

CORONADO SHORES CONDOMINIUM ASSOCIATION NO. 9

INTERNAL DISPUTE RESOLUTION & ALTERNATIVE DISPUTE RESOLUTION

Pursuant to the requirements of California *Civil Code* Sections 5900 et. seq. and 5925 et. seq., the Association has adopted the following policies regarding Internal Dispute Resolution (“IDR”) and Alternative Dispute Resolution (“ADR”) procedures, as follows:

INTERNAL DISPUTE RESOLUTION:

As specified under *Civil Code* Section 5900, either party to a dispute regarding rights, duties, or liabilities under the Davis Stirling Common interest Development Act, may invoke the following procedure to address said dispute:

1. The party may request, in writing, that the other party meet and confer in an effort to resolve the dispute.
2. A Member of the Association may refuse a request to meet and confer. The Association may not refuse a request to meet and confer.
3. The party receiving a request must respond within a reasonable time and in no event later than 15 days after the request is mailed, emailed, or delivered in person. If a Member does not respond within this time frame that Member will be deemed to have rejected the request. (For IDR procedure regarding candidacy qualifications for Board Elections, see number 11 below.)
4. If the request is accepted, the parties shall, in good faith, coordinate the meeting to take place within 30 days of acceptance at a mutually convenient time and place. If, through no fault of the Association, the parties are unable to schedule the meeting within this time frame, the requirements of Civil Code Section 5900 et. seq. will be deemed to have been met unless the parties mutually agree to extend this time frame. (For IDR procedure regarding candidacy qualifications for Board Elections, see number 11 below.)
5. The Association's Board of Directors may designate a member or members of the Board to meet and confer with the Member. The Association's manager, relevant expert and/or legal counsel may attend the meeting at the Association's sole cost. If the Association intends to have legal counsel present at the meeting, the Member shall be advised at least 10 days prior to the meeting. (For IDR procedure regarding candidacy qualifications for Board Elections, see number 11 below.)
6. The Member may be assisted at the meeting by an attorney or other person at the Member's sole cost. If the Member intends to have an attorney present at the meeting, the Member must advise the Association at least 10 days in advance of the meeting. If the Member does not provide this required notice and attends the meeting with an attorney, the meeting will not take place. Thereafter the Association will have the right to either reschedule the meeting or determine the requirements to have been fulfilled without a subsequent meeting. (For IDR procedure regarding candidacy qualifications for Board Elections, see number 11 below.)

7. At the meeting the parties shall explain their positions to each other and confer in good faith in an effort to resolve the dispute. Discussions at the meeting are not confidential unless all attendees sign a confidentiality agreement.
8. A resolution of the dispute reached at the meeting binds the parties and is judicially enforceable if the following conditions are satisfied:
 - a. The agreement is not in conflict with the law or the Governing Documents of the Association.
 - b. The agreement is either consistent with the authority granted by the Board of Directors to its designee(s) or the agreement is thereafter ratified by the board of directors.
 - c. The agreement is in writing and is signed by all parties, including the Board designee(s).
9. A member of the Association may not be charged a fee by the Association to participate in the IDR process. The parties may mutually agree to make use of local dispute resolution programs. If these programs are agreed to by the parties, the parties shall split the costs thereof.
10. The Association is not obligated to agree to use a mediator for IDR or to contribute towards any of the costs of that mediator and will not do so, unless agreed to in writing, in advance.
11. In the event the Association offers another party IDR and the subject of the IDR is the party's disqualification as a candidate for election to the Association's Board of Directors, the following provisions shall replace numbers 3 through 6 above. All other procedures contained in this section shall remain in full force and effect.
 - a. The party receiving the request must respond within a reasonable time and in no event later than 10 days after the request is mailed, emailed, or delivered in person. If a party does not respond within this time frame that party will be deemed to have rejected the request.
 - b. If the request is accepted, the parties shall, in good faith, coordinate the meeting to take place within 25 days of the date of the Association's offer at a mutually convenient time and place. If, through no fault of the Association, the parties are unable to schedule the meeting within this time frame, the requirements of Civil Code Section 5900 et. seq. will be deemed to have been met.
 - c. The Association's Board of Directors may designate a member or members of the Board to meet and confer. The Association's manager and/or legal counsel may attend the meeting at the Association's sole cost. If the Association intends to have legal counsel present at the meeting, the other party shall be advised at least 5 days prior to the meeting or, if the meeting is scheduled with less than 5 days' notice, then other party shall be advised of the fact as soon as reasonably possible.
 - d. The party may be assisted at the meeting by an attorney or other person at the party's sole cost. If the party intends to have an attorney present at the meeting, the party must advise the Association at least 5 days in advance of the meeting or, if

the meeting is scheduled with less than 5 days' notice, the Association will be given as much notice as possible. If the Association is not given this required notice and the other party attends the meeting with an attorney, the meeting shall be immediately concluded and the requirements of Civil Code Section 5900 et. seq. will be deemed to have been met.

ALTERNATIVE DISPUTE RESOLUTION:

All California community associations and their individual members are required to offer to participate in some form of Alternative Dispute Resolution ("ADR") prior to initiating certain types of lawsuits pursuant to California *Civil Code* Section 5925 et. seq. The information provided herein is for reference only. Each homeowner should consult with his/her own attorney regarding appropriate compliance with the statute.

I. SCOPE OF STATUTE:

Civil Code Section 5925(a) defines "Alternative Dispute Resolution" ("ADR") as mediation, arbitration, conciliation, or other nonjudicial procedure that involves a neutral party in the decision-making process. The form of ADR chosen may be binding or non-binding with the voluntary consent of the parties. *Civil Code* Section 5925(b) defines "Enforcement Action" as a civil action or proceeding, other than a cross-complaint, for any of the following purposes:

Enforcement of the Davis-Stirling Common Interest Development Act, *Civil Code* Sections 4000 et. seq.

Enforcement of the California Nonprofit Mutual Benefit Corporation Law (Corporations Code Sections 7110 et. seq.).

Enforcement of the Governing Documents of the Association.

The Association or an Owner or Member of the Association may not file an Enforcement Action in the superior court unless the parties have endeavored to submit their dispute to ADR pursuant to *Civil Code* Section 5900 et. seq.

Civil Code Section 5900 et. seq. only applies to an Enforcement Action that is solely for declaratory relief, injunctive relief, or writ relief, or for that relief in conjunction with a claim for monetary damages not in excess of the jurisdictional limits of the small claims court. This section does not apply to a small claims action and except as otherwise provided by law, this section does not apply to an assessment dispute.

II. COMPLIANCE PROCEDURES:

The ADR process is started by one party serving all other parties with a "Request for Resolution," which must include all of the following:

1. A brief description of the dispute between the parties.
2. A request for alternative dispute resolution.

3. A notice that the party receiving the Request for Resolution is required to respond within 30 days of receipt or the request will be deemed rejected.
4. If the party on whom the Request for Resolution is served is the owner of a separate interest, a copy of *Civil Code* Sections 5900 et. seq.

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.

The party on whom a Request for Resolution is served has 30 days following service to accept or reject the Request. If the party does not accept the Request within that period, the Request is deemed rejected by that party. If the party on whom a Request for Resolution is served accepts the Request, the parties must complete the ADR within 90 days after the party initiating the Request receives the acceptance. This time period may be extended by written stipulation signed by both parties. The costs of the Alternative Dispute Resolution will be borne equally by the parties.

III. FAILURE TO PARTICIPATE IN SOME FORM OF ADR:

In an Enforcement Action, in which fees and costs may be awarded, the court, in determining the amount of an award of attorneys fees and costs, may consider whether a party's refusal to participate in ADR before commencement of the action was reasonable.

In accordance with California *Civil Code* Section 5965, the Association hereby advises you of the following:

Failure of a member of the Association to comply with the alternative dispute resolution requirements of Section 5930 of the *Civil Code* may result in the loss of the Member's right to sue the Association or another member of the Association regarding enforcement of the governing documents or the applicable law.

IV. NO EFFECT ON VOLUNTARY PARTICIPATION IN ADR:

The parties may still agree, in writing, to refer any dispute involving enforcement of the Association's Governing Documents, California *Corporations Code* Sections 7110, et seq., or the Davis-Stirling Common Interest Development Act, *Civil Code* Sections 4000, et seq. to some form of IDR/ADR, even if those disputes may be technically outside of the disputes described in the IDR/ADR statutes.