

Cleveland Place HOA

Dispute Resolution Policy

Effective January 9th, 2023

The following Policy has been adopted by the Cleveland Place HOA (“Association”) pursuant to the provisions of C.R.S. § 38-33.3-209.5 at a regular meeting of the Board of Directors (“Board”) for the benefit of the Association and its owners or members (“Member(s)”)

Purpose: To provide a more efficient means of resolving disputes or claims involving the Association and/or the Association’s governing documents and to reduce the costs and fees associated with dispute resolution.

WHEREAS, the Colorado Common Interest Ownership Act, in C.R.S. § 38-33.3-124, encourages common interest communities to adopt protocols that make use of mediation in resolving disputes between the Association and one or more Members.

NOW, THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following Policy governing the resolution of disputes:

1. Dispute Resolution Procedures. Except as provided herein and as allowed under the Association’s Enforcement Policy, the following procedures will be followed in all disputes or claims involving the Association and/or the Association’s governing documents whether such dispute be between the Association and a Member, between a Member and the Association or between Members themselves.

(a) Prior to proceeding with any claim, the party asserting the claim (“Claimant”) shall give written notice of such claim to all opposing parties (“Respondent”), which notice shall state plainly and concisely:

(i) the nature of the claim, including all persons involved and Respondent’s role in the claim;

(ii) the legal basis of the claim (*i.e.*, the specific authority out of which the claim arises); and

(iii) the specific relief and/or proposed remedy sought.

(b) After the Respondent receives the notice of claim, the parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the claim by good faith negotiation. Such efforts may include inspections of the Claimant’s or the Respondent’s unit for purposes of evaluating any alleged violation. Any party may be represented by attorneys and independent consultants to assist in the negotiations and to attend meetings.

(c) If the parties do not resolve the claim through negotiations within thirty (30) days after submission of the claim to the Respondent, the Claimant shall have an additional thirty (30) days to submit the claim for mediation under the auspices of a reputable mediation group providing such services in Garfield County or an adjoining county, or, if the parties otherwise agree, to a reputable mediation group outside such area.

(d) If the Claimant fails to submit the claim to mediation within such time, or fails to appear at the mediation, the Claimant shall be deemed to have waived the claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such claim; provided, nothing herein shall release or discharge Respondent from any liability to any person other than Claimant.

(e) Any settlement of the claim through mediation shall be documented in writing by the mediator and signed by the parties. If a termination of the mediation occurs, the mediator shall issue a written statement advising that the parties are at an impasse and the date that mediation was terminated.

(f) Each party shall bear its own costs of the mediation, including attorneys' fees, and each party shall share equally all charges of the mediator.

(g) If the parties agree to a resolution of any claim through negotiation or mediation as described above and any party thereafter fails to abide by the terms of such agreement, then any other party may file suit to enforce such agreement without the need to again comply with the procedures set forth in this policy. In such event, the party taking action to enforce the agreement shall be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties pro rata) all costs incurred in enforcing such agreement, including without limitation, attorneys' fees and court costs.

(h) Upon termination of mediation if no resolution is reached, if Claimant desires to pursue the claim, Claimant shall thereafter be entitled to file suit in such court as is appropriate under law, or submit the claim to binding arbitration.

2. Exclusions. Unless all parties thereto otherwise agree, the following disputes or claims shall not be subject to the provisions of this Policy:

(a) An action by the Association relating to the collection or enforcement of the obligation to pay assessments or other charges set forth in the Association's governing documents;

(b) An action by the Association to obtain a temporary restraining order or preliminary injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to enjoin any immediate threat to persons or property;

(c) Any action between or among Members, which does not include the Association as a party, if such action asserts a claim which would constitute a cause of action independent of the Association's governing documents;

(d) Any action in which any indispensable party is not the Association, its officers, directors, or committee members, a person subject to the Association's governing documents, or their officers, directors, partners, members, employees and agents;

(e) Any action by the Association relating to the enforcement of its Declaration, articles of incorporation, bylaws, rules, regulations, policies, procedures and other governing documents as allowed under the Association's Enforcement Policy; or

(f) Any action to enforce a settlement agreement made under the provisions of this policy or predating this policy.

3. Statute of Limitations. No claim may be initiated after the date when institution of legal or equitable proceedings based on such claim would be barred by the applicable statute of limitation or statute of repose.


CLEVELAND PLACE HOA

By: _____
Name: _____
Its: _____

Attest

Secretary

This Dispute Resolution Policy was adopted by the Board of Directors on January 9th, 2023, and is attested to by the Secretary of the Cleveland Place HOA.


Secretary