

purpose then the Association shall provide a copy of those records within fifteen days of such request.

6.4.4 The association may charge a fee, not to exceed the Association's cost per page.

ARTICLE VII

Contracts, Loans, Checks and Deposits

7.1 Contracts. The board of directors may authorize by ~~any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association. Such authority may be general or confined to specific instances.~~

7.2 Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the board of directors. Such authority may be general or confined to specific instances.

7.3 Checks, Drafts, etc. All checks, drafts or other orders for payment of money, notes, or other evidences of indebtedness issued in the name of the Association, and up to the amount of \$3,500.00 shall be signed by the Association Manager. Checks, drafts or orders for payment greater than \$3,500.00 will be signed by the president, and in the absence of the president, the treasurer.

7.4 Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies, or other depositories as the board of directors may elect.

ARTICLE VIII

Fiscal Year

The fiscal year of the Association shall begin on the 1st day of January and terminate on the 31st day of December of each year.

ARTICLE IX

Seal

The board of directors may, by resolution, provide a corporate seal that shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation and the word, "SEAL".

ARTICLE X

Waiver of Notice

Whenever any notice is required to be given to any member or director of the Association under the provisions of these Bylaws or under the provisions of the laws of the State of Colorado, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the

giving of such notice.

ARTICLE XI

Indemnification of Officers and Directors

The Association shall indemnify every officer or director and their heirs, executors and administrators against all loss, costs and expense, including attorney fees, reasonably incurred by them in connection with any action, suit or proceeding to which they may be made a party by reason of their being or having been an officer or director of the Association, except as to matters as to which they shall be finally adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the persons to be indemnified have not been guilty of gross negligence or willful misconduct in the performance of their duties as such officer or director in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such officer or director may be entitled. All liability, loss, damage, costs and expenses incurred or suffered by the Association by reason of or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as common expenses; provided, however, that nothing in this Article shall be deemed to obligate the Association to indemnify any member who is or has been an officer or director of the Association with respect to any duties or obligations assumed or liabilities incurred by them under and by virtue of the Covenants and Restrictions of Crested Butte South as an individual owner of a Lot or Unit covered hereby and not as a director of the Association.

ARTICLE XII

Obligation of the Unit and Lot Owners

12.1 Assessments. Except as is otherwise provided in the Covenants and Restrictions of Crested Butte South, all Unit and Lot owners and Associate Members shall be obligated to pay the regular and any special assessments imposed by the Association to meet the common expenses of the Association as set forth in the Covenants. A member in good standing is entitled to vote at any annual meeting or at a special meeting of members, within the meaning of these Bylaws. The Association shall have the authority to impose liens for nonpayment as set forth in the Covenants and Restrictions of Crested Butte South and those portions of the Colorado Common Interest Ownership Act ("CCIOA") that apply to pre-CCIOA communities.

12.1.1 Suspension of Privileges. Any member who fails to pay his or her annual or special Assessments shall

MARKUP #1 ->

MARKUP #1 · DOCUMENTS CONTRADICT

BOARD & COUNSEL REVIEW

Sec. 5.3 (p. 6): Hierarchy conflict (ARTICLES_OF_INCORPORATION trumps BYLAWS): ARTICLES_OF_INCORPORATION mandates that each Director must be a Member of the Association, whereas BYLAWS states that Directors "need not be Members of the Association."

Statutory / Legal Reference: Colo. Rev. Stat. §§ 38-33.3-101 to 38-33.3-402 (CCIOA) & Restatement (Third) of Property (Servitudes) § 6.7 (Governing Document Hierarchy) Higher-Rank Document: Articles of Incorporation (Sec. 6, p. 1)

Statutory Comparison: Under the governing document hierarchy (and the Declaration's supremacy clause), the recorded ARTICLES_OF_INCORPORATION (Controlling Covenant) overrides the subordinate BYLAWS. Because the ARTICLES_OF_INCORPORATION requires every post-turnover Director to be a Member (and automatically removes any Director who ceases to be a Member), the BYLAWS provision purporting to allow non-member Directors is overridden and unenforceable.

CURRENT WORDING IN DOCUMENT:

Qualifications. The president, and secretary-treasurer shall be members of the board of directors. Any additional officers elected or appointed by the board of directors need not be members of the board of directors of the Association.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend 2022 Amended Bylaws sigend 7.13.2022 Section 5.3 to strike "who need not be Members of the Association" and replace with: "who must be Members of the Association following termination of the Class B Membership, as mandated by the controlling Declaration."