

## **INTERNAL DISPUTE RESOLUTION PROCEDURE**

The California Legislature has adopted new regulations codified in *Civil Code Sections 5900 through 5920*, which require Associations to adopt fair, reasonable and expeditious dispute resolution procedures, effective January 1, 2005. This is separate and apart from, and precedes, the formal ADR (Alternative Dispute Resolution) requirements set forth in *Civil Code Section 5925 through 5965*. The Association has adopted the following procedures as required under such law:

1. The Association or an Owner may invoke the procedures herein by submitting a request to the other to meet and confer in an effort to resolve any existing dispute. The request must be in writing.
2. An Owner may refuse a request to meet and confer made by the Association with the understanding that further enforcement action may be taken if the dispute is not resolved. The Association may not refuse a request by an Owner to meet and confer.
3. The Association's Board of Directors shall designate a Board member to meet and confer with an Owner.
4. The designated Board member and the Owner shall meet promptly at a mutually convenient time and place. The parties shall explain their positions to each other and attempt, in good faith to resolve the dispute.
5. Any resolution of the dispute agreed to by the parties shall be set forth in writing and signed by the Owner and the designated Board member on behalf of the Association.
6. An agreement reached under this procedure is binding on the Owner and the Association and is enforceable in court if both of the following conditions are met:
  - a. The agreement is not in conflict with law or the Association's governing documents.
  - b. The agreement is consistent with the authority granted by the Board of Director's to the designated Board member or is ratified by the Board.
7. Owners will not be charged a fee to participate in this process.

**PARK IMPERIAL COMMUNITY ASSOCIATION**

**FEDERAL HOUSING ADMINISTRATION (FHA)**

*Civil Code: 5300(b)(10)-(11)*

As of September 28, 2018 the FHA status of the Association is as follows:

Certification by the Federal Housing Administration may provide benefits to members of an association, including an improvement in an owner's ability to refinance a mortgage or obtain secondary financing and an increase in the pool of potential buyers of the separate interest.

This common interest development is a condominium project. The association of this common interest development is not certified by the Federal Housing Administration.

Please refer to the FHA Website for current information: <http://portal.hud.gov>

## PARK IMPERIAL COMMUNITY ASSOCIATION

### ALTERNATIVE DISPUTE RESOLUTION

Beginning January 1, 1994, California law provides that when the owner of a separate interest (a Homeowner) or the common interest development (CID)/association brings an action:

- a) solely for declaratory relief or injunction relief; or
- b) either of those in conjunction with a claim for monetary damages; (Other than Association Assessments, not to exceed \$5,000) relating to the enforcement of the governing documents of the association, they shall endeavor to submit the matter to alternative dispute resolution (ADR).

What this means, in general, is that in those prescribed types of disputes, before filing a lawsuit, an attempt must be made to settle. This must be done in a semi technical manner. The method of beginning the attempt at ADR is to serve on the opposing party a Request for Resolution. With certain exceptions, the law requires a certificate be filed with any civil action, certifying compliance with the above stated requirements.

Please be advised that the statement above is intended to be only the broadest of interpretations and merely to advise that such a law exists. There are a number of other factors involved, including attorney's fees; arbitration or mediation costs; and the results of not conforming to this law (*Civil Code § 5925 through 5965*).

The California legislature has also provided that each year your Association must send out a summary of this law and that summary must specifically include the following excerpt of the law:

**“Failure by any member of the association to comply with the pre-filing requirements of § 5930 of the *Civil Code* may result in the loss of your rights to sue the association or another member of the association regarding enforcement of the governing documents”.**

As you can see, failure to comply with this law may prejudice your rights. We strongly urge each one of you to carefully read the statute and consult with an attorney prior to commencing any litigation regarding the enforcement of the governing documents.

of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (Section 5660 of the Civil Code)

If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard. (Section 5685 of the Civil Code)

The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

### PAYMENTS

When an owner makes a payment, he or she may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. The association must inform owners of a mailing address for overnight payments. (Section 5655 of the Civil Code)

An owner may, but is not obligated to, pay under protest any disputed charge or sum levied by the association, including, but not limited to, an assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and by so doing, specifically reserve the right to contest the disputed charge or sum in court or otherwise.

An owner may dispute an assessment debt by submitting a written request for dispute resolution to the association as set forth in Article 2 (commencing with Section 5900) of Chapter 10 of Part 5 of Division 4 of the Civil Code. In addition, an association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Article 3 (commencing with Section 5925) of Chapter 10 of Part 5 of Division 4 of the Civil Code, if so requested by the owner. Binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time. (Section 5685 of the Civil Code)

### MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exist. (Section 5665 of the Civil Code)

The board of directors must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 5665 of the Civil Code)