

IMPORTANT HOMEOWNER NOTICE
SUMMARY OF ADR RIGHTS & PROCEDURES

ALTERNATIVE DISPUTE RESOLUTION DISCLOSURE

Please be advised that California Civil Code section 1369.520 requires alternative dispute resolution (hereinafter, ADR) as opposed to litigation in certain Association and Owner disputes. This notice merely provides a summary of the statute. If there is a dispute that may require ADR, pursuant to the statute, please review all of the provisions of the statute or seek independent legal counsel.

PARTIES BOUND BY THE STATUTE

The parties required to comply with the statute are the Association (through the Board of Directors) and any owner of record.

DISPUTES SUBJECT TO THE STATUTE (QUALIFYING DISPUTES)

Section 1369.520 provides that the Association and Owners shall endeavor to submit disputes related to the enforcement of the governing documents to ADR. Where, however, an Owner has a private dispute with another owner or a tenant, or the Board has a dispute with a third party such as a landscaper, such a dispute is not within the confines of the statute.

DISPUTES EXCLUDED FROM THE STATUTE

Section 1369.520 and 1369.510 exclude the following types of disputes from being required to resort to ADR:

1. Assessment collection, except as provided for Civil Code Section 1366.3;
2. Claims for money damages in excess of Five thousand Dollars (\$5,000.00) in conjunction with a claim for declaratory or injunctive relief;
3. Actions where the applicable statute of Limitations would expire within 120 days;
4. Actions for preliminary or temporary injunctive relief; and
5. The filing of a Cross-Complaint in response to a Complaint already filed.

COMPLIANCE PROCEDURES

A. INITIATING PARTY

The party pursuing the dispute, prior to filing any lawsuit, must serve on the other party a request for resolution including the following information and language:

1. A brief description of the dispute between the parties;
2. A request that the matter be submitted to ADR;

3. A statement that the party receiving the request (Responding Party) is required to respond thereto within thirty (30) days of receipt or it will be Deemed Rejected.
4. A copy of Sections 1369.510 – 1369.590 of the Civil Code, if the responding party is the owner of a separate interest.

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 party on whom the request is served actual notice of the request.

B. RESPONDING PARTY

Upon receipt of a request for resolution the responding party, whether the Association or Owner, has thirty (30) days in which to either accept or reject the request. In the event no such response is received, the request is deemed rejected.

C. GENERAL PROCEDURAL

Where the request is accepted, the parties must complete the ADR within ninety (90) days of receipt of the acceptance. However, the parties can stipulate in writing to extend this period.

In the event that a lawsuit is eventually commenced, the party filing must also file a certificate concerning the completion of the ADR. Where a lawsuit is commenced and ADR has not occurred, the filing party should file a certificate as to why ADR did not take place.

CONSEQUENCES FOR FAILURE TO COMPLY WITH THE LAW

In the event the initiating party proceeds to Court without complying with the provisions of this Section, the responding party can move the Court for an order of dismissal. As a result, it is important to seek independent counsel in the event that you, as an owner have further questions.

Where a trial does go forward by virtue of the responding party's refusal to participate in dispute resolution, the Court may take such failure into consideration when ruling on payment of attorney's fees and costs.

Failure of a member of the association to comply with the alternative dispute resolution requirements of section 1369.520 of the Civil Code may result in the loss of your right to sue the association or another member of the association regarding enforcement of the governing documents or the applicable law.

The preceding summary has been provided by the Association as mandated by Civil Code section 1369.590.

Board of Directors
Homeowners Association