

990's and Other Public Information

Homeowners sometimes experience difficulty when trying to obtain financial information from their HOA. One form of financial information is Form 990 – **Return of Organization Exempt from Income Tax**. Most tax exempt organizations are required to file some form of 990 (Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code. The 990 and 990-EZ returns are open to public inspection and usually must be provided to any individual seeking to review or obtain copies. The 990-N (e-postcard) filings can be found on the IRS website. If your HOA has been designated as a non-profit organization (501(c)(4) – Social Welfare Organization), then it should file a 990.

See the following links for explanation:

- 990-N (e-postcard) <http://www.irs.gov/charities/article/0,,id=169250,00.html>;
- 990-EZ <http://www.irs.gov/charities/article/0,,id=186630,00.html>; and
- 990 <http://www.irs.gov/charities/article/0,,id=181089,00.html>.

Obtaining Copies of 990's

Start by searching for the documents on-line. Two good sites to search for 990's include:

- National Center for Charitable Statistics (NCCS):
<http://nccsdataweb.urban.org/PubApps/990search.php>
- Guidestar (you have to establish a username and password – use the free option):
<http://www.guidestar.org/>

To help you with your on-line search, you may want to first search the Texas Comptroller's website to obtain the HOA's Federal Employer Identification Number (FEIN) or the exact name of the organization. The State Comptroller's office includes an extra digit at the beginning and end of the FEIN, so the FEIN is usually the middle nine digits of the number on the website. If the exempt organization has filed its Periodic Information Report with the Texas Secretary of State, the State Comptroller's site should also list the most recently reported directors and officers (The officer and director information is also provided on the 990 and 990-EZ returns). See: <http://ecpa.cpa.state.tx.us/coa/Index.html>.

Here's a link to the Community Associations Institute's (a 501(c)(6) organization) profile on the NCCS's website: <http://nccsdataweb.urban.org/PubApps/showVals.php?ft=bmf&ein=237392984>. Click on 2007, and look at page 19, Statement 8, "Cash Grants and Allocations."

If you cannot find your HOA's 990's on-line, you can obtain copies from the IRS. Fill out form 4506a and mail or fax it to the IRS. Link to 4506: <http://www.irs.gov/pub/irs-pdf/f4506a.pdf>. It may take three to four months to obtain copies from the IRS, so do not become discouraged if you choose this option.

Finally, you can go to your HOA's main office during regular business hours and request copies of the three most recent filings. See Publication 557 – Tax Exempt Status for Your Organization: <http://www.irs.gov/publications/p557/index.html>.

Under #2, go to the bullet point, "Public Inspection."

- Fine is up to \$10,000 per return (last three returns),
- Fine of \$5,000 for not providing the exempt application.

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Ask for the last three years' 990's and the exempt application. You will have to pay reasonable copying costs for the returns.

You should also be aware that multiple requests can be viewed as harassing (see: "Tax Exempt Corporation Subject to Harassment Campaign"). If several homeowners within one HOA would like to obtain copies of the HOA's 990's, have one person make the request. After that person obtains the 990's, make copies for the other homeowners (and share the costs).

If your HOA refuses to allow you to review the 990's or refuses to provide you copies of the 990's, see this link to the complaint process: <http://www.irs.gov/irs/article/0,,id=178241,00.html>. It provides instructions regarding how and where to file the complaint. Complaint Form: <http://www.irs.gov/pub/irs-pdf/f13909.pdf>.

Other Public Information

The Texas Secretary of State website provides access to non-profit corporate documents, including Articles of Incorporation (AOI), Articles of Amendment (AOA), and Public Information Reports (PIR) along with other documents. This is a fee-based site, but considering the per page cost of obtaining the documents from your HOA, it can cost you less money to obtain all the documents on-line from this site.

The link to SOSDirect: <http://www.sos.state.tx.us/corp/sosda/index.shtml>. At the bottom of this page, it lists the cost for each search.

To minimize your search cost, use a broad search parameter. For example, if your HOA is named, "ABC HOA Section 1," you may want to obtain the documents for all the sections. So, use this in the search field, "ABC." The SOS website will provide all corporations with the name, "ABC." Just scroll down until you find, "ABC HOA Section 1." You can then view all the corporate documents that the SOS maintains on its site for that corporation. After saving the files (PDF format), you can then go back to the "ABC" search results and view any other "ABC" listing. This constitutes just one search, so you should only be charged for that one search. If you choose to do another search using another search parameter, you will be charged for a new search.

Other Links

The October, 2007 issue of the Journal of Accountancy discussed IRS sanctions that can be imposed on non-profit organizations that violate certain regulations. See: http://www.aicpa.org/pubs/jofa/oct2007/npo_compensation.htm.