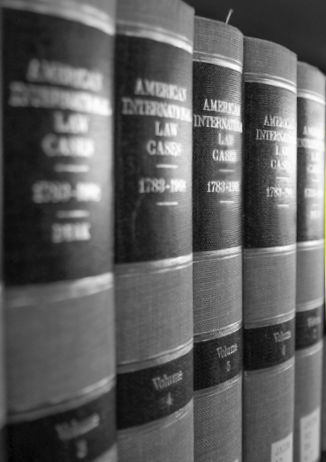




RUGGIERI  
LAW FIRM



# QUARTERLY NEWSLETTER

OCTOBER 2024





# Time is Running Out to Provide Covenants and Rules

FRANK A. RUGGIERI

As most of you are aware, the recent legislative changes effective July 1 include a new requirement to provide a copy of all covenants and rules to the membership no later than October 1, 2024, and to provide all buyers/purchasers with copies as well. This requirement may be complied with by providing notice to homeowners with a "website URL", providing a link to the Association's website where the records may be found. This notice may be provided electronically to those that have consented to receive notice electronically.

There are several alternatives for hardcopy mailing to homeowners that have not consented to receive electronic notice, including "postcards" which include a brief notice and link to the Association's website, or even a QR code that would take a homeowner to the Association's website where the covenants and rules may be found. Our firm has likewise concluded that "management portals" dedicated to specific communities, with their own independent URL where the covenants and rules may be found complies with the statute.

Regardless of the mechanism you choose, make certain that the Association is in compliance by October 1, 2024, as the Association must either provide a link to the Association's website where the covenants and rules may be found, or a complete hard copy of all covenants and rules no later than the deadline.

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## Update - Corporate Transparency Act

SEAN REED, ESQ.

As you may already know, the passage of the Corporate Transparency Act by Congress in 2021 has created an additional requirement on both Homeowners and Condominium Associations throughout the country. Importantly, the deadline for submitting the Association's Beneficial Ownership Information (BOI) is January 1, 2025. This report will include personal information of each Board member, including legal names, addresses, license numbers, birth dates, etc.

Importantly, the Northern U.S. District Court in Alabama recently released a decision declaring the Corporate Transparency Act unconstitutional as this requirement exceeds Congress' enumerated powers. However, this singular decision rendered by a distant District Court in Alabama does not set a precedent for whether Associations throughout the country, including those located in Florida, must comply with the Corporate Transparency Act. This decision is already in the process of being appealed and will likely not reach an official ruling before the upcoming deadline.

Unfortunately, our firm must therefore strongly recommend that both Homeowners and Condominium Associations submit their Beneficial Ownership Information in compliance with the CTA by January 1, 2025, due to the uncertainty of the Act's constitutionality. The penalties for the failure to submit this required information include "civil or criminal penalties, including civil penalties of up to \$500 for each day that the violation continues, or criminal penalties including imprisonment for up to two years and/or a fine of up to \$10,000." Due to the excessive penalties for the failure to comply with the Act, we encourage every Association to submit their Beneficial Ownership Information before the start of the next calendar year.

To submit the required information, please visit the Financial Crimes Enforcement Network (FinCEN) website at <https://www.fincen.gov/boi> before January 1, 2025.



# Interpret the Official Records Statute at Your Own Peril

FRANK A. RUGGIERI, ESQ.

Florida's Fifth District Court of Appeals which includes much of Central Florida recently released an opinion in a case involving a homeowner's claim that the Association violated the official records provisions of Chapter 720, Florida Statutes. This included the Association's failure to provide bank statements. The Association had provided budgets, annual financial reports, and other financial records but failed and refused to provide bank statements, taking the position that they are not official records under the statute. The Fifth District disagreed.

The opinion not only holds value in informing homeowners associations regarding the interpretation of "financial records" under the statute within the universe of official records. It likewise provides a critical lesson in the risks associated with interpreting the official records provisions to permit withholding of records.

Issues pertaining to electronic mail and security camera footage can become quite complex. We recommend a conservative approach which errs on the side of providing records rather than excluding them, and encourage communities and their management team to reach out to legal counsel in case of doubt. This particular piece of litigation continued through appeal of the lower court proceeding and likely resulted in an a very significant fee award to the homeowner who ultimately prevailed.



## UPCOMING EVENTS

09/25/2024 – **Legislative Update**

10/02/2024 – **HOA Board Member Certification**

Most of our classes have been postponed until further notice.  
If you have any questions, email us at [contact@ruggierilawfirm.com](mailto:contact@ruggierilawfirm.com).

### ORLANDO

13000 Avalon Lake Dr.  
Ste. 305  
Orlando, FL 32828

P (407) 395-4766  
F (407) 890-5177

### MELBOURNE

6767 N. Wickham Rd.  
Ste. 400-H  
Melbourne, FL 32940

P (321) 241-4770  
F (321) 241-4771

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