



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

COMMON-INTEREST COMMUNITIES AND
CONDOMINIUM HOTELS PROGRAM

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**ALTERNATIVE DISPUTE RESOLUTION
REFEREE/ARBITRATION POLICIES & PROCEDURES**

PURPOSE

This policy is intended to establish procedures and provide guidance to an approved list of qualified vendors for referee/arbitration services maintained by and for the Division's established Alternative Dispute Resolution (ADR) program. The ADR process is required under Nevada Revised Statutes NRS 38.300 to 38.360, before parties may file a civil action in court, relating to residential property within a Common-Interest Community or Homeowners Association. Vendors are awarded a contract contingent upon the successful negotiation of final contract terms and upon approval of the Board of Examiners. This procedure applies to the filing and processing of all ADR claims, fees, referee/arbitration assignments, proceedings, decisions, billing, and payments.

- I. REFEREE'S/ARBITRATOR'S QUALIFICATIONS AND EXPERIENCE MUST MEET THE VARIOUS NEEDS OF THE REAL ESTATE DIVISION (THE DIVISION)**
- a. Must have a Nevada State Bar license number and good standing status.
 - b. Maintain a status of "good standing" with the State Bar of Nevada throughout the term of the contract.
 - c. Must have training and at least a minimum of two (2) years' experience with resolution of disputes concerning Associations, including, and without limitation, the interpretation, application, and enforcement of covenants; conditions and restrictions pertaining to residential property and the articles of incorporation; bylaws; rules and regulations of an association.
 - d. During the term of the contract, and within each fiscal year of July 1 through June 30, be available to attend up to (4) hours of instruction if requested by the Division without compensation from the State.
 - e. Notify the Division in writing of any scheduled or non-scheduled absences, vacations, or time periods the referee or arbitrator will not be available for assignment to a hearing.
 - f. Agree to update referee's or arbitrator's curriculum vitae or resume when necessary, for posting on the Division's website.
 - g. Must not have any pending litigation against the State of Nevada within the last five (5) years.

- h. Conduct referee program or arbitration proceedings and draft a decision regarding:
 - The interpretation, application or enforcement of any covenants, conditions, or restrictions applicable to residential property, and/or any bylaws, rules or regulations adopted by an Association.
 - The procedures used for increasing, decreasing, or imposing additional assessments upon residential property in a Common-Interest Community (CIC) or Home Owner Association (HOA).
- i. The State does not guarantee any minimum volume of services. It is the State's intent to enter into contracts with qualified referees and arbitrators, acting as independent contractors, who have experience in meeting the various needs of agencies.

II. FILING AND SUBMISSION OF CLAIMS AND RESPONSES

- a. Each Alternative Dispute Resolution (ADR) claim is filed on form #520 and is submitted to the Real Estate Division, along with a \$50.00 filing fee.
- b. The claimant will indicate on the form #520, that they would like to participate in a referee program. After reviewing the list of available referees, the claimant will note their referee selection on the form #520.
- c. The claimant serves the respondent within 45 days. The Respondent will then have 30 days to complete the response form #521 and file it with the Division along with their \$50.00 filing fee. The respondent must note if they agree with the claimant's selection of a referee by selecting their method to resolution, on form #521. The respondent must agree to participate in the referee program on the respondent form #521 for the claim to proceed through the referee process.
- d. If the claimant has selected mediation and the respondent selects the referee program, the method of resolution will default to mediation. This also applies if a claimant selects the referee program, and the respondent does not agree to utilize this method.
- e. If there is no response within 30 days of service, the claimant is forwarded a letter stating that the other party did not respond after being served – therefore, NO referee hearing or mediation will be scheduled.
- f. A claim that is closed due to lack of response may be reopened upon request from the claimant should a response be received within (1) year of closure without an additional claimant filing fee - allowing further opportunity for the parties to satisfy the requirements of NRS 38.310.
- g. Before commencing a civil action in the proper court, the parties named in the claim may agree to arbitration if the parties have participated in mediation in which an agreement was not obtained or if a written decision and award have been issued pursuant to NRS 38.325. Unless the parties agree in writing to binding arbitration, the arbitration is nonbinding. If the parties agree to arbitration, they shall select an arbitrator from the list of arbitrators maintained by the Division pursuant to NRS 38.340. If the parties fail to agree on an arbitrator, the Division shall appoint an arbitrator from the list maintained by the Division. Any arbitrator appointed must be available within the geographic area.

III. ASSIGNMENT OF REFEREE/ARBITRATOR

- a. The respondent submits their response form to the Division that indicates whether they agree with the claimant's selection of referee. If they do not agree with the selection, the Division shall appoint

a referee from the list of referees maintained by the Division. If they agree with the selection of referee, then that referee will preside over the claim.

- b. The Division will notify the parties of the name and contact information of the referee selected.
- c. The Division will then forward an assignment letter along with the claim and response forms to the assigned referee. Any referee arbitrator selected must be available within the geographic area (unless agreed upon by both parties).
- d. Upon receipt of the assignment letter and review of the forms, the referee will notify the Division, within in three (3) business days, if a conflict of interest exists with any party. If a conflict exists, claim forms and all documentation should be returned to the Division immediately for reassignment.
- e. Should there be no conflict of interest, the referee shall sign the referee/arbitrator disclaimer form and submit at the time the claim is closed.
- f. Within five (5) days of assignment and review of the claim, the referee will contact both parties to set up a time and date to schedule a hearing or to discuss whether the parties want to submit the claim without a hearing. Within five (5) days of a scheduled hearing the referee will request that the parties provide additional documents relevant to the claim.
- g. Within five (5) days of appointment the arbitrator must provide the parties an informational statement relating to the arbitration of the claim. The written informational statement must explain the procedures and applicable law relating to the arbitration of a claim conducted pursuant to NRS 38.330, including, without limitation, the procedures, timelines and applicable law relating to confirmation of an award pursuant to NRS 38.239, vacation of an award pursuant to NRS 38.241, judgment on an award pursuant to NRS 38.243, and any applicable statute or court rule governing the award of attorney's fees or costs to any party; and must be accompanied by a separate form acknowledging that the party has received and read the informational statement, which must be returned to the arbitrator not later than 10 days after receipt of the informational statement.

IV. REFEREE/ARBITRATION PROCEEDINGS AND DECISION

- a. The referee is responsible for securing a location that is amenable to the parties. The referee reviews the assigned claim and conducts a hearing on the claim within 60 days of the claim being assigned.
- b. The referee will either conduct a hearing with both parties or will issue a decision based upon review of the submitted documents. After conducting a hearing or reviewing all pertinent documents related to the claim, the referee shall issue a written decision and award to the parties within 30 days of the hearing or from the date the parties agree to waive a hearing.
- c. The referee will provide to the Division the written decision within 30 days of the conclusion of a hearing or from submission from the parties without a hearing.
- d. The decision rendered is non-binding and either party may proceed with a civil court filing within 60 days after receiving the written decision and award. If neither party commences a civil action, the prevailing party may apply for a confirmation of the award with the proper court.
- e. Monetary awards may not exceed \$7,500 and attorney's fees may not be awarded from referee proceedings.
- f. At any time during the arbitration of a claim the arbitrator may issue an order prohibiting the action upon which the claim is based. An award must be made within 30 days after the conclusion of arbitration unless a shorter period is agreed upon by both parties to the arbitration.

- g. Any statute of limitations applicable to a claim referred to a referee pursuant to NRS 38.350 is tolled from the time the claim is submitted to the Division until the issuance of the written decision and award pursuant to the program.

V. BILLING AND PAYMENT

- a. The Referee Program is fully subsidized by the Division as long as funds are available. Referees may request a deposit from each party for any unsubsidized amounts of up to \$500 prior to the start of referee proceedings. Any amounts that are unused by the referee must be returned to the party within 30 days of the conclusion of the referee hearing.
- b. Referees charge a fee of no more than \$200.00 per hour, not to exceed \$1,000.00 per referee program proceeding. The cost of the referee program proceeding is paid by the Division.
- c. Arbitrators charge a fee of no more than \$300.00 per hour for arbitration proceedings to be paid by the parties to the arbitrator.
- d. Upon the provision of the non-binding decision to the parties, the Referee is to complete an 'Invoice' (form #631) and submit to the Division. Subsidy (up to \$500.00 per party) will be direct deposited into the referee's account on file with the State, within 60 days after the receipt of the billing statement and decision.

VI. ACKNOWLEDGEMENT

By signing this form, I acknowledge that I have been provided information on the Department of Business and Industry, Real Estate Division, Alternative Dispute Resolution Referee and Arbitration Policies and Procedures.

Independent Contractor's Signature Date