

7 ALTERNATIVE DISPUTE RESOLUTION

7.1 POLICY

All disputes between the Country Creek Patio Home Association and Owners (other than disputes or claims specifically exempted from alternative dispute resolution, including the collection of assessments or other monies owed to the Association) will be addressed and resolved in compliance with these procedures.

Initial Discussion

It is expected that in the event of any dispute the parties will initially conduct good faith negotiations and attempt to resolve the dispute as good neighbors.

Mediation

If the Board believes the disagreement is a result of misunderstanding, miscommunication and/or breakdown of relationships between the parties, it may elect to engage a trained, impartial mediator to facilitate understanding and agreement. The mediator should be acceptable to all parties and the costs of the mediator, if any, will be shared equally between the parties in the dispute.

Arbitration

If the Board, at its discretion, believes mediation would not be effective, it may elect to propose a trained, neutral arbitrator with expertise in the issue to be arbitrated. Arbitration is a more formal proceeding than mediation as the parties to the mediation and/or their attorneys will present evidence, argument and other documents and information under oath in support of their position.

The formality of the process can vary, based on the rules of arbitration agreed to by the parties to the arbitration or imposed by the arbitrator. The arbitration substitutes for and is an alternative to litigation in the State courts, and there are only limited rights and circumstances available to obtain review of a binding arbitration decision in the State courts.

Typically, the arbitrator will issue a written arbitration decision and award, and if it is necessary to enforce the decision and award through the State courts then the decision and award will be filed with the court and become public record. The arbitrator should be acceptable to all parties and the fees charged by the arbitrator and costs of the arbitration typically will be shared equally between all parties to the dispute.

Depending on the outcome of the arbitration however, the arbitrator may have the discretion to award the substantially prevailing party its costs and attorney fees and the non-prevailing party will be required to pay those costs and fees as well.