

To: All Association Members
From: Board of Directors
Subject: Civil Code, Section 1354/Enforcement of Governing Documents

The section, as amended, provides that before either the Association or a member of the Association can file a lawsuit for Declaratory Relief or Injunctive Relief, either exclusively or in conjunction with a claim for Monetary Damages not to exceed \$5,000 (other than for Association assessments), the parties shall endeavor to submit the matter to Alternative Dispute Resolution prior to filing the lawsuit.

Alternative Dispute Resolution is either submitting the claim to mediation or arbitration. In Mediation, a mediator tries to resolve the differences between the parties and tries to get them to agree to compromise. Arbitration is a process whereby an arbitrator, usually a retired Judge or a lawyer or somebody with a special expertise in a particular field, listens to both sides of the case and makes a decision in the same manner as if a Judge would in court. Mediation and arbitration are non-binding under this section, however, the parties may agree to make it binding.

To submit a dispute to Alternative Dispute Resolution, the claimant must serve the other party with a "Request for Resolution" which briefly describes the dispute, requests that the dispute be submitted to Alternative Dispute Resolution, and notifies the other party that they must respond within thirty (30) days of receipt of the Request for Resolution, or it will be deemed rejected. If the other party accepts the Request for Resolution, the parties may mutually decide which form of Alternative Dispute Resolution (mediation or arbitration) they wish to submit the dispute to and whether it will be binding or non-binding. If accepted, the Alternative Dispute Resolution must be completed within ninety (90) days of receipt of acceptance of the Request for Resolution, unless extended by the parties. The parties share the costs of Alternative Dispute Resolution.

Anything said in the course of Alternative Dispute Resolution, or any documents prepared or admissions made in the course of the Alternative Dispute Resolution, are inadmissible in any civil action in which testimony can be compelled unless consented to by both parties.

This section requires that at the time a lawsuit is filed, a certificate must also be filed certifying that Alternative Dispute Resolution has been completed or one of the following exceptions applies:

1. The statute of limitations for bringing the civil action would run within 120 days (thus barring the civil action);