

PGA WEST RESIDENTIAL ASSOCIATION, INC.

ANNUAL DISCLOSURE OF

ALTERNATIVE DISPUTE RESOLUTION (ADR)

(Civil Code Section 1369.510 et. seq.)

Each year, pursuant to Civil Code Section 1369.510 et.seq., your Association is required to notify you of the requirements of Alternative Dispute Resolution (ADR) for disputes regarding the enforcement of the Davis-Stirling Common Interest Development Act (Civil Code Section 1350 et. seq.), the Non-Profit Mutual Benefit Corporation law (Corporations Code Section 7110, et.seq.) or the governing document of the Association. ADR mean mediation, arbitration conciliation or other non-judicial procedure that involves a neutral party in the decision-making process, and may be non-binding or binding with the voluntary consent of the parties.

Prior to an owner or the Association taking legal action 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 five thousand dollars (\$5,000) (except for small claims actions or an assessment dispute except as otherwise provided by law), the party is required to serve a Request for Resolution By ADR on the opposing party.

The ADR request must be served on the opposing party by the methods set forth in the above-referenced Section, and must include a copy of the above-referenced laws, a copy of which is attached.

The Request must contain (1) a brief description of the dispute between the parties; (2) a request for resolution by ADR; and (3) a notice that the party receiving the Request for Resolution is required to respond within thirty (30) days of receipt or the request will be deemed rejected.

The following is required by the above-referenced law to be disclosed:

Failure of a member of the association to comply with the alternative dispute resolution requirement 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.

(Enclosure: (Copy of Civil Code Section 1369.510 et. seq.))

Article 2. Alternative Dispute Resolution – Civil Code

1369.510. As used in this article:

(a) “Alternative dispute resolution” means mediation, arbitration, conciliation, or other non-judicial procedure that involves a neutral party in the decision-making process. The form of alternative dispute resolution chosen pursuant to this article may be binding or nonbinding, with the voluntary consent of the parties.

(b) “Enforcement action” means a civil action or proceeding, other than a cross-complaint, for any of the following purposes:

- (1) Enforcement of this title.
- (2) Enforcement of the Nonprofit Mutual Benefit Corporation Law (Part 3 (Commencing with Section 7110) of Division 2 of Title 1 of the Corporation Code).
- (3) Enforcement of the governing document of a common interest development.

1369.520. (a) An association or an owner or a member of a common interest development may not file an enforcement action in the superior court unless the parties have endeavored to submit their dispute to alternative dispute resolution pursuant to this article.

(b) This section applies only to an enforcement action 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 five thousand dollars (\$5,000).

(c) This section does not apply to a small claims action.

(d) Except as otherwise provided by law, this section does not apply to an assessment dispute.

1369.530. (a) Any party to a dispute may initiate the process required by Section 1369.520 by serving on all other parties to the dispute a Request for Resolution. The Request for Resolution shall 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 is served is the owner of a separate interest, a copy of this article.

(b) 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.

(c) A party on whom a Request for Resolution is served has 30 days following service to accept or reject the request. If a party does not accept the request within that period, the request is deemed rejected by the party.

1369.540. (a) If the party on whom a Request for Resolution is served accepts the request, the parties shall complete the alternative dispute resolution within 90 days after the party initiation the request receives the acceptance, unless this period is extended by written stipulation signed both parties.

(b) Chapter 2 (commencing with Section 1115) of Division 9 of the Evidence Code applies to any form of alternative dispute resolution initiated by a Request for Resolution under this article, other than arbitration.

(c) The costs of the alternative dispute resolution shall be borne by the parties.

1369.550. If a Request for Resolution is served before the end of the applicable time limitation for commencing an enforcement action, the time limitation is tolled during the following periods:

(a) The period provided in Section 1369.530 for response to a Request for Resolution.

(b) If the Request for Resolution is accepted, the period provided by Section 1369.540 for completion of alternative dispute resolution, including any extension of time stipulated to by the parties pursuant to Section 1369.540.

1369.560. (a) At the time of commencement of an enforcement action, the party commencing the action shall file with the initial pleading a certificate stating that one or more of the following condition is satisfied:

(1) Alternative dispute resolution has been completed in compliance with this article.

(2) One of the other parties to the dispute did not accept the terms offered for alternative dispute resolution.

(3) Preliminary r temporary injunctive relief is necessary.

(b) Failure to file a certificate pursuant to subdivision (a) is ground for a demurrer or a motion to strike unless the court finds that dismissal of the action for failure to comply with this article would result in substantial prejudice to one of the parties.

1369.570. (a) After an enforcement action is commenced, on written stipulation of the parties, the matter may be referred to alternative dispute resolution. The referred action is stayed. During the stay, the action is not subject to the rules implementing subdivision (c) of Section 68603 of the Government Cod.

(b) The costs of the alternative dispute resolution shall be borne by the parties.

1369.580. In an enforcement action in which fees and costs may be awarded pursuant to subdivision (c) of Section 1354, the court, in determining the amount of the award, may consider whether a party's refusal to participate in alternative dispute resolution before commencement of the action was reasonable.

1369.590. (a) An association shall annually provide its members a summary of the provisions of this article that specifically references this article. The summary shall include the following language:

“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.”

(b) The summary shall be provided either at the time the pro forma budget required by Section 1365 is distributed or in the manner prescribed in Section 5016 of the Corporations Code. The summary shall include a description of the association's internal disputed resolution process, as required by Section 1363.850.