

## LA COSTA RIDGE COMMUNITY ASSOCIATION

### SUMMARY OF INTERNAL DISPUTE RESOLUTION AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

This Summary of Internal Dispute Resolution (“IDR”) and Alternative Dispute Resolution (“ADR”) procedures (“Summary”) is being distributed pursuant to California Civil Code Sections 5965 (ADR Annual Summary requirement) and 5920 (IDR Annual Summary requirement). In an effort to decrease the amount of lawsuits between associations and members, California law encourages and requires that associations and members of associations first attempt to resolve disputes internally, and/or via mediation and/or arbitration. There are two procedures: IDR and ADR, which are summarized below.

#### A. IDR Procedure

The La Costa Ridge Community Association (“Association”) has adopted the procedure set forth in Civil Code Section 5915 as a fair, reasonable and expeditious procedure for resolving disputes between the Association and any member of the Association. The IDR procedure is as follows:

1. Either party to a dispute (defined broadly as a disagreement between the Association and a member regarding an alleged violation of the Association’s governing documents generally commencing once disciplinary action has been imposed by the Association upon the member) may invoke IDR.
2. IDR may be invoked by one party requesting in writing that the other party meet and confer in an effort to resolve the dispute. The member may not be charged a fee to participate in IDR.
3. A member of the Association may refuse a request to meet and confer; however, the Association may not refuse a member’s request to meet and confer.
4. If a request to meet and confer is accepted, then the Association’s Board of Directors designates one member of the Board of Directors to meet and confer with the member.
5. The parties communicate with each other to decide when and where they will meet and confer.
6. The parties 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.
7. If the parties are successful in reaching a resolution to the dispute, then the resolution is memorialized in writing and signed by both parties, including the Board designee on behalf of the Association.
8. An agreement reached under this procedure binds the parties and is judicially enforceable if both of the following conditions are met:

- a. The agreement is either consistent with the authority granted by the Board of Directors to its designee or the agreement is ratified by the Board of Directors, and
- b. The agreement is not in conflict with law or the Association's governing documents.

## B. ADR Procedure

In accordance with Civil Code Section 5965, the following is a summary of the ADR procedure. ADR, or "alternative dispute resolution" means mediation, arbitration, conciliation, or other nonjudicial procedure that involves a neutral party in the decision making process. The form of ADR chosen by the parties can be binding or nonbinding, with the voluntary consent of the parties. It is imperative that you read and understand the ADR requirements and procedures set forth below, and in Civil Code Section 5925 et seq. Please note that:

**FAILURE OF A MEMBER OF THE ASSOCIATION TO COMPLY WITH THE ALTERNATIVE DISPUTE RESOLUTION REQUIREMENTS OF SECTION 5930 OF THE CALIFORNIA 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.**

In summary, the ADR procedure is as follows:

### 1. When ADR is Required.

- Neither the Association, nor a member of the Association, may file an "enforcement action" (defined as a civil action or proceeding, other than a cross-complaint, that is solely for declaratory, injunctive, or writ relief, or for that relief in conjunction with a claim for monetary damages not in excess of \$5,000 for a corporation and \$10,000 for a natural person, for enforcement of the Association's governing documents, Civil Code Section 5925 et seq., or Nonprofit Mutual Benefit Corporation Law) in the superior court unless the parties have first endeavored to submit their dispute to alternative dispute resolution (ADR) pursuant to Civil Code Section 5925 et seq.
- ADR is not required prior to filing a small claims action.
- Except as otherwise provided by law, Civil Code Section 5925 et seq. does not apply to assessment disputes.

### 2. How to Commence ADR.

- Either party to the dispute may serve a "Request for Resolution" on the other party or parties to the dispute.

- The Request for Resolution must include all of the following:
  - i. A brief description of the dispute
  - ii. A request for ADR
  - iii. A notice that the party receiving the Request for Resolution is required to respond to the Request for Resolution within **30 days** of receipt, or the Request for Resolution will be deemed rejected.
  - iv. If the Association is serving the Request for Resolution on a member of the Association, then a copy of Civil Code Section 5925 through 5965 et seq. must be included in the Request.
- The Request for Resolution must be served on the other party or parties 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 for Resolution.
- The party served with the Request for Resolution has **30 days** following service to accept or reject the Request for Resolution. If the Request is not accepted within this 30 day time period, then the Request is deemed rejected by the other party.

C. Miscellaneous.

1. If the Request for Resolution is accepted, then the parties must complete the ADR within **90 days** of acceptance, unless the parties agree to extend the time period by written stipulation signed by both parties.
2. The ADR costs are borne by the parties.
3. Civil Code Section 5940(b) governs issues of evidence presented in ADR.
4. Civil Code Section 5945 governs issues related to the tolling of the statute of limitations for commencing a civil action with respect to ADR.
5. Civil Code Section 5950 requires that if a civil action is commenced, the plaintiff must file with the court a certificate of compliance regarding ADR (either stating that (a) ADR was completed in accordance with Civil Code Section 5925 et seq., (b) one of the parties refused to accept the Request for Resolution, or (c) preliminary or temporary injunctive relief is necessary). Failure to file the certificate is grounds for a demurrer or motion to strike unless the court finds that dismissal of the action for failure to comply with Civil Code Section 5925 et seq. would result in substantial prejudice to one of the parties.
6. In an enforcement action in which fees and costs may be awarded to the prevailing party under Civil Code Section 5975, the court may consider whether a party's refusal to participate in ADR before the commencement of the action was reasonable in determining the amount of fees and costs to award.