

## **ALTERNATIVE DISPUTE RESOLUTION**

### Summary of Civil Code 5925-5965

Sections 5925 to 5965 of the Civil Code require that before owners and associations file lawsuits against each other for declaratory relief or injunctive relief in connection with a claim for money damages under \$5,000 or for enforcing the associations governing documents, the filing party shall endeavor to submit the dispute to alternative dispute resolution (ADR). Forms of ADR include mediation, negotiation, and binding or nonbinding arbitration. This provision does not apply to the filing of cross-complaints.

The ADR process is initiated by one party serving a request for resolution upon the other parties to the dispute. The request must include (i) a brief description of the dispute, (ii) a request for ADR, (iii) a notice that a response must be received within thirty (30) days or it will be deemed rejected, and (iv) a copy of Civil Code Sections 5925 to 5965.

If the individual receiving the request agrees to ADR, the process must be completed within ninety (90) days unless otherwise extended by agreement. The cost of ADR is to be paid by the participating parties. If a civil suit is filed, the filing party must submit to the court a certificate of compliance indicating the party has complied with the requirements of Sections 5925 to 5965. Failing to do so would be grounds for challenging the lawsuit.

Although the prevailing party is entitled to reasonable attorneys' fees and costs, the court may consider a party's refusal to participate in ADR when making the award.

A description of the Associations internal dispute resolution process, as required by Civil Code Section 5920, is attached.

**NOTE:** Failure by any member of the association to comply with the alternative dispute resolution requirements of Civil Code 5930 may result in the loss of your rights to sue the association or another member of the association regarding enforcement of the governing documents or the applicable law.

## **INTERNAL DISPUTE RESOLUTION**

### **Civil Code Section 5920**

1. This policy applies to a dispute between the Association and a member involving their rights, duties, or liabilities under the Davis-Sterling Act, under the provisions of the Corporations Code relating to mutual benefit corporations (commencing with Corporations Code Section 7110), or under the Association's governing documents.

2. Either party to a dispute within the scope of this article may invoke the following procedure:

- The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in writing.
- A member of the Association may refuse a request to meet and confer. The Association may not refuse a request to meet and confer.
- The Association's Board of Directors shall designate a member of the Board to meet and confer.
- The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other and confer in good faith in an effort to resolve the dispute.

A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the Board designee on behalf of the Association.

3. A member of the Association will not be charged a fee to participate in the process.

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