



## **Corporate Transparency Act Filing - FAQs**

All condominium and homeowner association (“Association”) board members and managers should be aware that the Federal Corporate Transparency Act (“CTA”) requires Associations in the U.S., formally incorporated with their state, to file documents and information with the Financial Crimes Enforcement Network (FinCEN), a bureau of the United States Department of the Treasury. The filing for Associations includes the beneficial ownership information report (“BOIR”), which provides FinCEN with information about all key members of the Association (including the board members and owners who own more than 25% of the Association).

The penalties for an Association that fails or refuses to file its BOIR and keep it updated as the information changes are severe. PineappleHOA has created this “FAQ” to address the questions that Association board members and managers will have related to the BOIR process.

PineappleHOA is not a law firm, and this information does not constitute legal advice. For more specific questions related to your Association, contact your Association’s attorney.

### **1. What is the beneficial ownership information or “BOIR”?**

Beneficial ownership information refers to identifying information about the individuals who control the Association (such as board members) and owners who own a substantial portion of the Association (25% or more of the percentage of ownership). The CTA filing your Association completes is often called the BOIR.

### **2. What is a beneficial owner?**

A beneficial owner is an individual who either directly or indirectly: (1) exercises substantial control over a reporting company (the Association) or (2) owns or controls at least 25% of the Association’s ownership interest.

### **3. Are the Association’s board members “beneficial owners”?**

Yes, current board members are considered beneficial owners due to their substantial control over the Association.

### **4. Is the Association’s manager or management company a “beneficial owner”?**

The answer will depend on the Association’s management agreement with the manager or management company. The Association should consult with its attorney on the issue, but in general, given that managers and management companies should not exercise “substantial control” over Association operations (as that control should be reserved exclusively for the board of directors), the default answer is “no, managers and management companies are not beneficial owners” of their managed Associations.

**5. Are the Association’s accountant(s) or lawyer(s) “beneficial owners”?**

No. Accountants and lawyers generally do not qualify as beneficial owners, but that may depend on the work being performed.

**6. Are the unit or homeowners in general “beneficial owners”?**

Only to the extent one (1) or more homeowners own 25% or more of the total percentage of ownership in the Association. For example, in a small, 5-unit condominium association, if one (1) individual owns two (2) units, their percentage of ownership in the community is likely 25% or more. Thus, that owner, along with the board of directors, should be included and reported as a beneficial owner on the BOIR.

**7. Do we report all historical board members as “beneficial owners” or only those board members serving at the time of the BOIR filing?**

Only board members serving at the time of filing the BOIR should be listed as beneficial owners.

**8. What information does FinCEN need about our beneficial owners?**

Again, the information about the specific beneficial owners is the main component of the report. The report is called the beneficial ownership information report (“BOIR”). The Association will need to provide FinCEN with the following about every beneficial owner:

- Name
- Date of Birth
- Residential Mailing Address
- Identifying numbers from a non-expired, acceptable form of identification or “I.D.” (meaning a state-issued driver’s license, state-issued I.D., or passport)
- State or jurisdiction that issued the I.D. (state for driver’s license or country for passport)
- A computer image of the I.D. to upload onto the FinCEN website

**9. Does every Association have to file the BOIR?**

Not every Association, but the vast majority must do so. If your Association was never formally incorporated with the state (via articles of incorporation filed with the Secretary of State), your Association does not need to file a BOIR. Note, however, that most Associations were incorporated at one point. There are also certain tax-exempt corporations that do not have to file a BOIR, but that exemption does not qualify for most Associations. Finally, large Associations (with more than 20 full-time employees in the U.S. working at least 30 service hours per week, and which file a tax return with over \$5

million in income) may also be exempt. If you think your Association may be exempt, you should consult with your Association's attorney.

**10. Why does the CTA apply to Associations, and will the law be changed to exempt Associations?**

The main trade organization representing U.S. community associations (Community Associations Institute®) believes that the CTA was not intended to apply to volunteer-driven nonprofit corporations, such as condo and homeowner associations, which exist only to provide municipal-like services to their residents and members. It is possible that the CTA could be held unconstitutional and/or the CTA amended to exempt all Associations. However, as of now, the CTA applies to Associations.

**11. Our Association does not pay taxes – we are a not-for-profit corporation. Do we still need to file a BOIR?**

Yes. Nearly all Associations are not-for-profit corporations. The CTA only exempts Associations if they were created as a 501(c)(4) not-for-profit organization (meaning a “social welfare” organization), which generally does not include condo and homeowners associations.

**12. Our Association has not filed a tax return. Do we still need to file a BOIR?**

Yes. Filing a tax return (which the Association should do annually) does not affect the BOIR filing requirement.

**13. Why does the federal government want beneficial ownership information related to condominium and homeowners associations?**

The federal government is not targeting condominium and homeowners associations specifically; it requires the BOIR from any corporation (which includes most Associations) to combat financial fraud and money laundering. Money laundering is unlikely to occur in a condo or HOA, but FinCEN has explicitly stated that condo and homeowners associations are required to file.

**14. How do we inform current and potential board members of the BOIR requirements?**

Talk to your Association's attorney about updating election documents so that all potential board are aware of the BOIR, and possibly updating the Association's governing documents with the assistance of its attorney.

**15. When should our Association do its initial (or first) BOIR filing?**

We recommend filing the initial BOIR ASAP. For most Associations (created before January 1, 2024), the deadline is January 1, 2025, but in order to avoid missing the deadline, you should file now.

**16. Is there a fee for filing the BOIR with FinCEN?**

No. The Federal government does not charge any fees for the filing. PineappleHOA charges a fee for helping your Association collect the required information and answer only those questions relevant to community associations.

**17. Does our Association have to have its attorney or accountant file the BOIR?**

No. An attorney or accountant (i.e., certified public accountant or CPA) is not required to file the Association's BOIR. Any party can file the BOIR on the Association's behalf, so long as the Association trusts that individual or entity with the board members' personal identification and information.

**18. Should the Association manager file the BOIR?**

The board can discuss that decision with its management company. Some management companies may offer the filing service; many (or most) management companies will not do so due to liability concerns.

**19. Why should we trust PineappleHOA to file the BOIR for our Association?**

PineappleHOA was built by community association attorneys for U.S. condominium and homeowners associations. Due to the highly sensitive nature of the information in the BOIR (board member identification images, passport details, addresses, dates of birth) and the severe penalties for missing a filing, a third-party provider should help your community. PineappleHOA ensures that the filing is completed properly, on time, and securely.

**20. Does our Association's law firm file the BOIR on behalf of its clients?**

You will have to ask your Association's attorney. Some do, but most do not. PineappleHOA believes that filing the BOIR is not "legal work," and thus, PineappleHOA created a processing platform to minimize the expense for Associations.

**21. If a board member wants to do the BOIR filing for the Association without a third party, where can they find the application?**

The e-filing form can be found online at <https://boiefiling.fincen.gov/boir/html>. You can also file using a fillable PDF document (available on the FinCEN website).

**22. How will we know if the filing was successful?**

Once properly completed, the BOIR e-filing process provides acknowledgment of the submission's success or failure, and the submitter can download a transcript of the BOIR. If you use PineappleHOA, PineappleHOA will send the proof of submission directly to the Association (and keep a copy securely on PineappleHOA's servers).

**23. What information does FinCEN need about our Association (other than the beneficial owner information)?**

The Association must provide the following about the condominium or homeowners association:

- Legal name (the name provided to the Illinois Secretary of State or listed on the Association's articles of incorporation or declaration)
- Alternative names or "d/b/a" for the community (any vanity names, "doing business as," or other names commonly used for the association other than the legal name)
- Current street address for the principal place of business (that address can be an office or unit on Association property or the management company address, but it cannot be a P.O. Box).
- State of Formation
- Taxpayer Identification Number ("TIN") or Federal Employer Identification Number ("FEIN" or "EIN")

**24. Which address should we include for the Association?**

It should be the address of the location where the company receives essential correspondence. That may include the management company, the residence of the board president, an on-site management office, etc. FinCEN will not accept P.O. Boxes as the filing address. It must be a business or residential USPS-certified address.

**25. What if we do not know the Association's TIN or EIN?**

Most Associations already have a Federal Employer Identification Number or "EIN" issued by the IRS (an EIN is required to open a community bank account unless the account was opened using a member's social security number). The board or manager can locate the EIN via any one (1) of the following ways:

- a. Find the computer-generated notice that was issued by the IRS to the Association
- b. If the Association has a bank account, it likely used its EIN to open the account. Contact the bank to confirm the EIN
- c. Find a previously filed tax return for the Association (if it has filed a return). The tax return should contain the EIN
- d. Ask the IRS to search for your EIN by calling the Business & Specialty Tax Line at 800-829-4933. The hours of operation are 7:00 a.m. - 7:00 p.m. local time, Monday through Friday. An assistant will ask you for identifying information and provide the number to an authorized Association representative (e.g., board member or manager).

## **26. What if our Association does not have a TIN or EIN?**

The Association should work with its CPA or attorney to obtain an EIN. Otherwise, the Association can contact the IRS and complete a free online application for an EIN.

## **27. What are acceptable forms of I.D. for the BOIR?**

FinCEN will accept the following:

- A non-expired U.S. driver's license
- A non-expired identification document issued by a U.S. state or local government or Indian Tribe
- A non-expired passport issued by the U.S. government
- A non-expired passport issued by a foreign government (permitted only when an individual does not have one of the other three forms of identification listed above)

## **28. Do we have to submit the BOIR annually?**

The BOIR must be updated only when there is a change in the beneficial owners (new board members), the existing beneficial owners' information changes (e.g., new driver's license, change of mailing address for board member), or Association information changes (new mailing address). Because your Association should be holding an annual meeting and election every year, and a portion of the board may change due to that election, the update must be reported to FinCEN (with the information of the new board members). Thus, in practice, this means that the BOIR will generally require an update at least once per year.

## **29. What if the beneficial owners change?**

The beneficial owners will change, sometimes one or more times per year. Whenever there is a board election, the board membership may change, and that results in a change to the beneficial owners of the Association. If there is a change in the owners who own 25% or more of the Association, that also results in a change to the beneficial owners of the Association.

## **30. When does our Association have to update our BOIR?**

Every time the beneficial owners change, the BOIR must be updated. Each time a board election occurs, and a new board member is elected, the BOIR must be updated. If a board member resigns or sells their unit or home and thus is no longer on the board, the BOIR must be updated. Also, if an existing beneficial owner changes their mailing address, or name or gets a new driver's license or passport, the BOIR must be updated.

### **31. When we update the BOIR, do we have to file an entirely new report?**

In many cases, yes. If the Association used FinCEN's e-filing system to submit the previous BOIR, the Association would need to submit a new report in its entirety.

### **32. What is the deadline for reporting a change in the BOIR?**

If there is any change to the required information about the Association or its beneficial owners in a filed BOIR, the Association must file an updated BOIR no later than 30 days after the date of the change. This includes updates and corrections to a filed BOIR. For an updated BOIR, the Association has 30 days from the date the change occurs (e.g., a new board member joins the board, a board member changes their address or I.D.). For a corrected BOIR, the Association has 30 days from the date the Association learns of (or has reason to know about) the inaccuracy.

### **33. What happens if our Association does not file its initial BOIR?**

Willfully violating the CTA by failing or refusing to file the BOIR may result in civil penalties of up to \$500 for each day that the violation continues (adjusted annually for inflation) **and criminal penalties of up to two (2) years imprisonment and a fine of up to \$10,000.**

### **34. What happens if our Association does not update its BOIR?**

Willfully violating the CTA by willfully failing or refusing to update the BOIR may result in civil penalties of up to \$500 for each day that the violation continues (adjusted annually for inflation) **and criminal penalties of up to two (2) years imprisonment and a fine of up to \$10,000.**

### **35. What happens if a board member or other beneficial owner (such as an owner with more than 25% ownership interest in the Association) refuses to cooperate by providing their beneficial ownership information?**

The Association should address this issue with its attorney.

### **36. What if a board member fails to update the Association on a change in their information?**

The Association should educate board members (both current and future board members) on their responsibility to keep the Association updated with any change to their personal information (such as a new address or driver's license).

The Association should also talk to its attorney about updating the Association's governing documents to require board members to provide their information for the BOIR, which may allow the board to levy fines against the individual and require that individual to assume financial responsibility for any penalties, fines, or fees the Association may incur related to the individual's non-compliance with Federal law.

**37. Can the Association prohibit individuals from serving on the board if they refuse to provide their beneficial ownership information?**

You must discuss this question with your Association's attorney.