances and banking activity. Bank reconciliations show that the bank balances have been accurately compared with and matched to the accounting records, helping detect errors or fraud.</p> |
| Monthly 22.1 Disclosure Letters | Board Packet | Board Member, Seller | [Google Drive Link] | <p>Why it matters: These are summaries required by Illinois law for people buying or selling property in the association. They cover details about lawsuits, insurance, reserve funds, and association policies.</p> |
| Monthly Related Party Transactions | Section 19 | Owner, Board Member | Google Drive Link] | <p>Why it matters: This identifies any money transactions with board members, or their related businesses, it helps ensure there is no self-dealing or conflicts of interest.</p> |
| Monthly Delinquency Report | Board Packet (owners' names can be redacted) | Owner (Redacted), Board Member | [Google Drive Link] | <p>Why it matters: Lists overdue owner assessments (with names redacted as needed), helping track cash flow risks and collection issues..</p> |

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| Monthly Contracted Staff Compensation, Bonuses & Benefits | Section 19 | Owner (Redacted), Board Member | Google Drive Link] | Discloses detailed payments to external contractors, supporting scrutiny for excessive or unusual payments. |
| Monthly State Sales Tax Returns | Section 19 | Owner, Board Member | [Google Drive Link] | Confirms compliance with sales tax regulations and that all transaction and reporting obligations are met. |
| Monthly Association Legal Fees | Section 19 (attorney-client privilege can be redacted for non-board members, which one atty's law firm wants to charge owners \$400/hour for redacting services) | Owner (Redacted), Board Member | [Google Drive Link] | Why it matters: Monthly legal fees are the association's regular spending on lawyers for tasks like reviewing documents, collecting overdue fees, negotiating contracts, and enforcing rules. These fees are a major operating cost and must be watched closely for fairness and trends. Reviewing them helps owners and the board spot how often legal problems happen, make sure spending is within the budget, and see if repeated disputes point to deeper management or compliance issues. Checking these fees regularly supports transparency and financial responsibility. |
| Quarterly Investment Statements & Reconciliations | Financial Packet, Section 19 | Owner, Board Member | [Google Drive Link] | Documents investment account balances and activity, protecting against mismanagement or unauthorized withdrawals from reserve assets. Reconciliations verify the accuracy of reported investment balances by comparing brokerage records to association books. |
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| | | | | comparing brokerage records to association books. |
| Annual Compilations, Reviews, or Audits | Board Packet, Section 19 | Owner, Board Member | [Google Drive Link] | Confirms that the association is following federal tax laws and protects the community from unexpected tax bills or fines. |
| Annual Auditor's Communication With Those Charged With Governance | Section 19 | Owner, Board Member | [Google Drive Link] | <p>Why it matters: The Annual Auditor's Communication With Those Charged with Governance is a formal report delivered by the independent auditor to the board of directors or oversight committee after completing the association's annual audit. This communication highlights critical matters identified during the audit, including significant accounting policies, management judgments, internal control deficiencies, audit adjustments, and issues related to fraud, ethics, or compliance. The report provides transparency into the association's financial health and risk areas, enabling board members to fulfill their oversight and fiduciary duties. It also ensures that governance leaders are informed about any material misstatements, disagreements with management, or recommended improvements for future stewardship and transparency.</p> |
| Annual Year-End Trial Balance | Section 19 | Owner, Board Member | [Google Drive Link] | Details the closing balance of every association account, supporting forensic review and year-to-year comparison. |
| Annual Year-End Adjusting Journal Entries | Section 19 | Owner, Board Member | [Google Drive Link] | Records end-of-year adjustments (e.g., accruals, corrections), showing transparency in the final balancing of accounts. |

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| Annual Tax Allocation Worksheet | Section 19 | Owner, Board Member | [Google Drive Link] | Demonstrates allocation of shared expenses or income for tax purposes, confirming compliance and correct reporting. |
| Annual Federal Income Tax Returns | Section 19 | Owner, Board Member | [Google Drive Link] | Verifies tax compliance through the actual forms filed with the IRS, protecting against unseen tax liability or penalties. |
| Annual State Income Tax Returns | Section 19 | Owner, Board Member | [Google Drive Link] | Why it matters: Same as the federal tax returns, but for the state. This confirms that the association is following state tax laws and ensures full legal compliance, protecting the community from unexpected state tax bills or penalties. |
| Annual Holiday Fund Distributions | Section 19 (employees' names can be redacted) | Owner (Redacted), Board Member | Google Drive Link] | Documents year-end or holiday-related bonuses to staff (names redacted if necessary), supporting proper authorization. |
| Annual Proposed Budget Details | Section 19, <i>Taghert v. Wesley</i> | Owner, Board Member | Google Drive Link] | Why it matters: This document records any end-of-year or holiday bonuses paid to staff (with names hidden if needed). It shows that the payments were properly approved and authorized by the board. |
| Annual Each Owner's Proposed Assessments | Section 9(c)(1) | Owner, Board Member | Google Drive Link] | Why it matters: This is the draft financial plan the board sends out before it is officially approved. It details the estimated income, expenses, and the **proposed new assessments (dues)** for the coming year. It allows owners to review the plan and provide feedback before the board adopts the final, "Executed" budget. |
| | | | | Why it matters: This clearly shows the exact dues or assessments (fees) each owner will be charged for the coming year. It ensures that everyone is billed fairly and transparently and allows you |

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| | | | | to know what your individual contribution to the community's budget will be. |
| Annual Insurance Policies | Section 19 | Owner, Board Member | Google Drive Link] | **Why it matters:** These policies are proof that the association has the right insurance coverage for the property, general liability, and to protect the board members (Directors and Officers, or D&O). Reviewing them ensures the coverage is adequate to protect the community's assets against lawsuits or damage. |
| Contracts (when executed) | Section 19 | Owner, Board Member | Google Drive Link] | Why it matters: This details all official agreements made by the association (for services like landscaping, repairs, or property management). It allows owners to review the terms to make sure they are reasonable, legitimate, and legally binding. |
| Supporting Documentation for Overhead Allocation (when amended) | Section 19 | Owner, Board Member | [Google Drive Link] | Why it matters: This shows the reasons and documents used to divide shared expenses (or income) among different budget categories, especially for tax purposes. It helps to ensure fairness and accuracy in reporting how the community's shared costs are split up. |
| Reserve Study Update (every three years) | Section 19 | Owner, Board Member | [Google Drive Link] | Why it matters: This is a long-term plan that estimates the future cost of major repairs (like roofs or elevators) and determines how much money the association needs to save now (in reserves) to pay for them later. |

Any board member has the right to ask for and receive all records an owner is entitled to under Illinois law. Board members also have access to additional records beyond what owners can request (like the 22.1 disclosure letters, staff payment details, and full legal bills). This broad access confirms the board's duty to oversee the community's finances and ensure comprehensive accountability and transparency.

Financial Health and Operations

II. Good Money Management Habits

This refers to the safeguards an association puts in place to prevent mistakes or theft. Key controls include:

- **Separation of Duties:** No single person should control all steps of a money process (e.g., the person who writes checks should not be the person who approves the bills).
- **Approval is Key:** All bills and payments must be properly approved *before* money is spent.
- **Timeliness:** Financial reports must be delivered quickly so problems can be spotted right away.
- **Two Signatures:** Checks over a certain amount should require two board member signatures.
- **Independent Review:** Monthly financial reports should be reviewed by a board member who is *not* involved in preparing them.

III. Clear and Honest Records

- **Following the Rules:** Financial statements must be prepared using standard accounting rules (called GAAP - Generally Accepted Accounting Principles), even if it's just a summary.
- **Auditor's Report:** The board must receive and review the auditor's formal letter, which points out any financial risks, weaknesses, or mistakes found during the annual review.
- **Reserve Savings:** The association must regularly update its **Reserve Study** (the major repair plan) and follow the recommended savings plan to ensure money is there for future large expenses.

IV. Staying Legal and Organized

- **Legal Compliance:** The association must follow all its own rules (Declaration, Bylaws) and all applicable state and federal laws.
- **Record Keeping:** All important documents must be properly saved and stored for the required amount of time.

Warning Signs (Red Flags for Mismanagement)

Watch Out for These Warning Signs that Often Lead to Problems

I. Leadership and Ethics

- **Questionable Honesty:** You have doubts about the managers' or board members' reputations or integrity.
- **High Turnover:** Key managers or board members frequently quit or are replaced.
- **Dodgy Accounting:** Management takes aggressive or risky positions with accounting or tax rules, leading to repeated corrections in the financial reports.
- **Intimidating Auditors:** Management tries to pressure or control the independent auditors' work.
- **Seeking Undeserved Perks:** Board members or managers seek free services (like free landscaping) for their volunteer work.
- **Developer Control:** The original developer still controls the board, potentially leading to decisions that benefit the developer rather than the owners.

II. Poor Money Controls

- **Mixing Funds (Commingling):** The management company commingles your association's funds with those of other clients, making it easy to hide mistakes or theft.
- **Improper Use of Reserves:** Money saved for major future repairs (**reserves**) is being spent on everyday bills.
- **Missing Separation:** Reserve funds are not clearly set aside for specific repairs and are not maintained in a separate bank account.
- **Illegal Borrowing:** Money is being illegally borrowed between the daily account and the reserve account, often with no plan to repay it.
- **No Separation of Duties:** One person has too much control (e.g., they can approve a bill, write the check, and record the payment), making fraud easy.

III. Conflicts of Interest (Insider Deals)

- **Hidden Relationships:** You find hidden relationships or transactions with insiders that were never revealed.
- **Insider Transactions:** The association does business with its own board members, managers, their families, or the developer.
- **No Competitive Bidding:** The developer or manager uses their own related companies for services (such as landscaping), which can lead to overcharging because they don't receive competitive bids.

Legal Action You Can Take (Causes of Action)

You have legal rights under Illinois law to demand full financial transparency. If they refuse to comply, you can file a lawsuit to protect the community.

- **Breaking the Condo/HOA Law for Record Access:** Both the Illinois Condominium Property Act (ICPA) and the Common Interest Community Association Act (CICAA) give owners the right to see and get copies of many records. If they refuse or delay, you can sue.
- **Breaking the Chicago Condo Law:** If you are in Chicago, this city law gives owners even **more** rights to see records than the state law.
- **Board Members Failing Their Duty (Breach of Fiduciary Duty):** Board members have a legal duty to act honestly and in the community's best interest. Mismanagement, self-help, or conflicts of interest can constitute a legal breach of this duty.
- **Lying or Fraud:** If management or the board knowingly gives false financial information or hides transactions, owners can sue for fraud.

Enforcement and Remedies

Owners can get a court order (**injunction**) to force the board to produce records, file lawsuits for fraud, report problems to state agencies, or try to remove board members through a vote (**recall**).

Key Agencies for Complaints and Oversight (Who to Complain To)

- **For Chicago Properties (BACP):** The Chicago Department of Business Affairs and Consumer Protection handles complaints about condo boards, managers, and building code violations.
- **For Property Managers Statewide (IDFPR):** The Illinois Department of Financial and Professional Regulation handles complaints against licensed property managers for financial mismanagement or misconduct. They can investigate and punish managers.
- **The State Mediator (Ombudsman):** The Illinois Condominium and Common Interest Community Ombudsman helps owners with disputes that the association can't resolve, especially when documents are being withheld. (Note: You must follow the association's formal complaint procedure first.)
- **For Fraud and Deception (Attorney General):** For cases involving lying, fraud, or deceptive practices, you can file a complaint with the state Attorney General's office.
- **For Criminal Activity (Police/State's Attorney):** If there is strong evidence of a crime (like theft or embezzlement), the police or State's Attorney can start an investigation. (Always talk to your lawyer first.)

Legal Remedies for Owners and Board Members

- **Demand Records in Writing:** You must send a formal letter (referencing the law) to request records. Failure to comply is the first step toward a lawsuit.
- **Suing in Court:** You can sue the association or board in the Illinois Circuit Court to force them to give you records, make them follow the rules, get money back for damages, or ask a judge to remove directors.
- **Court Orders (Injunctions):** Courts can order the board to provide documents, stop a bad financial deal, or hire an accountant to do a full review of the association's money.

Best Practices (Advice for Owners)

- **Gather Evidence:** Collect and organize all your proof: financial records, minutes, emails, contracts, and witness statements.
- **Follow the Rules:** Use the association's formal complaint process first before going to agencies or courts.
- **Get a Lawyer:** Talk to a qualified Illinois real estate or condo attorney to ensure your evidence is strong and that you follow the proper legal steps.
- **Keep Records:** Save copies of all complaints, responses, and communication with agencies.

Disclaimer

Please Read: This guide is for information only and is **not** legal or financial advice. The laws can change and may not fit your specific case. **You must consult a qualified professional (lawyer, accountant) in your area for advice tailored to your situation.** You use this guide at your own risk.