



RBHOO
GENERAL MEETING

July 12, 2023

Agenda – Call to Order

- Meeting will begin promptly at 7pm



All Zoom Participants are muted!

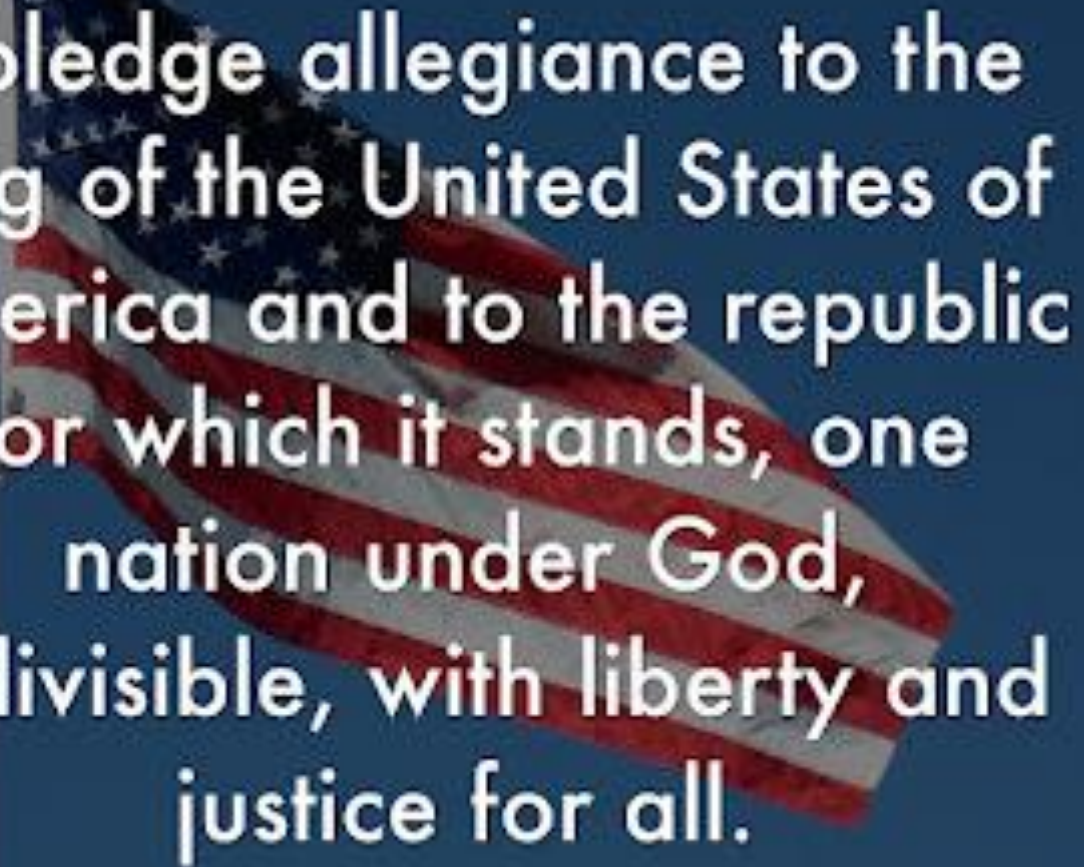
Enter questions into the chat

or

Text questions to 859-743-0451

**Pictures might be taken and possibly used on the
RBHOO website.**

Pledge of Allegiance

An American flag is shown waving against a dark blue background. The text of the Pledge of Allegiance is overlaid on the image in white, bold, sans-serif font.

I pledge allegiance to the
flag of the United States of
America and to the republic
for which it stands, one
nation under God,
indivisible, with liberty and
justice for all.



Agenda

- **Old Business**
- **Community/Education Presentations**
- **New Business**
- **Upcoming Events**

Old Business

- **Shout Out – Picnic Organizers**



Agenda

- **Old Business**

- Secretary Report

- Zoom meeting is on www.rbhoo.org.
 - No minutes were taken.

- Treasurer Report

- April 30, 2023 **\$ 5,774**
 - 2023 Dues \$50
 - Other Income: \$0
 - Expenses \$386 (\$186 monthly storage; \$200 picnic)
 - **Current Balance (6/30) \$5,438**
 - Outstanding Liabilities \$998 (\$93 monthly storage; \$759 picnic; \$146 PO Box)
 - Outstanding Deposits \$175 (\$45 picnic, \$30 light switch, \$100 new members)

- Membership Report

- **2023 Membership 195**

Bruderhof

- **Eric and Dora Scott**



www.rbhoo.org

Picnic Report

- Approximately 140 attendee's
- Budgeted \$1500; spent \$959 (less than 2022)
- Thoughts
 - **DATE:** Continue to have the picnic as early as possible, target will be May!
 - **TIME:** Board to discuss the start time and 4-hour duration, perhaps shorten it...perhaps not.
 - **MUSIC:** Great! Reassess start/end times for Bob & Julia if using them next year.
 - **GAMES:** Cornhole was good; perhaps add something next year to engage members more.
 - **PRIZES:** Always a hit. Next year have some planned good questions/trivia.
 - **DANCE:** Perhaps some coordinated line dancing if not too hot.
 - **MEAT:** Perfect! Smoke-n-Bonz did a great job, there was plenty for everyone. Once again, all the side dishes/salads/apps and desserts that members brought were fabulous.

Picnic Report

◦ Thoughts

- **LOCATION:** Perfect - Would not change a thing
- **PARKING:** Earl, Phil & Carey did a great job! Everyone was impressed.
- **BATHROOMS:** May not have construction Port-A-Potty next year so will have to budget for a rental or just let folks know or there's the woods behind us .
- **SET UP/TAKE DOWN ASSISTANCE:** Ask for more member involvement for set up and tear down. Special thanks to Kim Wood, Steve Wohlford, Eric Chase, Ron Walker and others and to all RBHOO Board Member spouses that assisted.
- **BUDGET:** We had budgeted \$1500 and came in under that at \$959. Should keep it the same next year.
- **COMMUNITY FEEDBACK:** There was so much positivity from everyone about this picnic. We received numerous emails saying what a great job RBHOO. It was a huge hit with the community.

New Laws Effective July 2023

- **26 Pages of New Laws on RBHOO website**

◦ HB0458	HB0458	383	Effective date(s) 07/01/2023, 10/01/2023	Amends TCA Title 55, Chapter 10, Part 4 and Title 69, Chapter 9, Part 2. As enacted, revises various provisions of present law concerning the offense of boating under the influence.
◦ SB0863	SB0863	205	Effective date(s) 01/01/2024	Amends TCA Title 66, Chapter 27. As enacted, requires a board of directors for a unit owners' association to either update a reserve study or conduct a reserve study if certain conditions are met.
◦ SB0871	SB0871	271	Effective date(s) 07/01/2023	Amends TCA Title 67, Chapter 5, Part 7. As enacted, makes changes to property tax relief under the Property Tax Freeze Act.
◦ SB1005	SB1005	133	Effective date(s) 07/01/2023	Amends TCA Section 47-18-104. As enacted, specifies that it is an unfair or deceptive act to issue or deliver a home service contract to a consumer in this state that does not specify the merchandise and services to be provided, and any applicable limitations, exceptions, or exclusions of the contract.

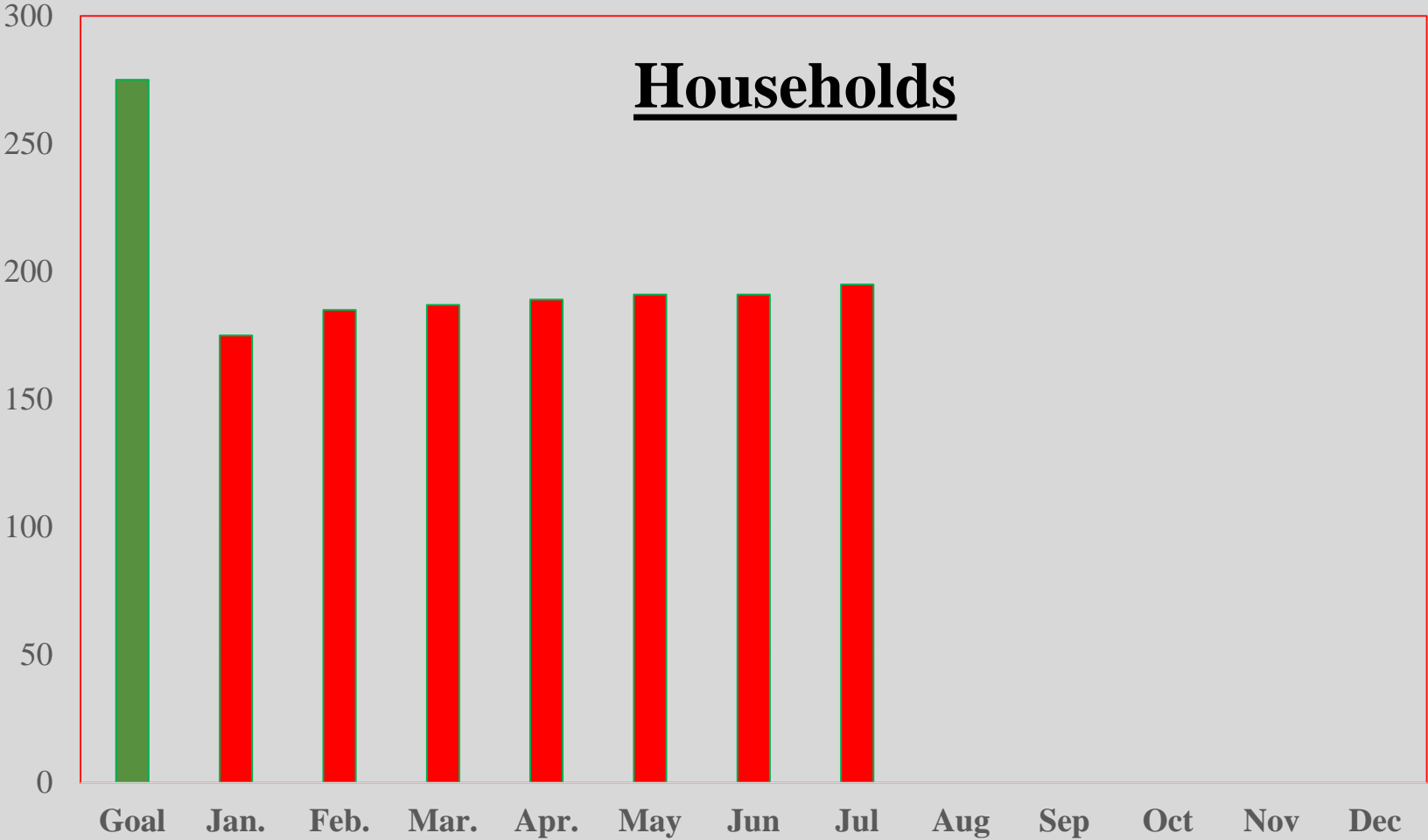
Increase Membership

- Membership

- Start of Year – 175
- Current - 195
- 2023 Goal – 275

- Campaign

- Email
- Door-to-door



Upcoming Events

RBHOO Regular Meetings

- **August 9**
 - Outreach Presentation –
 - Education Presentation – N/A
 - Rarity Bay Club – N/A
 - Activity Spotlight – N/A
- **September 13**
 - Outreach Presentation –
 - Education Presentation – N/A
 - Rarity Bay Club – N/A
 - Activity Spotlight – N/A

Upcoming Events

- **July 27th**
 - Court Hearing
- **August**
 - 1 - RBHOO Nominating Committee Announced
- **September**
 - 1 - Nominations open for RBHOO Board
 - At least 6 Board Positions
- **October**
 - Document Shredding
 - 11 - Vaccine Clinic
 - 11 – Meet the RBHOO Board candidates
 - 12 – Voting for RBHOO Board begins
- **November**
 - 1 – Voting for RBHOO Board ends
 - 8 – 2024 RBHOO Board announced
 - 11 – Chili Cook Off
- **December**
 - 13 – Christmas Party

July 27th Court Hearing

Salem Pointe Capital's Motion to Amend Frisbey Order (21-579)

Judge Bryant Ruled

- Declarant can not unilaterally change the By-Laws
 - Thus, changes to Amendment 6 that affect the By-Laws are invalid
 - 4.1b Definition of Class B Membership
 - 8.5 Removal of Directors
 - Declarant cannot remove members of the Board with or without cause
 - Declarant does not need to approve Board members
 - 12.8 Change the Date of Assessments
- Declarant does not have control over the Association
 - Cannot veto actions of the Board
 - Board does not need to seek Declarant approval

SPC has asked the Judge to reverse herself.

July 27th Court Hearing

Status Update – Declarant Removal (21-643)

- May 3rd Interrogatories to SPC – Due June 3rd
- June 3rd No response from SPC attorney
- June 7th Follow up letter requesting responses by June 17
- June 17th No response from SPC attorney
- July 10th Follow up letter requesting responses by July 14

Discovery has not begun!

July 27th Court Hearing

Special Election Clarification (21-173)

- RBCAI Board is seeking clarification from the Judges June 7th order (February transcript)
- Can the RBCAI Board hold a special election?
- RBCAI Board does not want a special election.
 - Board was asked to hold a special election; no response
 - Board believes they stay on until successors are seated
 - Chad's email indicated that the Board will stay in place until the Court rules on phase 17 lots
 - That was the reason for the Demand Request
 - Board must give notice within 30 days for the Special Meeting (July 27th)
 - If no notice is given, Members of the Association can give notice and run the Special Meeting
 - Special Meeting is a Special Election
 - Would happen sometime in September
 - **No Board Involvement**
 - CAC Staff work for the Association; not the Board

declarant, this Court enjoins any action by the board from and after the time that it inappropriately sat people who Mr. Ayres just approved, rather than having a new election.

July 27th Court Hearing

Special Election Clarification (21-173)

need to be resolved the Court is holding that any votes by the declarant at any election shall be stayed until after the May 2023 hearing except for the votes -- except for any special elections called to replace the -- and I don't remember if it's two or three board members. But the -- excuse me. It's staying any election until after the May 2023 hearing.

Any questions?

MS. CAFFEY: Yes, Your Honor. So if there is a special election, am I to understand that LLC cannot vote those lots in phases 16 and 17.

THE COURT: They cannot vote the lots in 17.

July 27th Court Hearing

Contempt of Court (21-579)

For all these reasons, the Court asks that the Defendant Association be held in civil contempt of the Court for violating this Court's prior Order. While a court order is sought to require regular Board meetings and to only allow the Board to act according to actions officially approved by the Board, if Mr. Story and his appointed Board members remain for the rest of the year in control of the Board, Mr. Frisbey and the community residents he represents will continue to be ignored and sidelined, and the alleged Declarant will remain in *de facto* control of the Board. Currently, Mr. Frisbey is simply a Board member on paper only with no true legal effect to the Court's Order. Therefore Mr. Frisbey simply asks this court to, in accordance with Section 8.4 of its Bylaws, order a Special Election for a total of six (6) new Board members (the four with expired terms plus the two empty seats) to be held by a date certain, so the community's voice can be heard, and governed by an elected, not appointed, Board.

Questions – Is everyone allowed on Club Property?

No. There are five (5) residents with a no trespass order from the Club's lawyer. They are not permitted to be on any of the Club's 250 acres and are not allowed to attend events at the Club.

The Club has talked about letting those residents attend events if they send a request for each event to Club management asking for permission. However, nothing formal has been sent to those residents.

Questions – Please comment on the Responses to Questions Submitted to RBCAI

Question submitted to and response from RBCAI

#2 Two of the current board members are appointees and NOT elected by the community and according to the Rarity Bay By-Laws their terms will expire at the annual meeting. When will a special election be held so as to allow the voice of the community to be heard in reference to the RBCAI Board?

We are currently seeking direction from Chancellor Bryant via RBCAI counsel Kevin Stevens on both expiring terms and our ability to conduct a Special Election. Since the Court has stayed any elections until after the Dec 2023 trial (originally May 2023), an annual election cannot take place at the annual meeting scheduled for June 29, 2023. Pursuant to Bylaw §8.4, a director's term of office terminates at the second annual meeting following the director's election. §8.4 contemplates an annual election as the exclusive process for the members to elect any directors following the expiration of the terms of their predecessors. Under §8.4, "All directors continue to hold office until their successors have been duly qualified and elected."

#5 First, in reviewing the master documents as well as the by-laws, it is my understanding that any "appointed" members will have to step down from the board at the conclusion of the annual meeting. Is my understanding of this requirement being correct?

Reference Question 2 above

#6. Second, if I am correct on the first question, then, according to the master document and the by-laws, would a special election have to be called to fill the vacancies that are created?

Please refer to answer reflect in question #2.

Questions - My Response to the RBCAI

#2, #5 and #6 Section 8.5 not section 8.4 covers directors that are appointed. Below is what section 8.5 states. Both Terry and Kris were appointed to replace directors that were elected. Please note the words “until the next annual meeting” and in the last sentence “Members may elect”. This implies that the members do not have to wait for their successor to be seated to have their term expire and thus Terry and Kris are no longer Board members. This is why we need a special election to replace them as well as the two open positions. Section 8.4 Term of Office where the language around successor is mentioned does not apply to appointed members.

In the event of the death, disability, or resignation of an elected director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members may elect a successor for the remainder of the term.

Update: Judge has been asked about Special Elections.

Questions – Please comment on the Responses to Questions Submitted to RBCAI

Question submitted to and response from RBCAI

#7. And third, if a special election has to be called, how soon will that occur to ensure the continuance of the board's business requirements? Not applicable.

Special Elections cannot be used per our bylaws to replace board members who terms have been fulfilled.

Questions - My Response to the RBCAI

#7. There is nothing in our By-Laws that deals with Special Elections. At least I can't find it. I did find some case law that seems to imply it is legal in Tennessee, but I'll defer that to the lawyers. Terms of a Director that are elected (not appointed) are defined in amendment 4 section 8.5. It does not state that the successor must be elected at the annual meeting; not does it preclude a successor from being elected in a Special Election. So, Chad's term expired at the annual meeting, but he is allowed to serve until his successor is elected. Not sure where Cristeen falls; however, I believe she is subject to 8.4 as well. Again, we need a special election to replace them as their terms have expired.

8.4. Term of Office. Each director shall serve a term commencing on the date of the annual meeting of the members at which such director is elected, and terminating on the second annual meeting of the members following the election of such director. Three directors will be elected at the annual meeting of the members conducted in each odd numbered year. Four directors will be elected at the annual meeting of the members conducted in each even numbered year. All directors shall continue to hold office until their successors have been duly qualified and elected.

Questions – Please comment on the Responses to Questions Submitted to RBCAI

Question submitted to and response from RBCAI

8. Which Board members' terms will expire at the conclusion of the annual meeting?

Reference Question #2 above. No board member's terms expire per the judge's Stay order.

My Response

#8. 4 Directors' terms did expire. Their successors have just not been determined yet...and in the case of Terry and Kris, they are no longer Board members. The By-Laws are very clear on this.

Questions – Responses to Questions Submitted to RBCAI

Question submitted to and response from RBCAI

#19 The terms of current Board members are up today with this, the next, Annual Board Meeting. Our governing documents state that we must immediately hold another election to fill 6 seats on the Board. We are within our rights to demand this election. Is the Board going to cooperate? Reference Question #2.

The Judge's "stay order" prevents us from having a general (annual) election until she rules on voting rights of the declarant. A special election is not warranted under our existing by-laws to replace a general election. A special election is only permitted to replace a board director who has resigned, died, or been removed from the board.

My Response

#19. Explain to me where you find that a Special Election is not warranted to replace a general election. There is nothing in our By-Laws stating it. As a matter of fact, there is nothing in our By-Laws that say an election must be at the annual meeting so a special meeting could be called for the purpose of replacing expired terms as well as open positions.

Questions – Please comment on the Responses to Questions Submitted to RBCAI

Question submitted to and response from RBCAI

#20 At the March 1, 2022, RBCAI Organization meeting the RBCAI Board voted unanimously to replace Kevin Stevens because it was an obvious conflict of interest with Mr. Steven's retainment by Mr. Ayers. Why wasn't our community informed of this Board's outrageous decision to continue with Mr. Stevens? Do you really believe Mr. Stevens no longer has any contact with Mr. Ayres?

There was a discussion about investigating alternate counsel options but because it was determined that the March 1st meeting was not a valid meeting, there was no documentation and there has been no subsequent discussion on the current board

Questions - My Response to the RBCAI

#20. Who determined that the March 1 meeting was not a valid meeting? That's not what the courts found. The reasoning given by the Board back then was that it was a special meeting called by Michael Ayres for the purpose of removing Board members and only that purpose can be done at that Special Meeting. So, there could not be any voting on new counsel. However, the meeting was announced as an Organizational Meeting, not a Special Meeting. In addition, Judge Bryant ruled in Frisbey's case that Michael was not allowed to call that special meeting and did not give proper notice; thus, it really was an Organization meeting not a Special meeting and minutes were taken. The minutes were not published; however, the minutes are in the court record and show that the Board 'fired' Keven Stevens by a vote of 7-1. "seek new counsel representation" implies to replace. Based on Kevin's record (batting 000), I would take that vote as a reason to replace him; otherwise, we will continue to occur unnecessary legal expenses for bad legal advice/opinions.

Questions - My Response to the RBCAI

Motion was made by Michael Frisbey to seek new counsel representation for the CAI due to potential conflict of interest with Kevin Stevens representing both the CAI and the Declarant. Seconded by Curtis Crawford.

Vote Count

Curtis – Yea

Steve W. – Yea

Michael Frisbey – Yea

Steve C. – Nay

Chad – Yea

Bob – Yea

Crystal – Yea

Chuck – Yea

Motion Passed

Back in January 2018 our legal budget was set at ~~\$4,000~~ **\$35,000**. In January 2023, its \$75,000 and to date we're running \$11,000+ over budget. So, for the whole year, we'll probably be at around \$110,000 for legal. What a waste of money and what are the results....the Board has lost every lawsuit where the Judge has issued an order. That money could be used to offset the increase in assessments or put towards other common expenses. The Board should be embarrassed to spend all that money (mostly on the lawsuits) and have nothing to show for it. Kevin continues to give bad legal advice instead of giving sound legal advice that might not be what the Board wants to hear but can be defended in court. I think asking the Judge if you can hold a Special Election is another waste of money. In the transcript from June 6, when specifically asked if Michael could vote lots in phase 17 in a special election; she said no he cannot. She did not say no you can't have a special election.

Questions – Billing of Legal Services

My Two questions.

- Dana Pemberton is at a lot of the Board meetings, including the Annual Meeting. Is the RBCAI Board paying her?
- Dana filed the Motion for Clarification...why not Kevin?
- Why are the legal expenses so high?

I plan on doing a detailed analysis of the legal invoices next week. I sent the RBCAI Board a request to copy all invoices related to all legal services.

Chapter 66 - Records and Reports

Part 1 - Records

§ 48-66-102. Inspection of Records by Members

Universal Citation: TN Code § 48-66-102 (2021)

- a. Subject to § 48-66-103(c), a member is entitled to inspect and copy, during regular business hours and at a reasonable location specified by the corporation, any of the records of the corporation described in § 48-66-101(e) if the member gives the corporation a written demand at least five (5) business days before the date on which the member wishes to inspect and copy.
- b. A member is entitled to inspect and copy, during regular business hours and at a reasonable location specified by the corporation, any of the following records of the corporation if the member meets the requirements of subsection (c) and gives the corporation written notice at least five (5) business days before the date on which the member wishes to inspect and copy:
 1. Excerpts from any records required to be maintained under § 48-66-101(a), to the extent not subject to inspection under subsection (a);
 2. Accounting records of the corporation; and
 3. Subject to § 48-66-105, the membership list.
- c. A member may inspect and copy the records identified in subsection (b) only if:
 1. The member's demand is made in good faith and for a proper purpose;
 2. The member describes with reasonable particularity the purpose and the records the member desires to inspect; and
 3. The records are directly connected with the purpose for which the demand is made.
- d. The right of inspection granted by this section may not be abolished or limited by a corporation's charter or bylaws.

Questions



www.rbhoo.org