

NOTIFICATION OF ALTERNATIVE DISPUTE RESOLUTION

Before a homeowner files a legal action against the Homeowner's Association Board, the Civil Code requires that the homeowner endeavor to submit the matter to alternative dispute resolution. Toward that end, the Civil Code requires that the homeowner send a Request for Resolution to the Homeowner's Association Board. Prior to sending a Request for Resolution, the homeowner may request that the Homeowner's Association Board meet with the homeowner to discuss the matter at a mutually convenient time and place to explain their positions to each other, and confer in good faith in an effort to resolve the dispute. If resolved at that point, the resolution shall be memorialized in writing. If not resolved, the homeowner must send a Request for Resolution to the Homeowner's Association Board as specified below before filing a legal action against the Homeowner's Association Board:

Contents of Request for Resolution – The Request for Resolution shall include all of the following:

- (1) A brief description of the dispute.
- (2) A request for alternative dispute resolution.
- (3) A notice that the receiving the Association is required to respond within 30 days of receipt or the request will be deemed rejected.

Serving Request for Resolution – Service of the Request for Resolution shall be by personal delivery, first-class mail, express mail, facsimile transmission, or other means reasonably calculated to provide the Association actual notice of the request.

Time to Respond to Request for Resolution – The Association has 30 days following service to accept or reject the request. If the Association does not accept the request within that period, the request is deemed rejected by the Association.

Time to Complete Resolution Process When Request Accepted – If the Association accepts the request, the parties shall complete the alternative dispute resolution within 90 days after the homeowner receives the acceptance, unless this period is extended by written stipulation signed by both parties.

Allocation of Costs of Alternate Dispute Resolution – The costs of the alternative dispute resolution shall be borne by the parties.

Requirement of Filing Certificate Regarding Alternate Dispute Resolution When File Enforcement Action – At the time of commencement of an enforcement action, the party commencing the action shall file with the initial pleading a certificate stating that one or more of the following conditions is satisfied:

- (1) Alternative dispute resolution has been completed.
- (2) One of the other parties to the dispute did not accept the terms offered for alternative dispute resolution.

(3) Preliminary or temporary injunctive relief is necessary.
Per Civil Code Section 1369.560 (b), failure to file a certificate pursuant to Civil Code Section 1369.560 (a) is grounds for a demurrer or a motion to strike unless the court finds that dismissal of the action for failure to comply with this article would result in substantial prejudice to one of the parties.

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