

WILD HORSE OWNERS ASSOCIATION

R-Wild Horse Ranch

CATEGORY:**TITLE:** Owner Access to WHOA Records**POLICY NO.:****EFFECTIVE DATE:** 07-19-03**LAST REVISED:**

1.0 Purpose:

To provide guidelines and procedures to enable an owner to have access to WHOA records.

2.0 General:

The Board intends to comply with the provisions of governing documents, Corporations Code, and the Civil Code with respect to providing owners access to WHOA's records. This Rule will guide employees who control these records to enable the owners to access them. These employees are referred to as Records Staff. The following positions are Records Staff who will respond to Owners requests for access to records:

- WHOA Office personnel
- Ranch Manager
- Assistant Ranch Manager

3.0 Records to Which Owners Will Have Access:

- 3.1 Books and records of account, such as the operating budget, the Annual Report and monthly financial reports of income and expense.
- 3.2 Minutes of committee's, as well as Owner's and Board meetings with the exception of any existing minutes and/or notes of Executive Sessions.
- 3.3 Operating policies and procedures.
- 3.4 Signed final contracts, including without limitation, leases and agreements between WHOA and any other party.
- 3.5 The Membership List and/or Eligible Voting Owner list or a reasonable alternative.

4.0 The Membership List and Eligible Voting Owner List:

- 4.1 The Membership List contains the name, address, and Share #, which the record owners of each Share have provided the WHOA office.
- 4.2 The Eligible Voting Owner List has the same information as the Membership List, but is limited to the Owners whose voting rights have not been suspended and are eligible to vote for the election of Directors as of the record date for the election. This record date is set by the Board prior to the election.
- 4.3 An Owner may have access to either List, or a reasonable alternative, for a purpose which the Owner reasonably and in good faith believes will benefit WHOA. An example of which is communications with other Owners concerning matters relating to WHOA.
- 4.4 An Owner may use WHOA's Request for Membership List or Eligible Voting Owner List form, which is attached, to request access to these records. The policy and procedures set forth in this form are a part of this Rule.
- 4.5 Access to the List, or the written proposed alternative, must be provided to the requesting owner on or before the later of five business days after the demand is received, or after the date specified in the request.
- 4.6 Respecting the privacy of all owners, the most common response to a request for a List will be to propose a reasonable alternative rather than providing a copy, or allowing the

owner to inspect it. For example, if the purpose for the request for the List is to mail information to other owners, the common proposed reasonable alternative would be to have the requesting owner bring sealed envelopes containing the desired communication, with postage prepaid to the WHOA office. The WHOA office will then place their mailing labels from the List on the envelopes and mail them. The details of this process will be handled by the WHOA office in their written response to the request and in telephone conversations with the requesting owner. If the proposed reasonable alternative is rejected by the requesting owner, the rejection must be written and must state the reasons the proposed alternative does not meet the purpose they gave when requesting the List. This enables WHOA to propose other alternatives if possible or provide the List.

5.0 Procedure:

- 5.1 Except for the Membership List or Eligible Voting Owner list, Records Staff will provide access to 3.0 records within 48 hours of an owner's written qualifying request for access. The inspection and/or copying will occur during the hours of 10:00 am to 12:00am and 2:00pm to 4:00pm. The requesting owner shall pay \$.25/page for photocopying costs for requested copies. Documents will be provided without charge if the total fee is \$10.00 or below.
- 5.2 An Owner requesting access to records must make a written request and state a purpose reasonably related to the Owner's interests as an owner, to inspect, or get copies of records. An Owner may send someone with their written authorization to inspect or obtain copies of records on their behalf.
Records Staff may stay with the records while they are being inspected at the Board President's and Manager's discretion dependent on the sensitivity and/or value of the records.
- 5.3 If copies of records are requested, and the cost to provide the copies, and the cost of mailing if requested, is paid, the request remains unfilled until the copies are provided.
- 5.4 The Membership List and Eligible Voting Owner List, including any part of either, are WHOA's assets and may not be used by any person for any purpose not reasonably related to an owners interest as a WHOA owner, without the Board's written consent. Without limitation, the following uses are uses of a List which are not reasonably related to an owner's interest as a WHOA owner and are referred to as Prohibited Uses:
 - 5.4.1 Solicitation of money or property, unless the money or property is sought to solicit the vote of members in connection with a WHOA Director election;
 - 5.4.2 Any purpose that the requesting Owner does not reasonably and in good faith believe will benefit WHOA;
 - 5.4.3 Any commercial purpose or purpose in competition with WHOA ; and
 - 5.4.4 To facilitate the sale of the List to, or its purchase by, any person.

6.0 Restrictions - An Owner's request for access to section 3.0 records may be denied for the following reasons:

- 6.1 Access would violate the rights of another owner under the State or Federal constitutions, including without limitation, a violation of an owner's reasonable expectation of privacy. For example, there will be no access to an owner's account which shows their assessment payment history or correspondence with respect to any other alleged CC&R violation.
- 6.2 An owners request for access to, or a copy of, the Membership List or Eligible Voting Owner List may be denied when WHOA proposes a reasonable alternative which accomplishes the owner's purpose as set forth in the WHOA's Request for Membership

List or Eligible Voting Owner List form or other written request.

- 6.3 When WHOA reasonably believes that the requesting owner will use the List for any purpose not reasonably related to an owner's interest as a WHOA owner, including without limitation, the § 5.4 Prohibited Uses.
- 6.4 Correspondence between the Directors and/or staff and WHOA's attorney's are not section 3.0 records. In addition, they are protected from disclosure by the attorney-client privilege.
- 6.5 Employee personnel records are not section 3.0 records. Owners may not have access to them.

7.0 Enforcement:

Any person who violates § 5.4 is liable to WHOA for any damage that that use of the List caused. Upon WHOA's demand, that person, including any owner who participates in the violation, shall account for, and pay to WHOA any profit they derived as a result of that violation. In addition, if this demand is not completely satisfied and WHOA is required to sue the involved person(s) to obtain the money for the damage, the accounting and/or the profit, WHOA may seek punitive damages for a fraudulent or malicious violation of § 5.4 and may seek a court order restraining the violation. In any § 7 court action WHOA may recover from the violating persons reasonable costs and expenses including attorney fees.

8.0 Checklist of Frequently Requested Documents:

<u>DOCUMENT</u>	<u>Yes</u>	<u>No</u>
Audits	x	
Bank Statements		x
Ballots		x
Checks		x
Final Contracts	x	
Financial Statements	x	
Invoices/Bills		x
Litigation Documents which are part of the court file		x
Books and Records	x	
Membership list or reasonable alternative (but not for a commercial purpose)	x	
Minutes	x	
Proxies or ballots		x
Reserve Studies	x	

**WHOA
Wild Horse Owner's Association**



R-Wild Horse Ranch • 6700 Highway 36 West • Platina, CA • 96076
(530) 352-4222 • Fax (530) 352-4442 • ranchwild@tds.net

Request for Membership List or Eligible Voting Owner List

I _____
[Print the requesting record owner's name as it appears on their deed.]

am a record owner of Interest # _____ in the R-Wild Horse Ranch Owners Association. This is my request to inspect and/or copy [check one] the Membership List, or the Eligible Voting Owner List, referred to as the "List". These lists are defined on the back of this form. I want this List for the purpose I have written on the back side of this form. This purpose is reasonably related to my interest as an owner.

[On the back, state the purpose for this request, for example, "I wish to send a letter to all owners concerning Designated Users."]

Note to Requesting Owners: To protect the right to privacy of other owners, Corporations Code §8330 and the Bylaws at Article XI §2 require the requesting owner to state the purpose for which this List will be used. An owner has not made a written request for a List to which the Association can, or should, respond until this is done. The reason for requiring the owner to state the purpose for the request is to enable the Association to attempt to ensure that the owner will not use the List for improper purposes, set forth below, and to enable the Association to propose a reasonable alternative to accomplish that purpose in a manner which does not require the Association to give the requesting owner the List. The Corporations Code authorizes this approach.

Both Lists are an Association asset and cannot be used for the following purposes without the Board's written consent.

- 1) For solicitation of money or property, unless the money or property is sought to solicit the vote of members in connection with a WHOA Director election;
- 2) For any purpose that the requesting owner does not reasonably and in good faith believe will benefit WHOA;
- 3) For any commercial purpose; and
- 4) For sale of either List.

I am requesting the Eligible Voting Owner List. I would like this List, or your proposed written reasonable alternative within [choose one] ten business days, or if later, the day after this List is compiled which you anticipate will be _____. I have enclosed my check for \$_____ which is your estimated cost to produce this list.

Signature

Date