



Alternative Dispute Resolution

Summary:

CAI recognizes the need for and supports the use of alternative dispute resolution mechanisms to resolve disputes arising in community associations in appropriate cases.

ALTERNATIVE DISPUTE RESOLUTION

Policy

Alternative Dispute Resolution ("ADR") is statutorily required in many states. Even where ADR is not required by law, Community Associations Institute (CAI) advocates that communities adopt policy resolutions to offer ADR for housing-related disputes between individual unit owners as well as between owners and the Association.

Alternative Dispute Resolution (ADR) is viewed as a preferable option to litigation for the settling of housing-related disputes within a community. Subject to jurisdictional differences, qualified housing disputes may constitute everything from interpretation and enforcement of the governing documents and rules, allegations of improper maintenance or infringement of owners' rights. Communities may choose to exempt from ADR those arguments between owners/and or residents that are wholly unrelated to the property or its administration. Frequently, ADR is also not required in connection with collection of delinquent assessments or general interpretation of governing documents where a complainant owner is suffering no particular, individualized harm.

There are several different procedures that fall under the definition of ADR, from mediation to court-mandated, binding arbitration. Even where statutes generally require ADR and/or governing documents establish some form of ADR, most boards of directors ("boards") have wide discretion to choose precisely how to implement the ADR within their particular community. Some boards choose mediation or arbitration and others have committees that conduct a hearing process. Some communities rely on programs offered through the municipality or through a private entity, such as the Better Business Bureau. Determining the method of ADR may depend on the issues or parties involved or in the resources readily available to a particular community.

RECOMMENDATION

Recognizing that no one community is the same and with a genuine interest in making the ADR procedure accessible to all owners, CAI encourages community association board members to design ADR procedures most appropriate for the particular community's needs towards resolving disputes, subject only to the law of the state and requirements contained within the community's governing documents.

CAI advocates that communities adopt policy resolutions pertaining to ADR. Boards may craft resolutions that further elaborate on those ADR procedures already established by statute or the governing documents to lend further guidance and transparency to the ADR process. Several methods of ADR may be offered, such as mediation or binding or non-binding arbitration. Communities are encouraged to establish ADR committees that are independent from the board and utilize only neutral parties for conducting mediation or arbitration. Always mindful of due process considerations, the policies should provide for a reasonable period of time within which to resolve disputes and for ADR sessions to be held in mutually convenient locations for all parties. If the method of ADR selected requires payment of a fee, the resolution should address how the costs will be allocated between the parties and in all cases, the costs should not be prohibitive for owners to meaningfully participate in the procedure. Finally, CAI recommends that resolutions clearly distinguish any matters that typically would not be considered for ADR. 11

- Adopted by the Board of Trustees, May 6, 1989
- Reviewed by the Public Policy Committee, October 6, 1993
- Reaffirmed by the Board of Trustees, October 9, 1993
- Amended Approved by the Government & Public Affairs Committee, October 17, 2001
- Approved by the Board of Trustees, May 3, 2002
- Adopted by the Board of Trustees, March, 2011

June 24, 2016

SOURCE:

<https://www.caionline.org/Advocacy/PublicPolicies/Pages/Alternative-Dispute-Resolution.aspx>