



# PERSPECTIVE

## TO KEEP OR NOT TO KEEP—THE BIG QUESTION

*If there is a question of whether to keep or destroy, error on the side of being conservative as there are no statute of limitations on fraud.*

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The year is over, we've had our taxes prepared and the annual review or audit prepared by our CPA was great. Let's clean house and dump all this old stuff .....  
**HOLD ON!**

As each Association grows older the boxes continue to accumulate until one brave soul decides to weed out what to keep and what to dump. In many instances, this brave soul is a new director who "isn't going to keep all this ---- in my

garage." Sound familiar? Unless you are lucky enough to have a management company keeping your boxes for you, it does become a major issue at times. Even if you have a management company providing services for you, do you really need to hang on to all the boxes just because you like to say that you have everything from "Day One" in those boxes? Is it

worth storage charge? Does this director, in many cases a new director, know what to keep and not to keep? There are many of us who eat, drink and sleep this industry and still don't know what needs to be kept and for how long.

Let us share a little horror story with you. An association was self-managed for approximately eight years. The same members year after year volunteered their free time to "manage" their corporation. One year, approximately five years ago they said, "Enough" and just quit. The pool turned to frog and mosquito

haven, all utilities were shut off to the common area (because who would pay the bills) and members who felt a need could still send in their assessment, but "we're not going to deposit them". Sound far fetch? It really happened.

After a few of the owners got frustrated enough, they decided to put

*Remember that the minutes MUST be kept for the life of the Association and all other records 10 years, which include s the audio tapes of the meetings!*

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together a meeting of the owners and change things. They were a brave few because they are now and have been the Board since that time. Shortly after the owners' meeting, land movement occurred and litigation was filed by one of the owners against the association. A desperate search was conducted to locate the records to determine not only who the insurance carrier was but to find the actual policy itself to determine whether the policy was a "claims made" or "per occurrence" policy. This is when professional management came on the scene.

Many managers should consider placing detective agency after their company name because of the role they play at times. The manager found the policy..... in a garage in Michigan. The past President was relocated by his company and didn't think that the three boxes he had in his garage marked "Association Records" should be left with the association. Luck - Pure Luck! The legal defense itself would have cost the Association over \$50,000 if that policy had not been found and the carrier had not agreed to take the defense.

PLEASE always discuss your record retention plans with your attorney and CPA before you toss papers out. Some CPAs and attorneys recommend fire safe file cabinets for documents with special inserts for keeping magnetic media. Of course, you can choose to follow the example of those who are having their cake and eating it too, by microfilming old business records before discarding them, ending up with the space saving and miniatures of the paper in a retrievable system.

We have tried to identify those records that need consideration and suggested time frames. Providing a copy of this listing to the "experts" should make the job easier for you to get their opinion while protecting the directors and the Association. Keep in mind that the following recommendations are MINIMUM recommendations. There are some of us who are very proud to say that we have everything from day one in those boxes and each Association needs to look at their history & unique problems to determine if keeping some things a little longer than the minimum recommendations might be smart business.

In 2009, Associations were required to audio tape meetings and copies of those tapes be provided to owners at request. Each Board should determine how these will be stored safely and if they will be placed online for listening, handed out with a fee or exactly how this law will be complied with.

PLEASE remember to have your CPA, attorney and insurance agent advise you about your Association as each is unique and may have special requirements. If you have the space, adding a couple of extra years to the below time frames would not hurt. If in doubt, keep it. It's always better to be safe than sorry.

## **HOW LONG SHOULD RECORDS BE KEPT?**

(This is just a guideline and is not meant to represent ALL possible records. To stay in safe harbor, consult with your experts, please.)

### **PERMANENT RECORDS**

- Accident Reports
- Articles of Incorporation
- Bylaws – (All Amendments)
- CC&R's - (All Amendments)
- Cost Accounting Records
- Deeds
- Financial Statements
- Insurance Claims & Settlements
- Insurance Policies
- Labor Contracts
- Minutes of Meetings (Nevada Law)
- Patent Records
- Pension Records
- Property Records
- ... Account Ledgers
- ... Appraisals, plans
- ... Specifications, & Sales
- Reserves Studies
- Right of First Refusal Letters
- Rules & Regulations
- Title Papers
- Trademark Records
- Unemployment Taxes
- Year End Review &/or Audits

**FIFTEEN YEARS**

Maintenance & Repair Records

**TEN YEARS**

Accounting Journals  
Accounts Payable Ledger  
Account Receivable Ledger  
Audio Tapes of Meetings  
Bank Statements  
Budgets  
Business Tax Returns  
Cancelled Checks  
Cash Receipt Journals  
Check Registers  
Closed Passbooks  
Corporate Contracts  
Correspondence Cash Disbursement Journals  
Daily Time Reports  
Delinquency Records  
Delivery Receipts  
Deposit Slip Copies  
Depreciation Schedules  
Employee & Vendor Contracts (After end of employment or contract)  
Employee Applications, Contracts & Work Records (After end of employment)  
Employer Insurance Company of Nevada (SIIS)  
- (Plus one year reporting cycle)  
Equipment Leases  
Expense Reports  
Expired Contracts  
Fidelity Bonds  
Fixed Asset Records  
Franchise Agreements  
Freight Drafts, Bills & Claims  
Garnishments  
General Journals  
Interim Financial Reports  
Inventory Records  
Invoices  
Leases (Property)  
Licenses (after termination)  
Mortgage Receipts  
Plant Acquisition Records  
Payroll Registers  
Payroll Tax Returns

Petty Cash Records  
Property Damage Reports  
Property Depreciation  
Property Tax Returns  
Proposals  
Purchase Invoices  
Purchase Order Copies  
Receiving Reports  
Remittance Statements  
Requisitions  
Sales Invoices & Slips  
Sales & Use Tax Returns  
Social Security Tax Returns  
Travel Records  
Uncollected Accounts Records  
Unemployment Tax Returns  
Voucher & Voucher Registers  
Withholding & Exemption  
W-2 Forms  
W-4's

**( PLEASE REMEMBER THAT THERE IS NO  
STATUTE OF LIMITATION ON FRAUD.)**

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*Complete Community Association Legal Services*

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## LET THE CLARK COUNTY NEIGHBORHOOD JUSTICE CENTER HELP YOU HELP YOUR OWNERS

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Many times neighbors have unique problems matters in which one of the parties refuses to participate willingly. Association issues or authority to intervene. We want to let you know about a service provided by Clark County, which provides free mediation between neighbors or individuals. The service is called the Neighborhood Justice Center and can be reached at (702) 455-3898. They are located in Las Vegas and are open between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday.

Mediation is a process that assists disputing parties to resolve their differences and reach a mutually satisfactory agreement with the help of a trained, neutral third party.

The Center will not handles disputes where the problems are such that they can't be settled through negotiation, where matters involve violent activity or

### *Benefits of Using NJC*

Some of the benefits of the Center are: Cost effective, faster than litigation, process is personalized, issues are discussed in depth, parties control the outcome rather than having a decision made for them and it is private and confidential.

The Association can only get involved in those issues for which it has authority in the governing documents and may tell you that they cannot help resolve a specific problem. Please consider contacting the Neighborhood Justice Center who will help you come to a resolution.