

FREQUENTLY ASKED QUESTIONS – Owners Selling Their Units

November 2013

When a BSV unit is put on the market for sale, there are certain pieces of information that the real estate agent, lender, title company and other entities require. This may include information regarding your dues, HOA insurance, and a PUD Questionnaire or Certification, or Escrow demand. The information below is provided to help with commonly asked questions as you go through the re-sale process.

OWNER'S REAL ESTATE AGENT:

1. Whose responsibility is it to provide information regarding the unit of HOA to their real estate agent?

ANSWER: According to California law, it is the OWNER'S responsibility to provide answers to their real estate agent. Answers to their questions may be found in the governing documents (CC&Rs, Bylaws, Articles, Policies & the Rules & Regulations) or minutes.

SOURCE:

CC&Rs, Bylaws, Articles are provided to owners when they bought their unit during escrow. An emailed copy of all are available at no charge via email by emailing Lynda at Sterling Association Management. Hard copies by mail are \$100.00. A check is required up front.

Rules & Regulations and all Policies: are sent to every owner in their End of Year Disclosure Packet, sent every November 30th

2. What is the management company's email address for owner's to ask questions that the owner cannot answer?

ANSWER: Lynda@sterlinghoa-mgmt.com

3. Why can't questions be answered by the management company in person or over the phone?

ANSWER: It is essential that all information be passed along to all parties with accuracy. Verbal answers may result in mis-statements or misunderstandings down the line which could result in an owner not being approved for the loan. All answers to questions, no matter how trivial they may appear to be, are required to be in writing, preferably via email.

4. Why can't the management company answer questions from the prospective buyer or their real estate agent?

ANSWER" State law prevents the management company or HOA from answering any questions from prospective buyers or their agents.

5. What size and how many real estate signs can my real estate agent install?

ANSWER: One (1) real estate sign that cannot exceed six (6) square feet. It cannot be placed in the common area. One (1) "open house" sign per unit may be placed in the common area during reasonable open house hours. (CC&Rs ART. VII, 7.7)

6. Are short term rentals allowed?

ANSWER: No. Owners may rent or lease for no less than thirty (30) days. (CC&Rs ART. VII, Sect. 7.18, amended May 24, 2001)

7. Are there any restrictions regarding animals (pets)?

ANSWER: Two (2) domestic dogs, not exceeding fifty (50) pounds each, or household cats, fish and birds in cages are allowed within each unit. (CC&Rs ART. VII, 7.7)

8. What are the dues for my unit?

ANSWER: All owners are provided with the current year's budget, Variable Dues Worksheet, and the Dues by Unit documents in their End of Year Disclosure Packets (EOYDP) sent to all owners on November 30th every year.

9. What do the dues cover?

ANSWER: All owners are provided with the current year's budget, in their EOYDP sent to all owners on November 30th every year. It clearly lists all expenses for the current year.

10. What are the coverage's and deductibles for the HOA insurance?

ANSWER: All owners are provided with the current Insurance Disclosure in their EOYDP sent to all owners on November 30th every year. If lenders require a copy of the Policy or the Declaration Pages, please have them contact the insurance agent. Their name and contact information is noted on the owner disclosure.

11. What is the state of the finances at my HOA?

ANSWER: Owners are provided with Reserve Disclosures in their End of year Disclosure Packets sent out every November 30th. These will tell the owner what Percent Funded the RESERVE FUND is, compared to what the current reserve study states should be in the reserve fund every January 1st. A current BALANCE SHEET and/or INCOME-EXPENSE statement for the

previous month will be provided to an owner if they request it in writing, preferable via email. Requests via email can receive these at no charge. There will be a charge for hard copies in the mail. This charge will be added to the owner's account and due and payable with the next dues payment. Normally \$25.00 or less, depending on the time it takes to provide, print and mail.

12. A prospective buyer or their real estate agent is requesting to view and/or receive copies of HOA records; and have questions regarding the current (or previous) Board of Director decisions. Can they request these from the HOA or management company?

ANSWER: NO, buyers have no right to view HOA records or be provided by the management company the reasons behind current or previous Board decisions. Owners may, if they wish, review past minutes or forward information that they may have gleaned by being present at Board meetings to prospective buyers.

13. Can I, as the owner of the unit, ask questions as stated in question 12 above on behalf of the prospective buyer?

ANSWER: An owner may ask questions in writing, preferably via email, to the management company or the Board of Directors. Answers will be at the discretion of the BOD and will always be in writing. There is no guarantee that either the management company or the Board may be able to answer any or all of the questions. Any time spent on this, especially if research is required from past hard copy records, will be charged to the owner. The cost per hour is \$50.00, and this will be charged to the owner's account and due and payable with the next dues payment.

14. What am I, as the current OWNER (the seller) of a unit in California, required to disclose to any prospective buyer?

ANSWER: The law is very clear that owners, not the HOA or management company, are required to provide disclosure of any information that may affect the prospective buyer at your HOA:

- A. Any pending increase in dues that has been approved by the BOD or membership.
- B. Any pending Special Assessment that has been approved to be sent to the membership for a vote, or approved.
- C. Any modifications that any owner has done to the unit since it was originally built, whether or not permission was obtained from the BOD by correctly going through the ARC process.
- D. Any charges or fees that the unit is contractually committed to. For instance the Charter Communications Cable TV Bulk-rate Contract
- E. Any dues, fees or charges owed to the HOA, management company or any other party associated with the HOA.
- F. Any outstanding or unresolved violations or fines.
- G. Any pending or unresolved litigation (lawsuit) that the unit, unit owner of HOA is involved with.
- H. Any pending or unresolved insurance claim that the unit, unit owner of HOA is involved with.
- I. That the HOA has no commercial units, is a Condo Hotel, or an Apartment Conversion
The above is not a complete list.
- J. That the HOA is Fee Simple, not Leasehold.
- K. That the HOA is 100% complete.
- L. That no part of the common area is used commercially or leased out to another party.
- M. To provide an Estoppel Certificate.
- N. To provide a Statuary Form.
- O. The HOA insurance coverage's and deductibles. SOURCE: An Insurance Disclosure is sent to all owners in their End of Year Disclosure Packet sent every November 30th. Copies of Declaration Pages or entire policies are available from the insurance company. Their contact information is on the Disclosure.
- P. Any damages or problems with the interior of the unit.

15. My real estate agent, prospective buyer, or their real estate agent want to see copies of Board meeting minutes. Who is responsible to provide them?

ANSWER: The law states that OWNERS are responsible to provide copies of minutes, although prospective buyers do not have a right to view or copy them until escrow has opened. Owners are sent minutes after every meeting and they should keep them on file. If replacement copies are required, owners may make a request in writing to the management company, preferably via email. If they are only a reasonable amount, such as that last twelve (12) months, and they can be emailed, there is normally no charge to the owner. If there is any time involved on the part of the management company the owner may be charged at the hourly rate of \$50.00 per hour.

16. The prospective owner does not want or need the Charter Communications Cable TV Bulk-rate service that I am currently paying for. Can they decline it?

ANSWER: No, new owners are COMMITTED to this charge and they cannot opt out at any time up until the date the contract expires, June 30th 2015.

17. A prospective buyer has questions regarding specific expenditures. How can I obtain this information?

ANSWER: Answers may be found in past minutes by the owner. An owner may email the management company or BOD but there is no guarantee that answers to any or all of the questions may be answered by the Board or management company. If any time is taken in research, or for anything else involved, a charge may be added to the owner's account & due and payable with the next dues payment. The cost is \$50.00 per hour.

18. Can I tell a prospective buyer, or my real estate agent that ALL damages or repairs to the EXTERIOR are the HOA's responsibility to take care of?

ANSWER: No, it is a common myth that the HOA is responsible for EVERYTHING on the exterior. There are numerous items that the owners are responsible for. For a list, please see the CC&Rs. If owners have any questions, they may email the management company or Board of Directors, but there is no guarantee that an answer can be provided. Owners are encouraged to seek a legal opinion from, an attorney specializing in California HOAs to review the governing documents and the Civil Code for an accurate answer.

19. A prospective owner wants to know how many units are rentals (investment properties), how can I get this report?

ANSWER: Upon written request to the management company, preferably via email, owners may be emailed a report as of that date, usually at no charge to the HOA. Please be aware that the management company and HOA rely on owners returning their Owner Update Form, sent with the End of Year Disclosure Packets every November 30th as to how their unit is being used. Failure to return the form, and if the mailing address is different from the unit address, it is standard in the industry to assume the unit is a rental (investment property). The report is only accurate as of the date it was printed and sent. Information may change on a daily basis.

LENDER FOR PROSPECTIVE BUYER:

20. What is the management company's email address for the buyer's Lender to request a PUD Questionnaire (sometimes called a Certification)?

ANSWER: Lynda@sterlinghoa-mgmt.com

21. Why does a PUD Questionnaire or Certification cost the prospective buyer money?

ANSWER: Time spent on the re-financing of a unit is not included in the management contract that your HOA has with Sterling Association Management. The contract is standard for the industry. The cost to the owner depends on the amount of time spent on the owner's or their Lender's requests. A standard Questionnaire or Certification is \$150 to \$150.00 each. There may be additional charges if an extraordinary amount of time is spent providing the owner or their Lender with answers, reports, or documents, etc.

Civil Code 1368 allows management companies or HOAs to charge for their time and expenses to complete the Questionnaire or Certification and any time spent on the re-fi.

A detailed invoice is provided to the party making the request (usually the lender) and accompanies the emailed completed Questionnaire or Certification as an attachment. It is ultimately the owner who is responsible for payment to the HOA or manager.

22. Why does the management company request payment in full up front?

ANSWER: The Civil Code allows management companies or HOA to require payment up front. The management company, at its own discretion, may waive this requirement if the Lender has a good "track record" of timely payments.

23. Why can it take up to ten (10) days to receive the completed Questionnaire or Certification back from the management company?

ANSWER: Civil Code 1368 states that the Management Company or HOA has up to ten (10) days to complete and send back the Questionnaire or Certification.

PLEASE NOTE: that in most cases, although we cannot guarantee this on every occasion, that if the request is made via email, and it does not fall on the weekend, holiday or after hours, Sterling Association Management tries it's best to return the completed Questionnaire or Certification within twenty-four (24) hours of the request along with the supporting documents and reports attached. If the Lender does not have a good "track record" of timely payments, no work will be done on the request until payment is made in full. Lenders may deliver checks in person by delivering to 645 Main Street, Suite D, Morro Bay CA. If you would like to check to see if the lender you are thinking of using is in good standing, email Sterling Association Management.

24. What reports, statements or documents are required to accompany or be part of the Questionnaire or Certification?

ANSWER: All Lenders have different requirements. Normally it would be:

- A. An Owner's Statement as of that date showing that they are paid ahead, paid in full, or in arrears.
- B. An Owner Occupancy Report showing how many units are owners occupied (primary and secondary homes) and how many are income property (rentals)
- C. A copy of the current budget showing the amount that is to be contributed to the reserve fund for the year
- D. A copy of the Balance Sheet and Income-Expense Statement for the present day
- E. A copy of the Insurance Disclosure

- F. A statement that there are no pending special assessments
- G. A statement that there is no pending litigation
- H. A statement that the HOA is not a Condo Hotel or a apartment conversion
- I. A statement that the phases are complete and it has been turned over to the HOA
- J. A statement that units cannot be used for short term rental (less than 30 days)
- K. A statement noting if one party owns more than one unit
- L. A statement that the amenities are not rented out to the public
- M. A statement that there are no restrictions on the sale of the units, such as an age restriction
(the above list is not complete)

25. Why can't I give my Lender or any other party the password to the HOA website so that they can retrieve information themselves regarding the HOA?

It is important that only owners go into the password protected section of the website as there is information in the minutes that are posted that are privy to owner's only. Owners and Board members' phone numbers & email address are also posted and it is inappropriate for real estate agents to directly contact any owner or Board member.

*If owners have misplaced this document, a replacement can be requested via email by emailing to Lynda@sterlinghoa-mgmt.com. It is emailed at no charge to the owner. Copies are also available on the HOA website using the password.

The website is WWW.bayshorevillage.net

If you need the user name and/or password, please contact Lynda at Lynda@sterlinghoa-mgmt.com

THIS IS NOT TO BE GIVEN OUT TO ANYONE

26. A Lender often requests an "update" to the Questionnaire or Certification prior to the loan being approved, is there a charge for that?

ANSWER: A request for an updated Questionnaire or Certification must be made in writing. Often it only requires a new Owner Statement stating the status of the dues for the unit: paid in full, the amount in arrears, or the amount paid ahead. This report can be generated from the management company's system and emailed as an attachment. Normally there is no charge for this. If a completely new Questionnaire or Certification is required, it will be at the standard cost. PLEASE SEE QUESTIONS 14 through 18 above).

27. Does the prospective buyer need to pay for the Questionnaire or Certification is the loan falls through?

ANSWER: Yes.

TITLE COMPANY:

28. Why can't questions be answered by the management company in person or over the phone?

ANSWER: It is essential that all information be passed along to all parties with accuracy. Verbal answers may result in mis-statements or misunderstandings down the line which could result in an owner not being approved for the loan. All answers to questions, no matter how trivial they may appear to be, are required to be in writing, preferably via email.

29. Is there a cost for an Escrow Demand?

ANSWER: The law allows management companies, or HOAs, whoever is completing the form and providing the information and reports, to charge for their time. It is extremely important to make sure all information is 100% accurate, this requires a large amount of time. A demand costs \$250.00. It is normally paid through the Escrow Company. Failure to be paid results in this charge being added to the new owner's account and due and payable with the next dues payment.

30. Why does the management company request payment in full up front?

ANSWER: The Civil Code allows management companies or HOA to require payment up front. The management company, at its own discretion, may way waive this requirement if the Lender has a good "track record" of timely payments.

31. Can I prepare my owner Escrow Demand?

ANSWER: Yes, but then you are legally completely responsible for its accuracy and any information that is omitted.

32. Why can it take up to ten (10) days to receive the completed Escrow demand back from the management company?

ANSWER: Civil Code 1368 states that the Management Company or HOA has up to ten (10) days to complete and send back the Questionnaire or Certification.

PLEASE NOTE: that in most cases, although we cannot guarantee this on every occasion, that if the request is made via email, and it does not fall on the weekend, holiday or after hours, Sterling Association Management tries it's best to return the completed Questionnaire or Certification within twenty-four (24) hours of the request along with the supporting documents and reports attached. If the Lender does not have a good "track record" of timely payments, no work will be done on the request until payment is made in full. Lenders may deliver checks in person by delivering to 645 Main Street, Suite D, Morro Bay CA. If you would like to check to see if the lender you are thinking of using is in good standing, email Sterling Association Management.

33. What reports, statements or documents are required to accompany or be part of the Escrow Demand?

ANSWER: Each Title Company provide a different demand with some questions being the same and others unique to that particular company. The following is a list of normal requests, but is not a complete list:

- A. The completed two to three page Demand – signed and dated by the preparer.
- B. HOA Insurance Disclosure.
- C. CC&Rs and any Amendments.
- D. Bylaws.
- E. Articles of Incorporation
- F. ARC Policy, Common Area Policy, and Delinquency Policy.
- G. Rules & Regulations
- H. Election Rules
- I. The current Budget, Due by Unit spreadsheet, and Variable Dues Worksheet – statement for the dues for that unit.
- J. The state of account as of that date. Statement if unit is in arrears and the amount in arrears.
- K. A report showing the number of rentals (income properties, versus the number that are owner occupied (primary and secondary homes).
- L. Balance Sheet as of the last month reconciled. (The previous month)
- M. Income-Expense Statement as of the last month reconciled. (The previous month).
- N. Last minutes from the Annual Meeting
- O. Board meeting minutes, Special meeting minutes from the past twelve (12) months.
- P. Statements regarding the charge for a pool gate key.
- Q. Supplemental Reserve Disclosure – Calculations, as of Jan 1st of that year.
- R. Reserve Disclosure as of Jan 1st of that year
- S. Reserve Study Summary as of Jan 1st of that year.
- T. Supplemental Reserves-Financial Disclosure.
- U. Verification of any parking spaces or storage area the unit may or may not have.

34. Is there a charge to update an Escrow Demand when escrow is about to close?

ANSWER: A request for an updated Escrow demand must be made in writing. Often it only requires a new Owner Statement stating the status of the dues for the unit: paid in full, the amount in arrears, or the amount paid ahead. This report can be generated from the management company's system and emailed as an attachment. Normally there is no charge for this.

35. What is a "Transfer Fee" and who is responsible to pay it?

ANSWER: A Transfer fee is usually paid in escrow and covers the following:

- A. Input of new data into the accounting system.
- B. Refund of over-payment to previous owner.
- C. Temporary coupons for the dues and Cable TV until the permanent ones arrive directly from the printer.
- D. Ordering permanent coupons from Bank-A-Count coupon printing & having them mailed to the new owner.
- E. A New Owner Letter welcoming the new owners to the HOA.
- F. An Owner Statement showing that dues for the current month were paid and when the next dues are expected.
- G. The current budget, Dues Per Unit spreadsheet, and Variable Dues Worksheet showing the dues amount for that unit.
- H. An Owner Directory for the current year.
- I. An Owner Update Form for the new owner to supply the HOA with all of the x=contact information for the new owner and how the unit is going to be used. A stamped-addressed envelope is enclosed.
- J. A letter from the management company detailing what is included and what is not included in the contract.
- K. A hard copy of all policies in place at the HOA.
- L. A copy of the Rules & regulations.
- M. A copy of the Election Rules.
- N. Information regarding HOA keys.
- O. Submittal of Change of Owner Form to the HOA bank for the new owner so that checks can be received from them.
- P. The date of the next BOD meeting.
- Q. A list of the current BOD members and their unit addresses.
- R. A list of the Committees and the names of the committee members.
- S. Follow up with Title Company to make sure that the HOA and Management company receives their checks in a timely manner.
- T. Follow up with buyer's Lender to make sure that the HOA and Management company receives their checks in a timely manner.
- U. Follow up with the owner and any real estate agent for invoices due for work done outside of the scope of the contract that the management company has with the HOA.
- V. Answering all questions regarding the HOA from the new owner, either by phone or email.