

16. A current financial statement of the developer and any predecessor, parent or subsidiary company, including but not limited to a current profit and loss statement and balance sheet audited by an independent public accountant;

17. A statement concerning any adjudication of bankruptcy during the last five years against the developer, its predecessor, parent or subsidiary company and any principal owing more than 10 percent of the interests in the development at the time of the filing of the application for registration. This requirement shall not extend to limited partners or those whose interests are solely those of investors;

18. Copies of all easements and restrictions, whether of record or not;

19. A statement as to the status of compliance with all the requirements of all laws, ordinances, regulations of governmental agencies having jurisdiction over the premises, including but not limited to any permits required by the Department of Environmental Protection, together with copies of all necessary Federal, State, county and municipal approvals;

20. A statement that the developer, its officers or principals have never been convicted of a crime involving any aspect of real estate sales business in this State, the United States or any other state or foreign jurisdiction and that the developer has never been subject to any permanent injunction or final administrative order restraining a false or misleading promotional plan involving real property disposition;

21. An affidavit, signed by the developer, that the contents of the application are true and accurate;

22. Such other additional information as the Division may require in individual cases after review of an application for registration to assure full and fair disclosure;

23. A listing of the units in the building together with the current monthly rental thereof.

As amended, R.1979 d.349, eff. November 1, 1979.

See: 11 N.J.R. 497(a), 11 N.J.R. 610(b).

As amended, R.1981 d.130, eff. May 7, 1981.

See: 12 N.J.R. 631(b), 13 N.J.R. 259(a).

(a)12, 21 through 23, 25 through 27.

As amended, R.1983 d.446, eff. October 17, 1983.

See: 15 N.J.R. 1055(a), 15 N.J.R. 1758(b).

In (a), deleted old and added new 7-10 and 13. Also deleted and reserved 15., 21., 22., and 24.

As amended, R.1984 d.434, eff. October 1, 1984.

See: 16 N.J.R. 2032(a), 16 N.J.R. 2522(a).

Amended by R.1996 d.94, effective February 20, 1996.

See: 27 N.J.R. 4478(a), 28 N.J.R. 1226(a).

5:26-3.2 Form of the application for registration

(a) An application for registration shall be submitted in the following form:

1. Two sets of the information and documents required to be filed shall be submitted in separate binders,

fastened at the top in such a manner as to permit the reading of each page without requiring removal. The two required copies of the Public Offering Statement shall be submitted in separate binders. The items set forth in N.J.A.C. 5:26-3.1(a)2 and 15 need not be submitted for developments of 24 or fewer units.

2. All information and documents shall be arranged in the order set forth in N.J.A.C. 5:26-3.1;

3. Each binder shall note the name and address of the developer and the name and address of the person responsible for the preparation of the application on the front cover;

4. The first page shall be a table of contents;

5. The right side of the first page of each section shall bear a tab numbered in conformity with the table of contents. Each tab shall be visible without the necessity of lifting any other tab;

6. If a section or document is omitted, a single sheet of paper, properly tabbed, shall be inserted containing a description of what is omitted and an explanation as to the reason for the omission;

7. With the exception of maps, drawings, surveys and the like, all documents shall be no smaller than 8½ x 11 inches nor more than 8½ x 14 inches.

(b) Plats, maps or surveys which are too bulky to include in a binder may be submitted in a separate folder and a list of such shall be included in the binder.

As amended, R.1983 d.446, eff. October 17, 1983.

See: 15 N.J.R. 1055(a), 15 N.J.R. 1758(b).

In (a)1., added last two sentences.

5:26-3.3 Amendment of the application for registration

(a) Developers shall immediately report to the Agency any changes in the information or documents contained in the application for registration, with a request for an amendment of the application of registration.

(b) No changes in the substance or intent of the promotional plan or the plan of disposition or development shall be made unless such change has been approved by the Agency by way of amendment to the application for registration.

As amended, R.1981 d.130, eff. May 7, 1981.

See: 12 N.J.R. 631(b), 13 N.J.R. 259(a).

(a) "Material" deleted before "changes".

Case Notes

Failure to amend registration and public offering statement to disclose involvement in litigation warranted imposition of fines against developer. MGKB Financial Group v. Department of Community Affairs, 95 N.J.A.R.2d (CAF) 35.

5:26-3.4 Review of requests for amendment

The Agency shall process and review requests for amendments of an application for registration in accordance with the standards and procedures established in this chapter for review of application for registration. Requests for amendment, other than price changes and advertising, shall be accompanied by a fee of \$250.00.

As amended, R.1983 d.446, eff. October 17, 1983.
See: 15 N.J.R. 1055(a), 15 N.J.R. 1758(b).
Added last sentence.

5:26-3.5 Public inspection of application for registration

The Agency shall maintain a copy of every application for registration together with all amendments thereto that have been approved and shall make them reasonably available for public inspection during ordinary business hours at the Agency's office.

5:26-3.6 Copies of the application for registration; fee

(a) The Agency shall comply with all reasonable requests for copies of an application for registration, together with all amendments thereto.

(b) The Agency shall charge a fee for such copies equal to the cost of reproduction of the application for registration, with amendments, plus any cost of postage.

SUBCHAPTER 4. PUBLIC OFFERING STATEMENT

5:26-4.1 Public offering statement required

(a) No developer may dispose of any lot, parcel, unit or interest in a planned real estate development or retirement community unless said developer delivers to the purchaser a current public offering statement on or before the contract date.

1. The Public Offering Statement for new construction applications may be prepared in two parts. Part I shall be in narrative form and shall consist of the information required by N.J.A.C. 5:26-4.2(a)1 through 6, 7i, 8, 9i, 10, 12, 14 and 16 through 25. Part II shall consist of the documents required by N.J.A.C. 5:26-4.2(a)7ii through 9ii, 11, 13 and 24.

2. For new construction applications containing 24 or fewer units, the information specified in N.J.A.C. 5:26-4.2(a)4 need not be included.

3. Public Offering Statements for the conversion of existing buildings shall include all information required by this subchapter and N.J.A.C. 5:26-9.

(b) The public offering statement shall disclose fully and accurately the characteristics of the development and the lots, parcels, units or interests offered and shall make known to prospective purchasers all unusual and material circumstances and features affecting the development. The public offering statement shall be in clear and concise language and combine simplicity and accuracy in order to fully advise purchasers of their rights, privileges, obligations and restrictions.

(c) The Agency may require the developer to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers and may require the revision of a public offering statement which it finds to be unnecessarily complex, confusing or illegible.

(d) The developer shall provide copies of the Public Offering Statement, Part I, at no charge to prospective purchasers upon their request. In any event, the Public Offering Statements, Parts I and II, must be provided at, or prior to, the time a contract is executed, at no charge to the prospective purchaser;

(e) A Public Offering Statement shall not be deemed current unless it contains all amendments approved by the Agency.

As amended, R.1983 d.446, eff. October 17, 1983.
See: 15 N.J.R. 1055(a), 15 N.J.R. 1758(b).

In (a), added 1-3. Also deleted old and added new (d).

5:26-4.2 Contents of public offering statement.

(a) The public offering statement shall contain the following information:

1. The name and principal address of the developer;
2. A narrative description of the interest to be offered including but not limited to the rights and obligations of purchasers in their lots, parcels, units or interests and in the common elements;
3. A narrative description of the development including but not limited to the total number of lots, parcels, units, or interests in the offering, the total number of lots, parcels, units, or interests to be constructed in the entire project, the present and proposed access to the development and the anticipated completion date of the present offering and of the entire development;
4. Relevant community information including but not limited to the existence and location of hospitals, health and recreational facilities, schools, fire and police protection, places of worship, streets, water supplies, levees, drainage control systems, irrigation systems, customary utilities, etc.;