

A non-refundable \$50.00 filing fee payable to the Division either by check, money order or cash is due from the respondent at this time. Do not send cash in the mail. To receive mediation subsidy, a completed [Form 668](#) must be included.

Prior to selecting a referee or mediator, claimants and respondents may view the resumes of all mediators and referees at <http://red.nv.gov/Content/CIC/ADR/Panel/>. If both parties cannot agree on which mediator or referee to choose, one will be appointed by the Division. Once a mediator or referee is appointed, he/she will govern the process going forward.

Within 30 days after receiving a decision from the referee or arbitrator, or a copy of a statement from the mediator regarding the status of the mediation, the Division will send a letter to the parties stating that the case is closed.

**NOTE:** Division staff can only assist parties in understanding the process and forms used in ADR. The Division cannot provide legal advice or determine whether or not governing documents have been violated. Supporting documentation should not be provided with claim [Form 520](#) or respondent [Form 521](#) to the Division.

The Division does not employ or otherwise control the performance of the work by the mediators, referees or arbitrators and is not responsible for, and does not endorse, any conduct by any mediator, referee, arbitrator or party.

All fees and charges billed by the mediators and arbitrators are due and payable directly to the billing party. Any amount of subsidy for mediation is paid directly to the mediator. The Division has no authority to collect any sums payable to a mediator or arbitrator.

**Division staff only facilitates the ADR process.** The Division has no stake in the outcome of any dispute.

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**Real Estate Division**  
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# THE ALTERNATIVE DISPUTE RESOLUTION (ADR) PROCESS



The ADR process is *required* under Nevada Revised Statutes (NRS) [38.300 to 38.360](#), before parties may file a civil action regarding an HOA matter in court. If a civil action is filed between a homeowner and an association *before* the ADR process has been completed, **the court may dismiss the case without taking any action.**

[NRS 38.310](#) provides that the following matters must go through the ADR process: the interpretation, application or enforcement of any covenants, conditions or restrictions (CC&R's) or any other governing documents applicable to residential property; or the procedure used for increasing, decreasing or imposing additional assessments upon residential property.

Claims for injunctive relief where there is an immediate threat of irreparable harm and actions relating to the title of residential property, are *not* required to participate in the ADR process, and can proceed directly to court. ADR further does *not* apply to civil disputes between owners where the association and its governing documents are not involved.

## **ADR PROGRAMS**

**REFEREE** – The referee program is a free program, administered by the Real Estate Division to the extent funds are available. Claims involving multiple parties cannot participate in the referee program. Both parties must agree to participate in a referee proceeding or the claim will default to mediation.

Referees are licensed attorneys approved by the Division to hear disputes. The referee assigned to a claim will schedule a hearing for the parties to present their evidence. All documents must be sent directly to the referee and *simultaneously mailed to the opposing party*. **Do not send documents to the Division.**

At the hearing, parties may present all evidence, including witness testimony. The referee will govern the procedures of the hearing, including what evidence may be considered, and may ask questions of the parties and any witnesses.

If parties agree to waive the hearing and elect instead to simply submit written statements describing the issue and their positions to the referee, the referee will review: the claim; the response; and supporting documentation, including the association's governing documents, and issue a written decision based on the evidence at hand.

The referee will provide a decision to the parties and the Division within **30 days** of the hearing, or, if no hearing was held, from the date all documents were received.

After receiving the referee's decision, the parties have 60 days to file a claim with the appropriate court. If neither party files a claim, the referee's decision can be confirmed in court by either party within one (1) year. Confirmation makes the decision an order of the court and *is binding* on both parties. Failure to confirm makes the decision non-binding. If a monetary award is granted, it may not exceed \$7,500 and may not include attorneys' fees and costs.

**MEDIATION** – If the disputing parties do not agree to participate in the referee program, they must go through mediation. Mediators are approved by the Division to mediate disputes and promote reconciliation, agreement and compromise.

The mediator will contact the parties to schedule a date for the mediation, which may be held at the mediator's office, or other suitable location. The disputing parties must submit a statement to the mediator, no later than five (5) days before the mediation, describing the issues and a proposed compromise to the dispute. The mediator will *not share that information with the opposing party*. Any documents provided to the mediator are confidential and **need not be provided to the Division.**

The mediation must be concluded within 60 days of the date the claim is filed with the Division, unless the parties agree otherwise.

If mediation is successful, the parties sign a written agreement detailing the resolution (**not received by the Division**), which becomes enforceable between the parties. This settlement agreement *is binding* on the parties and can be enforced in court.

If the mediation is unsuccessful and the parties do not agree to a resolution of the claim, either party may file a claim in the appropriate court stating that they have complied with the requirements of [NRS 38.300](#). Parties also have the option to participate in arbitration (see page 3 of the [Overview](#)) or the referee program through the Division.

**MEDIATION SUBSIDY** ([NAC 116.520](#)): Mediators may charge up to \$167.00 per hour, up to \$500.00 per claim. The mediation may be subsidized by the Division up to \$250.00 per party, not to exceed \$500 per mediation, if the parties submit an *eligible* subsidy application for mediation ([Form 668](#)) at the time of filing with the Division.

To be eligible for subsidy, the claimant must file within one (1) year of discovery of the alleged violation.

*Unit owners* may receive a subsidy once during each fiscal year of the State (July 1- June 30) for each unit owned. An *association* may receive one (1) subsidy each fiscal year against the same unit owner for each unit owned by that unit owner, only if the association is in good standing with the Secretary of State and the Office of the Ombudsman.

## **FILING THE FORMS**

The *claimant* must fill out [Form 520](#) completely and file the original and two (2) copies of the form with the Division. In the form, the claimant must provide a brief statement of the facts giving rise to the dispute and the relevant provisions of the governing documents at issue. The claim form allows for the selection of either mediation or the referee program. Remember, if the claimant selects the referee process but the respondent does not agree, the claim will proceed to mediation.

A non-refundable \$50.00 fee payable to the Division either by check, money order or cash is due at the time of filing. Do not send cash in the mail. If the claimant wishes to apply for subsidy of the mediation, a completed [Form 668](#) must be included with this package.

After the claim has been filed, the claimant will receive a packet from the Division, by mail, that must be served on the respondent as soon as possible. *The claimant may not serve the respondent* (see [Serving the Claim](#)).

The package to serve will have a copy of claim [Form 520](#), a copy of overview [Form 523](#), a blank respondent [Form 521](#), an additional respondent [Form 520B](#), a subsidy application for mediation [Form 668](#), and an Affidavit of Service Form which must be notarized.

*Respondents* must review all documents served upon them, and within 30 days, mail to the claimant a completed copy of [Form 521](#), including a brief statement of defense to the allegations. At the same time, the respondent must file the original [Form 521](#) and one (1) copy with the Division.