

YESTER YEAR PROCESS

Step	Function	Hard Cost	Environmental Cost
Request made by escrow	Answering phone and taking request	3.25	paper to write down information
	Staff time in preparing and mailing request document (15 minutes)	3.25	Paper, envelope, stamp, mail truck gas
	Supply cost for request documents	1.41	paper production, copy machine emissions,
Completion of escrow request	Preparation of documents and mailing	0.41	stamp, mail truck gas
	Staff time in finding documents and making copies	6.5	paper, copy machine usage,
Fulfillment of request	Preparation of documents and mailing	17.3	Paper, envelope, stamp, mail truck gas
	Totals	32.12	Priceless

THE WAY OF THE FUTURE

Step	Function	Hard Cost	Environmental Cost
Request made by escrow	Taking request	0	none
	Staff time in preparing and mailing request document	0	none
	Supply cost for request documents	0	none
Completion of escrow request	Preparation of documents and mailing	0.49833333	none
	Staff time in finding documents and making copies	0	none
Fulfillment of request	Preparation of documents and mailing	0	none
	Totals	0.49833333	Best impact!

*Staff cost is estimated at an administrative employee salary of \$13 per hour.

**Supply costs are estimated at \$.15 per envelope, \$.06 per copy, \$.41 per stamp.

Of course the delivery of documents in an electronic format is not the only way that Associations and Management Company's can make their operation more environmentally friendly. There are many other ways including digital or electronic archiving of association records. Many Associations and Management Company's already keep digital record of things they are

producing via computer, but how can they truly go Green with their operation? What items should be scanned? How much does it cost? Is it labor intensive? And what are the RULES for electronic records?

Sabine Liedel recently had a very interesting conversation with John Isaza, Esq. of Howett Isaza Law Group LLP, about the responsibilities Associations or Management Company's have when dealing with documents and retention. I thought I would share some of these with our readers.

Sabine - Can you give us a brief run down on the importance of records management?

John - Records and information management (RIM) is a discipline that dates back to biblical times. After all, sound RIM practices provide a mechanism for easy and ready access to information when needed, while at the same time reducing unnecessary expense for storage of information that does not need to be stored. It also helps to document the entity's position on any given transaction or decision. And, of course, RIM helps keep data available in the event of a tax audit or litigation.

Many people do not realize that at least 30% of their records could be directly regulated by statutes that tell the owner how long to keep the record and in some instances how and where. Regulated retentions range from months, to years, to permanent depending on the record. A straight 7-year retention for all records could easily run afoul of specific regulations, which could technically make a blanket 7-year retention illegal for some records (e.g., some employee medical files, which need to be retained for 30 years after termination of the employee.)

Besides regulatory compliance, sound RIM practices ultimately help to save companies hundreds of thousands of dollars in not only storage costs (i.e., clearing out that room that could be put to better use than just storage), but even more importantly, sound RIM practices improve productivity resulting from more efficient access to data without having to lose precious time searching for files and records.

Sabine - How is this different from the way records were previously kept?

John - There should not be much difference in how we manage and store records today from the ancient times (e.g., library cataloguing systems and taxonomies). However, in this electronic age, the amount of data is exponential, so RIM is now all about finding efficient practices that allow the capture of electronic records, as opposed to mere data. According to the latest studies in the industry, most companies are reporting that 90% of their records are electronic. Ironically, the amount of paper has not reduced, but the amount of electronic data is so disproportionately large that it simply dwarfs the amount of paper in the systems. Think of how dangerous it would be for any company not to know or somehow manage all that information. Sound RIM practices help harness all that information.

Sabine – John, what in your opinion should associations and management companies do to safeguard their electronic records?

John – A comparison to the paper world is necessary to put this issue in perspective. In the traditional paper world, associations and management companies would need to make sure that paper records are stored securely in a place with limited access – literally under lock and key. The real issue would be who would have the keys, and how would access be passed on from manager to manager. In the digital world, access controls and passwords dictate access to the records or data. The data can be easily transferred from one person to the other, but the right technology should leave an audit trail that shows who accessed the records, when, where, and to whom the data was sent. This feature in many ways makes the data much more manageable and safer, as long as the right access controls are set up at the outset, and the system is set up to send alerts to the appropriate manager whenever anyone accesses the records.

Sabine – Is there a time limit on how long a management company should retain records? Shouldn't the same rule as paper records apply?

John – Beginning with the latter, the retention rules should apply irrespective of medium, whether electronic or paper. As for the former, the much touted 7 years is nothing more than urban myth. In reality there are thousands of regulations that dictate how long records need to be kept ranging from 1 year to 10 years to 30 years to indefinite, depending on the record. In fact, emails need to be maintained based on content, which of course presents many filing challenges. Management companies need to research the retention rules for records maintained at HOA's, so that they can determine for how long different records should be kept. For instance, an HOA may have employees, in which case employment regulations need to be researched. Federal retention regulations for employment records are generally 3 years, but many are tied to the termination of the employee as the triggering event. California also has its own retention regulations. Other potential areas to research for an HOA should include tax regulations, statutes of limitations, and some environmental amongst others.

Sabine – Since electronic space is so much more convenient and virtually limitless why wouldn't a management company or association keep records forever?

John - It is not a good idea to keep records forever for various reasons. First, although storage capacity is indeed very cheap, there comes a point where so much data becomes unmanageable. Second, and related thereto, in the event of litigation, the amount of records to search could result in exponential attorney fees that could make the inexpensive storage costs become exponential costs in litigation. Third, if records are kept indefinitely, there is a tendency to store things indiscriminately, such as drafts, jokes, pictures and other irrelevant materials. This not only results in higher expenses in litigation, but there could be embarrassing material or simply documents that could unnecessarily expose the HOA to liability from comments that could be taken out of context, such as drafts, jokes, etc.

Sabine – You mention records. What is the difference between a record and a document in court?

John - A record can be defined as a recording that sets forth the official business position of the entity on any given transaction. For instance, a draft document should not be a record, but the final version should become the record. The drafts should be temporary and ultimately destroyed as soon as possible, as they are non-records. A document, on the other hand, has legal significance in litigation, as it includes all written, recorded and electronically stored information in the entity's possession at the time litigation becomes anticipated. Thus, all documents are subject to production in litigation if they are relevant to the subject matter of the case. However, up to that point, if only the records have been stored, the producing party will have much less information to produce in litigation. A written policy needs to be in place to document this distinction.

As technology expands and becomes more affordable, many associations and management companies look for ways to be more efficient. As you can see by the comments made by John, electronic record keeping doesn't have to be cumbersome. Although pricing will vary, make sure to discuss your organization's specific need with your service provider. Also, look for service providers that understand the CID industry and the unique needs your association or management company may have. Just because a company is great at record keeping doesn't make them a good fit for your organization.

A good rule of thumb is to expect that there will be a set up fee to create your electronic space, scanning fees that depend upon the amount of papers/documents/photos/records you would like to convert and storage space fees that also depend on the amount of information you would like to house. Make sure to contact several companies to insure that you are receiving consistent pricing. If it is dirt cheap, you may be getting what you pay for. Do your homework.

Many Association and Management Companies already utilize services to provide Boards of Directors with monthly meeting packets and information in a digital format. Although Directors may still be printing parts of the packet for use in meetings, it is no longer necessary for all of the information to be printed hard copy.

A variety of management systems and accounting software packages include ways for companies to provide information digitally. Check with your CAI Business Partners to see who provides these more Eco-friendly services; I'm sure they would be happy to discuss their products with you.

As you can see there are many things an Associations and Management Company can do to help the environment, reduce staff time, reduce waste and make things more efficient. What's good for the Earth can also be good Business! Your organization may not have been born with the Green Gene, but it is never too late to do something that will help us all in the future.

John J. Isaza, Esq. heads up the records and information management (RIM) consulting group of Howett Isaza law Group LLP. This sub-specialty group focuses on ensuring companies comply with statutes and regulations governing RIM. The practice emphasizes litigation preparedness and response strategies, which include litigation holds coupled with legally defensible corporate record maintenance and destruction policies and procedures. John's company also represents many Common Interest Development groups including Developers, Community Associations, and Management Companies.

Sabine Liedel, CMCA is the Regional Director in charge of the Western United States for Community Archives, a provider of electronic information delivery and custom e-solutions specific for the Association Management industry. Ms. Liedel is also the former Executive Director of the CAI Inland Empire Chapter and a huge supporter of CAI. She belongs to nineteen Chapters in ten different states and serves on numerous committees including the Utah Legislative Action Committee. She is also a member of the California Association of Community Managers.