

## **ALTERNATIVE DISPUTE RESOLUTION**

### **Summary of Civil Code §§ 5925 - 5965**

Civil Code Sections 5925 to 5965 contain requirements that apply before owners and associations file lawsuits against each other to enforce the association's governing documents, the Davis-Stirling Act (Civil Code Sections 4000 *et seq.*), or the California Nonprofit Mutual Benefit Corporation Law (Corporations Code Sections 7110 *et seq.*). Civil Code Sections 5925, *et seq.* apply to actions for declaratory, injunctive, or writ relief, or for that relief in connection with a claim for money damages under the small claims limit. They do not apply to:

1. Cross-complaints.
2. Small claims actions.
3. Assessment disputes, except as otherwise provided by law.
4. Claims for money damages in excess of the small claims limits in conjunction with a claim for declaratory, injunctive or writ relief.
5. Actions where preliminary or temporary injunctive relief is necessary.

If a claim is subject to Civil Code Sections 5925 *et seq.*, the filing party shall endeavor to submit the dispute to alternative dispute resolution ("ADR"). Forms of ADR include mediation, negotiation, and binding or nonbinding arbitration. The ADR process is initiated by one party serving a *Request for Resolution* upon the other parties to the dispute. This document must be served by personal delivery, first-class mail, express mail, fax, or any other means reasonably calculated to provide the party being served with actual notice of the request. The *Request for Resolution* must include (i) a brief description of the dispute, (ii) a request for ADR, (iii) a notice that a response must be received within thirty (30) days or it will be deemed rejected, and (iv) if the party being served is a homeowner, a copy of Civil Code Sections 5925 to 5965.

If the individual receiving the request agrees to ADR, the process must be completed within 90 days unless otherwise extended by agreement. The cost of ADR is to be paid by the participating parties. If a civil suit is filed, the filing party must submit to the court a *Certificate of Compliance* indicating the party has complied with the requirements of Sections 5925 to 5965. Failing to do so would be grounds for challenging the lawsuit. Although the prevailing party is entitled to reasonable attorneys' fees and costs, the court may consider a party's refusal to participate in ADR when making the award.

Failure by any member of the Association to comply with the alternative dispute resolution requirements of Civil Code Section 5930 may result in the loss of your rights to sue the Association or another member of the Association regarding enforcement of the governing documents or the applicable law.