

MEMBERSHIP LIST

Member Contact Information. Corporations must keep a record of their [members](#), with their names and addresses. ([Corp. Code § 8320\(a\)](#).) Members must, on an annual basis, provide their contact information to their associations. ([Civ. Code § 4041](#).) The information is used for sending notices and disclosures to members and goes into forming a membership list. Associations, in turn, must annually provide written notice to the membership of their obligation to provide the following information:

1. The address or addresses to which [notices from the association are to be delivered](#).
2. An alternate or secondary address to which notices from the association are to be delivered.
3. The name and address of a legal representative who can be contacted in the event of the owner's extended absence.
4. Whether the separate interest is owner-occupied, rented out, or vacant.

If an owner fails to provide contact information, the property address in the development is deemed the address to which notices are delivered. ([Civ. Code § 4041](#).)

Right to Review & Copy. Members can inspect and copy the association's membership list. ([Civ. Code § 5200](#) and [§ 5205](#).) A membership list is defined to include a member's name, property address, mailing address, and email address but not including information for members who have opted out pursuant to [Civil Code § 5220](#). ([Civ. Code § 5200\(a\)\(9\)](#).)

Email Addresses. Beginning January 1, 2020, members' email addresses, which are officially made available to an association, must be added to the membership list information. [Civil Code § 5200](#) defines "Association records" to include membership lists with email addresses. With the steady increase in junk email, identity theft, malware, and hacking, most owners do not want their email addresses made public without their permission. Fortunately, the Davis-Stirling Act allows members to opt out of the membership list pursuant (see below).

Telephone Numbers. The right to a membership list does not include the right to phone numbers. The member list only includes members' names, property addresses, mailing addresses, and email addresses. ([Civ. Code § 5200\(a\)\(9\)](#).) The exception is if the association's governing documents require that phone numbers be included with the membership list.

Opting Out. Although [Corporations Code § 8330\(c\)](#) allows the withholding of the entire membership list if the association provides an alternate means of communication, the statute was modified by the legislature so that associations can no longer withhold the list. ([Civ. Code § 5200\(a\)\(9\)](#) and [§ 5205](#).) However, members retain the right to individually opt out of the list.

A member of the association may opt out of the sharing of his or her name, property address, and mailing address by notifying the association in writing that he or she prefers to be contacted via the alternative process described in subdivision (c) of [Section 8330](#) of the Corporations Code. This opt-out shall remain in effect until changed by the member. ([Civ. Code § 5220](#).)

Alternative Methods for Contact. Opting out does not mean owners are immune from contact with other members. The statute that allows opting out also provides that the association must provide an alternative means for contacting members. ([Civ. Code § 5220](#).) Following are two options for handling communications with members who opt out of the membership list:

1. HOA Applies Labels. Members who want to mail a letter to opted-out members can deliver to the association their letter in sealed envelopes with postage already applied. The association (or its management company) then applies mailing labels to the envelopes and drops them in the mail.
2. Mailing House. A complete mailing list of all members (including opt-out members) could be provided by the association to an independent printer/mailer. A member who wants to mail a letter to all other members takes it to the company, which then applies mailing labels and mails it to everyone. Or, in the alternative, prints the letter, puts it in envelopes, applies mailing labels and postage, and drops it in the mail. It depends on the level of service offered by the company.

Copy Costs. Associations can bill the requesting member for the direct and actual cost of copying the membership list. Associations must first inform the member of the costs before copying the requested documents. ([Civ. Code § 5205\(f\)](#).)

Deadline for Producing. Upon five days' written demand, members can inspect the membership list at [reasonable](#) times. ([Civ. Code § 5210\(b\)](#).)

Purpose of the Request. The member requesting the list shall state the purpose for the request, which purpose shall be reasonably related to the requester's interest as a member. For example, a member cannot request the list, so he/she can solicit real estate listings. If the board reasonably believes that the information in the list will be used for another purpose, it may deny the member access to the list. If the request is denied, in any subsequent action brought by the member against the association, the association will have the burden to prove that the member would have used the information for purposes unrelated to his interest as a member. ([Civ. Code § 5225](#).)

A corporation has the burden of proving that the member will allow use of the information for purposes unrelated to the person's interest as a member. ...Mere speculation that the member will use the information for an improper purpose is not sufficient to nullify inspection rights; any suspicion must be based on adequate facts in order to justify denial of inspection. (*Tract No. 7260 Association, Inc. v. Parker*, internal cites deleted.)

Mailing Labels & Delinquent Owners. Members do not have the right to demand that the association print the membership list as mailing labels nor do they have the right to demand that delinquent owners be identified on the list. Some associations keep their list in a form that can be used to print mailing labels and the association can but is not required to present the list in that form to an owner.

Corporate Asset. A membership list is a corporate asset. ([Corp. Code § 8338\(a\)](#).) Without the consent of the board, a membership list may not be:

- (1) Used to solicit money or property unless such money or property will be used solely to solicit the vote of the members in an election to be held by their corporation.
- (2) Used for any purpose which the user does not reasonably and in good faith believe will benefit the corporation.
- (3) Used for any commercial purpose or purpose in competition with the corporation.
- (4) Sold to or purchased by any person.

Penalty for Misuse. Any person who misuses a membership list is liable for any damage caused by the misuse, including [punitive damages](#) for fraudulent or malicious misuse. ([Corp. Code § 8338\(b\)](#).)

Denial of Request. If a demand is made by a single member and the association believes the demand is for an

improper purpose, the board may deny the member access to the list. ([Corp. Code § 8330\(b\)\(1\)](#).) If the demand is made by an authorized number of members, and the board believes the demand is for an improper purpose, it can petition the court for an order setting aside the demand. ([Corp. Code § 8331\(a\)](#).)

ASSISTANCE: Associations needing legal assistance can [contact us](#). To stay current with issues affecting community associations, subscribe to the [Davis-Stirling Newsletter](#).



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