



## Follow the Money

By Ed Hannaman, C-IHC President

Everyone knows the importance of money in any endeavor. It's no different in associations. Even in a medium-sized association, money pours in at a high rate. Consider this: a 300-unit association with a \$300 monthly fee generates \$90,000 a month or \$1,080,000 a year. Significant money has a way of attracting people who want to get their hands on it, legitimately or otherwise. Thus, owners must be aware of their right to know how the association is spending their money, and that *they are not limited to simple summaries* that management may prefer to provide.

New Jersey law (Section 14(g) of the Condominium Act) requires associations to maintain records in accordance with generally accepted accounting principles (GAAP) and provides that such records are open to inspection by owners at reasonable times. The Act specifically includes each owner's right of inspection to records of receipts and expenditures and unit owner records. (Associations can redact identifying information to preserve a unit owners' privacy.) This right is *unconditional*, meaning owners do not have to be in good standing or show any need to know.

Although the law is straightforward, the absence of implementing regulations providing specific guidance as there is, for example with open meetings and elections, creates problems. Unfortunately, experience shows that many associations do not want owners to know specifics of how their money is spent. Thus, it is not unusual for associations to delay, interfere with or even deny the right of access. Associations sometimes try to use the provision of a balance sheet or budget as a reason to assert that access is not necessary. Although a budget or balance sheet may be useful for a broad picture, it is entirely inadequate to determine whether expenditures are at least apparently legitimate. For example, a report stating the association spent \$25,000 on snow removal does not document what the bill was, who submitted it and to whom payment was made.

If an association denies or unduly restricts your *right of access* you can file a complaint with the Association unit in the Bureau of Homeowner Protection. (Note that the state enforcing agency has not applied the right of financial access to include access to contracts, although any auditor would require such access to properly evaluate the association's financial condition. Although not specified in the law, a right to make copies is inherent in the right of access.

The right of access is to be reasonable and is thus not unlimited. Owners can expect that their association may have some procedures owners must comply with, such as advance notice or identifying records sought. What associations cannot do is charge for access, e.g., assert that records are in storage and it costs to obtain them or that a staff must be present and be paid by the owner. Those are routine association common expenses so don't be deterred from insisting on your right to free access.)

It is advisable to specify which records you want to inspect; for example, landscaping costs for the past three years. Don't ask for all the records. (Notably, the law does not state how many years associations

must keep records; one would expect a minimum of seven years, but many try to claim only two or three years.)

A demand to see “all financial records” leaves the association in the position of deciding which years to provide and in what order. It’s more effective to make your request as specific as possible, for example, “I want to see 2021, 2022, 2023 in that order.”

Many associations try to limit access to unreasonably short periods of time (e.g., 45 minutes once a week). Because there are no regulations on access, you must decide on whether the limits are reasonable, which may be fact specific and decided on a case by case basis. Copying records can shorten the time necessary to spend with them.

If you have to file a complaint about financial access, ensure that you have first followed all the association’s preliminary requirements, and document those actions in writing. Most importantly, don’t allow the association’s unreasonableness during access bait you into intemperate conduct that it could use as a basis for denial.