

**ANNUAL REPORT**

NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS

PLANNED REAL ESTATE DEVELOPMENT FULL DISCLOSURE ACT

PURSUANT TO N.J.A.C. 5:26-2.13, THIS REPORT MUST BE SUBMITTED TO THE AGENCY (NJDC) ONE YEAR AFTER AN ORDER OF REGISTRATION HAS BEEN ISSUED BY THE AGENCY, IN ACCORDANCE WITH N.J.S.A. 45:22a-21 ET SEQ., AND ON EACH ANNIVERSARY DATE THEREAFTER, UNTIL AN ORDER TERMINATING REPSONSIBILITY IS ISSUED PURSUANT TO N.J.A.C. 5:26-2.14.

DEVELOPMENT

DEVELOPER/SPONSOR

ATTORNEY FOR THE DEVELOPER/SPONSOR TELEPHONE EMAIL

- 1. DATE MASTER DEED/ DECLARATION/MASTER DECLARATION RECORDED: \_\_\_/\_\_\_/\_\_\_
- 2. TOTAL NUMBER OF UNITS SOLD:
  - a. TOTAL NUMBER OF UNITS SOLD BY CURRENT DEVELOPER(S)/SPONSOR(S)
  - b. TOTAL NUMBER OF UNITS SOLD BY PRIOR DEVELOPER(S)/SPONSOR(S)
  - c. NUMBER OF UNITS SOLD WITHIN THE LAST TWO YEARS
  - d. NUMBER OF UNITS WITH PROTECTED TENANTS
- 3. NUMBER OF UNITS UNDER CONTRACT:  FULL BUILDOUT  TOTAL UNITS REGISTERED   
 AFFORDABLE UNITS  TOTAL UNITS REGISTERED THRU END OF PRIOR   
 PARKING  COMMERCIAL
- 4. NUMBER OF UNITS CURRENTLY LEASED BY SPONSOR
- 5. TOTAL NUMBER OF BUILDING PERMITS ISSUED BY MUNICIPALITY
- 6. DATE PROJECT SOLD OUT, IF APPLICABLE: \_\_\_/\_\_\_/\_\_\_
- 7. BOARD MEMBER COMPOSITION: SPONSOR APPOINTED: \_\_\_\_\_ MARKET RATE UNIT OWNER ELECTED: \_\_\_\_\_  
 \_\_\_\_\_ COMMERCIAL UNIT OWNER: \_\_\_\_\_ AFFORDABLE UNIT OWNER ELECTED: \_\_\_\_\_
- 8. UNIT OWNERS CONTROL ASSOCIATION AS OF: \_\_\_/\_\_\_/\_\_\_ COMPLIANCE WITH N.J.A.C. 5:26-8.4(E): YES  NO   
 IF 75% OF THE UNITS HAVE BEEN SOLD BUT THE ELECTION HAS NOT YET BEEN HELD, DATE OF SCHEDULED  
 TURNOVER ELECTION \_\_\_/\_\_\_/\_\_\_
- 9. AMENDMENTS TO APPLICATION FOR REGISTRATION ATTACHED, INCLUDING POS AMENDMENTS: YES  NO   
 DATE \_\_\_/\_\_\_/\_\_\_ DATE \_\_\_/\_\_\_/\_\_\_ DATE \_\_\_/\_\_\_/\_\_\_ DATE \_\_\_/\_\_\_/\_\_\_ DATE
- 10. THIS ANNUAL REPORT COVERS THE YEAR: \_\_\_/\_\_\_/\_\_\_ TO \_\_\_/\_\_\_/\_\_\_
- 11. IS THIS PROJECT AGE RESTRICTED? YES  NO  IF SO, ATTACH AFFIDAVIT(S) OF COMPLIANCE
- 12. COPY OF THE CURRENT ANNUAL AUDIT OF ASSOCIATION FUNDS (NJAC 5:26-8.7(c))
- 13. COPY OF UPDATED FIDELITY BOND OR OTHER ASSOCIATION FUND GUARANTEE (NJAC 5:26-8.7(f))
- 14. COPIES OF ESCROW AGREEMENT, CERTIFICATION OF ESCROW AGENT AND, INSURANCE AND DEPOSIT BOND(S)
- 15. COPIES OF FULL BUILDOUT AND ANNUAL BUDGET (N.J.A.C. 5:26-8.7(e))
- 16. COPIES OF MOST RECENT CAPITAL RESERVE STUDY conducted pursuant to N.J.S.A. 45:22A-44.2
- 17. STRUCTURAL INTEGRITY INSPECTION conducted pursuant to N.J.S.A. 52:27D-132.4 \_\_\_ Required \_\_\_ Not Required
- 18. COMPLIANCE WITH N.J.S.A 45:22A-47.1 YES  NO  NOT APPLICABLE
- 19. COMPLIANCE WITH N.J.S.A. 45:22A-43.1 YES  NO

NAME AND ADDRESS OF ASSOCIATION

SIGNATURE OF SPONSOR OR SPONSOR'S ATTORNEY

DATE OF ASSOCIATION INCORPORATION

NAME AND ADDRESS OF THE PRESIDENT OF THE ASSOCIATION

## ANNUAL REPORT INFORMATION SHEET

Your offering has now been registered with the Planned Real Estate Development Section of the Bureau of Homeowner Protection. Along with your ability to offer the units for sale come certain responsibilities. One of these responsibilities is the requirement, pursuant to N.J.A.C. 5:26-2.13, to file annual reports within 30 days of the anniversary date of the registration. The annual report package must include a copy of the full buildout and annual budgets and a copy of the most recent audit and, when the developer is still in control of the board of the association, proof of fidelity coverage, all as further explained below. The annual report period included on the annual report form **is for one year only**.

The following information may assist you in completing the annual report form. If you have questions after reading this information and the regulations, a copy of which may be obtained from this office upon request, and your attorney is unable to assist you, please call our offices at 609-984-7574, *prior to submitting the annual report*.

The number and date of registration should be inserted at the top left hand corner of the annual report form and the date the form was completed should be indicated in the upper right hand corner. On the development line provide the name of the community, on the developer/sponsor line the name of the entity offering the units for sale and on the attorney line the name of the attorney and his/her firm, telephone number and email address.

These next items are numbered to correspond to the numbered item on the annual report form.

- 1) The date is the date the Declaration of Covenants and Restrictions, the Master Deed or other instrument creating the community was recorded (filed). You may modify the form as necessary.
- 2) The total number of units sold refers to the total number of units conveyed since the offering was registered and does not include units currently under contract. It is a cumulative figure and is not limited to the number conveyed during the annual reporting period.
- 3) The number of units under contract refers to the total number of units currently under contract at the end of the annual reporting period, but not yet conveyed.

The full build out number refers to the total number of units to be conveyed in the entire offering, as disclosed in the Public Offering Statement. In a phased project, the full build out number would be the total number of units to be conveyed in all of the phases. Although Affordable units are not registered, the number should be included in the full build out total.

The units registered refers to the total number of units currently registered by the Agency. In a phased project, this would refer to the number of units in the registered phases. If other than residential units are being offered for sale, e.g. parking or commercial units, indicate the number of each type of unit being offered.

The units registered as of the end of the prior year refers to the total number of units registered at the end of the previous annual reporting period

- 4) Include only those units leased by Sponsor and will be included in transition.
- 5) The total number of building permits issued by municipality to Sponsor within the year.
- 6) The date the project was sold out means the date that the last unit was conveyed at closing. Do not include this date, if the last unit was conveyed after the end of the annual reporting period.
- 7) The board member composition refers to the number of board members at the end of the annual reporting period and must be completed, even if elections have not yet taken place. In such case, indicate the appropriate number of sponsor appointed members and the owner elected numbers as zero. **Do not leave these items blank.** The timing of all elections is described in the By-Laws of the association. However, the regulations state that the first of these elections to elect at least 25% of the board must take place no later than 60 days after the conveyance of 25% of the units. If you are unable to hold an election due to poor turnout or unavailability of candidates, include an explanation as to why the election could not be held and the steps being taken to hold the election. If the by-laws provide that commercial units are represented on the board, indicate the number elected. A complete explanation of the election requirements may be found at N.J.A.C. 5:26-8.4.
- 8) Unit owners control association as of is the date that the election was held to turn over control of the board to the unit owners and is included in the annual report only if this election took place during the annual reporting period. It is not the date on which 75% of the units were conveyed. As indicated above, such election must be held in accordance with the procedures set forth in the By-Laws and no later than 60 days after the conveyance of 75% of the units.

If the annual report indicates 75% of the units have been conveyed, but the turnover election has not yet taken place, note the date scheduled for the election.

Compliance with N.J.A.C. 5:26-8.4(e) refers to the immediate turnover of all relevant documents by the developer to the association and generally takes place at the time of the turnover election. Only indicate yes or no, if all of these items have been transferred to the unit owner controlled board.

- 9) Only amendments to the application for registration that have been registered during the annual reporting year need be attached, although the dates of all amendments should be noted. N.J.A.C. 5:26-3.3(a) and N.J.A.C. 5:26-4.5(a) require all changes in the information in the application and POS to be submitted to the Agency in amendment form. To assure that all unit owners and current and future contract purchasers have a current POS, they must received copies of all of the POS amendments. Moreover, no changes may be made in the information in the application and POS unless an amendment is registered by the Agency. N.J.A.C. 5:26-3.3(b) and N.J.A.C. 5:26-4.5(b).
- 10) The annual report year is based on the registration date and not the calendar year, e.g. if the offering was registered on February 2, 2015, the annual report for 2022 would cover the period from February 2, 2021 to February 2, 2022.
- 11) In an age restricted project, for purposes of compliance with N.J.A.C. 5:26-3.1(a) 19, the Affidavit of Compliance is an original affidavit certifying that the project is in compliance with the Federal Housing for Older Persons Act of 1995. Reference should be made to all units in the community, not only to the units sold by the developer. This affidavit must make reference to the statute and may make reference to the relevant governing documents. Compliance is based on the age of the occupants not the owners. A copy of the form completed by the owners may be attached as well, but this alone is not satisfactory. (Note that two Affidavits may be submitted, one by the developer and one by a representative of the Association attesting to compliance as to resales.)
- 12) A copy of the current annual audit of association funds must be included with the annual report whether or not the developer is in control of the board. While the developer is in control it must have an audit prepared and delivered to the unit owners within 90 days of the end of the fiscal year, as required by N.J.A.C. 5:26-8.7(c). A Compilation or Review is not acceptable. It must be a Certified Audit. A copy of this audit must also accompany the annual report, so that any deficit issues may be addressed. If the audit reflects a deficit or money owed by the developer and the developer has already made its payment at the time the audit is submitted, it should also submit proof of such payment. If the deficit is attributable to delinquencies by unit owners, or is an amount in dispute, include an appropriate explanation.

If the developer is no longer in control, but is still offering units for sale, it is still entitled as a unit owner to a copy of any audit conducted by the unit owner controlled association. If the audit shows a deficit, although the developer is no longer responsible for payment of the deficit, it is required to amend the Public offering Statement to disclose to prospective purchasers the deficit and, if known, its cause and how it will be eliminated. If the audit reflects money owed by the developer and it has already made the payment at the time the audit is submitted, it should also submit proof of such payment. If that amount is in dispute, include an appropriate explanation. If the developer is unable to obtain a copy of the audit to include with the annual report, submit the annual report with an explanation as to why the audit is not included.

If the annual report period ends within three months prior to the end of the next fiscal year, in addition submit the audit for the coming fiscal year when, and if, it is made available. For example, if an annual report was due in September of 2019, but the fiscal year end is December 31, submit not only the December 2018 audit, but also the December 2019 audit once it is available.

- 13) A copy of an updated fidelity bond or other association fund guarantee refers to the proof of bond or insurance coverage obtained by the developer while it is in control of the association. It is sometimes referred to as employee dishonesty or crime insurance. It is not a deposit bond. (See #14 below.) In order to comply with N.J.A.C. 5:26-8.7(d), the coverage must commence no later than the date of the first closing and it must continue at least until the date of unit owner control of the board. (See #7 above.) In the first year of operation, the coverage must cover the operating budget. In the second year and thereafter it must be updated to assure coverage of the current year's operating budget, plus reserves. The primary insured must be the association, while the management company or developer may be a secondary or additional.
- 14) A copy of the most current Escrow Agreement, if any, between the developer and the Escrow Agent must be submitted, along with a copy of the most current Certification of Escrow Agent. (A copy of the recommended form is available from our office.) The Escrow Agent must be an independent legal entity, e.g. an individual attorney, law firm, financial institution or title company unrelated to the developer. The Escrow Agent must certify that the deposit money will not be released to the developer, except as provided by the terms of the purchase agreements and the Escrow Agreement, if any. If a deposit bond is posted by the developer, a copy of the current bond(s) and any riders must also be submitted. The Escrow Certification must include a description of the bond and a statement that the bond is adequate to cover all deposit monies released by the Escrow Agent to the developer. The Escrow Agent could then release any and all deposit money up to the amount covered by the deposit bond. (See N.J.A.C. 5:26-6.4)

Since the above items are part of the Application for Registration (Tab 13) and the Public Offering Statement, (as exhibits included with the purchase contract), when any of the above items changes in any way, e.g. the identity or address of the Escrow Agent or the amount or elimination of the bond, then an amendment must be submitted pursuant to N.J.A.C. 5:26-3.3(a) and N.J.A.C. 5:26-4.5(a).

- 15) An annual budget must be prepared and adopted by the association pursuant to N.J.A.C. 5:26 8.7(a) and must provide for all common expenses and adequate reserves. Also include a copy of the full buildout budget. Whether or not the developer is still in control of the board of the association, a copy of these budgets must be attached to the annual report. When the developer is in control of the board, the annual budget will be used to confirm compliance with N.J.A.C. 5:26-8.7(d).
- 16) Copies of the most recent capital reserve study must be provided.  
Any association of a planned real estate development shall undertake and fund a capital reserve study which shall determine or assess the adequacy of the association's capital reserve funds to meet the anticipated costs of replacement or repair of the capital assets of a common interest community that the association is obligated to maintain. All capital reserve studies shall be prepared in conformity with the latest edition of the National Reserve Study Standards of the Community Associations Institute or similar standards by another recognized national organization. A capital reserve study conducted pursuant to this section shall be performed or overseen by a reserve specialist who is credentialed through the Community Associations Institute or an engineer or architect who is licensed by the State and shall include, but be not limited to, the following:
- (1) the association's capital reserve fund balances;
  - (2) the association's anticipated income and expenses;
  - (3) an analysis of the physical status and of the common area components of the buildings and other common areas that the association is obligated to maintain;
  - (4) the anticipated costs associated with the building maintenance, as well as the anticipated costs of repair or replacement of common area building components, which are necessary to maintain the structural integrity of the buildings and other common area components that the association is obligated to maintain;
  - (5) a reasonable estimate of the cost of:
    - (a) future reserve studies;
    - (b) reserve study updates; and
    - (c) periodic structural inspections required pursuant to section 3 of P.L.2023, c.214 (C.52:27D-132.4);
  - (6) a reasonable estimate of the costs associated with implementing any corrective maintenance deemed necessary pursuant to section 3 of P.L.2023, c.214 (C.52:27D-132.4);
  - (7) a proposed 30-year funding plan, as described in section 7 of P.L.2023, c.214 (C.45:22A-44.3) that establishes the adequate proposed capital reserve funding over a 30-year time period; and
  - (8) any other information necessary to perform an analysis of the adequacy of the association's capital reserve funds relative to maintaining the structural integrity of buildings and common areas which the association is obligated to maintain.
- b.** Associations which have not undertaken a reserve study within five years of the effective date [Jan. 8, 2024] of P.L.2023, c.214 (C.52:27D-132.2 et al.) shall undertake a reserve study within one year of the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.). Associations formed after the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.) shall undertake a reserve study as soon as practicable after the election of a majority of an executive board pursuant to section 5 of P.L.1983, c.30 (C.45:22A-47), but in no event shall such study be undertaken more than two years following the election of a majority of the executive board under section 5 of P.L.1983, c.30 (C.45:22A-47).
- c.** A covered building owner, as defined in section 2 of P.L.2023, c.214 (C.52:27D-132.3), shall ensure that a capital reserve study conducted pursuant to this section shall be reviewed by a licensed architect, engineer, or credentialed reserve specialist and that a capital reserve study be conducted and reviewed at least once every five years.
- d.** This section shall not apply to an association of a planned real estate development with less than \$25,000 in total common area capital assets.
- 17) C.52:27D-132.4 Initial structural inspection, building components, primary load bearing system, covered building, timelines; reports. 3. a. Following the issuance of a certificate of occupancy, an initial structural inspection of the building components forming the primary load bearing system of a covered building shall be undertaken by a post-occupancy structural inspector retained by the covered building owner within the earlier of: (1) 15 years of the date on which the covered building receives a certificate of occupancy pursuant to section 15 of P.L.1975, c.217 (C.52:27D-133); or (2) 60 days after observable damage to the primary load bearing system. b. If a covered building has received a certificate of occupancy pursuant to section 15 of P.L.1975, c.217 (C.52:27D-133) prior to the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.), then an initial structural inspection shall be undertaken by a structural inspector based on the number of years the certificate of occupancy preceded the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.), as provided in this subsection. If the certificate of occupancy was provided: (1) one day to 14 years and 364 days prior to the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.), then the structural inspection shall occur within one year of the date 15 years following the date of the issuance of the certificate of occupancy; or (2) 15 or more years prior to the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.), then the structural inspection shall occur within two years following the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.). c. A building that has been converted to a condominium or cooperative form of ownership after the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.) shall, as part of the process of registering the project pursuant to the "Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-

21 et seq.) and the regulations promulgated thereunder, be required to follow the schedule of inspections provided in paragraphs (1) and (2) of subsection b. of this section.

- 18) C.45:22A-47.1 Developer relinquishing, unit owners accept association control, deliverance of items, certain, applicable.

Within 60 days after the conveyance of 75 percent of the lots, parcels, units, or interests, the developer shall relinquish control of the association, and the unit owners shall accept control, as required by section 5 of P.L.1993, c.30 (C.45:22A-47). At that time, the developer shall also deliver to the association all property of the unit owners and of the association held or controlled by the developer, including, but not limited to, the following items, if applicable, as to each lot, parcel, unit, or interest operated by the association:

- a. A photocopy of the recorded master deed or declaration and all amendments thereto, certified by affidavit of the developer, or an officer or agent of the developer, as being a complete copy of the actual master deed.
- b. A certified copy of the association's articles of incorporation, or if not incorporated, then copies of the documents creating the association.
- c. A copy of the bylaws and all amendments thereto, certified by affidavit of the developer, or an officer or agent of the developer, as being a complete copy of the bylaws.
- d. A preventative maintenance document or manual created by the developer pursuant to section 9 of P.L.2023, c.214 (C.45:22A-43.1) which sets forth a schedule for monitoring on a periodic basis the structural integrity of the buildings' primary load bearing system.
- e. The minute books, including all minutes, and other books and records of the association, if any.
- f. Any house rules and regulations which have been promulgated.
- g. Resignations of officers and members of the governing board or other form of administration who are required to resign because the developer is required to relinquish control of the association.
- h. An accounting for all association funds, including capital accounts and contributions as of the date of the election of a majority of the executive board members.
- i. Association funds or control thereof.
- j. All tangible personal property that is property of the association, represented by the developer to be part of the common elements or ostensibly part of the common elements, and an inventory of that property.
- k. A copy of the plans and specifications utilized in the construction or remodeling of improvements and the supplying of equipment to the planned real estate development, including plans setting forth all field changes impacting any component of the primary load bearing system and in the construction and installation of all mechanical components serving the improvements and the site, with a certificate in affidavit form of the developer, his agent, or an architect or engineer authorized to practice in this State that such plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the condominium property and for the construction and installation of the mechanical components serving the improvements.
- l. Insurance policies.
- m. Copies of any certificates of occupancy which may have been issued for the planned real estate development property.
- n. Any other permits issued by governmental bodies applicable to the planned real estate development property in force or issued within one year prior to the date the unit owners other than the developer take control of the association.
- o. All written warranties of the contractor, subcontractors, suppliers, and manufacturers, if any, that are still effective.
- p. A roster of unit owners and their addresses and telephone numbers, if known, as shown on the developer's records.
- q. Leases of the common elements and other leases to which the association is a party.
- r. Employment contracts, management contracts, maintenance contracts, contracts for the supply of equipment or materials, and service contracts in which the association is one of the contracting parties and maintenance contracts and service contracts in which the association or the unit owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service.
- s. All other contracts to which the association is a party.

- 19) 45:22A-43.1 Developer, document preparation, preventative maintenance tasks over life of common area components; schedule; timing.

The developer shall prepare a document which sets forth the preventative maintenance tasks to be undertaken by the association over the life of the common area components. This preventive maintenance document shall provide the maintenance schedule and timing for preventive maintenance, including, but not limited to, periodic inspections of the structural components of the buildings or common areas which the association is obligated to maintain. The developer shall include within the budget prepared in accordance with the rules and regulations adopted pursuant to section 15 of P.L.1977, c.419 (C.45:22A-35) all operating expenses associated with the preventative maintenance set forth in the preventative maintenance document prepared pursuant to this section. The preventative maintenance document shall be updated at the completion of any structural inspections performed pursuant to P.L.2023, c.214 (C.52:27D-132.2 et al.) in order to reflect and address any required corrective maintenance.

Since the signature of the sponsor or its attorney must be an original signature on an original annual report form, the annual report form will have to be sent by regular mail even if the annual report is faxed or emailed.

**FAILURE TO COMPLY WITH THE ANNUAL REPORT REGULATIONS MAY RESULT IN ADMINISTRATIVE ACTION**