

ALTERNATIVE DISPUTE RESOLUTION (ADR)

With the increasing number of suits being filed, the Courts are backlogged. Litigation can be both costly and time-consuming. Litigants may not be happy with the process or the remedy that a judge or jury will impose upon them. Thus, there has been a shift from litigation and adjudication to settlement. Arbitration and Mediation are the two methods most used to assist the parties in reaching a settlement, and they are collectively referred to as Alternative Dispute Resolution (ADR).

The N.J. Condominium Act requires that community associations “provide a fair and efficient procedure for the resolution of disputes between individual unit owners and the association, and between unit owners, which shall be readily available as an alternative to litigation.” In short, it is mandatory for every homeowner association within the State of N.J. to provide and maintain an effective ADR program.

The DCA clearly recommends that a mediator be impartial. Therefore, a person who lives within the Association should not be a mediator in that Association. Doing so can lead to a supposed conflict of interest should the matter advance into the courtroom. It is possible that the case could be sent back to the Association to redo the ADR.

HOW DO I REQUEST ADR:

1. To request an ADR simply obtain and submit an ADR Request Form to the Secretary of the Association.

SAMPLE ALTERNATIVE DISPUTE RESOLUTION REQUEST FORM

Complainant/Homeowner: _____

Address: _____

Telephone Number: _____

Second Party: _____

Address: _____

Telephone Number: _____

Which Covenant Restriction(s) and/or Bylaw(s) is being violated?

DESCRIBE THE DISPUTE:

(Attach additional pages if necessary)

Signature: _____ Signature: _____

Date: _____ Date: _____

Once an ADR Request Form is received, the Association Secretary will send an ADR Offering Letter to all parties.

SAMPLE ADR OFFERING LETTER

RE:

Dear :

You have been named in a dispute by _____. We would like to offer you the opportunity to an Alternative Dispute Resolution (ADR) proceeding.

Both the New Jersey Condominium Act, N.J.S.A. 46:8B-1 et seq., and the Planned Real Estate Development Full Disclosure Act (PREDFDA), N.J.S.A. 45:22A-21 et seq., require associations to provide a “fair and efficient” alternative to litigation for unit owners to resolve “housing related” disputes between one another or with the Association.

You have thirty (30) days from the date of this letter to request an ADR. If you would like to schedule an ADR please advise the Association, by letter in writing.

Very truly yours,

Certified / Email

Once all parties agree to ADR mediation, the Association Secretary will obtain dates and times available and will then contact the Senior Coalition of Berkeley Township, ADR Coordinator. The SCofBT ADR Coordinator will assign a mediator on one of the preferred dates.

All parties will be requested to submit any backup documents at least two days prior to the mediation. For the day of mediation, the Secretary will compile all the documents and will provide a copy of the Bylaw being violated. At the conclusion of the mediation the mediator will complete a Final Report. All parties will sign and date it.