

## A Resolution of Morningside Homeowners Association, Inc.

Subject: **Procedure to Address Disputes Between Association and Owners**  
Purpose: To adopt a standard procedure to be followed for alternative dispute resolution  
Authority: Morningside's Declaration, Bylaws and Articles of Incorporation, and Colorado Law  
Effective Date: January 1, 2007

**RESOLUTION:** The Morningside Condominium Association, Inc. hereby adopts the following policies and procedures regarding Addressing Disputes Between the Association and Unit Owners. This resolution documents Morningside's Alternative Dispute Resolution (ADR) Process, adopted by the Board of Managers of the Association on January 25, 2007.

### **Alternative Dispute Resolution**

In the event any dispute between the Morningside Association and a condominium owner (except for the below listed "Exempted Claims") the Association and the owner shall agree to resolve the dispute using the procedures set forth below, prior to filing suit in any court.

#### Exempted Claims.

- a) Any action by the Association against an owner to collect assessments or other sums due to the Association, including foreclosure proceedings; and
- b) Any action by the Association to enforce any provisions of the Association's Declaration, Bylaws, or Rules & Regulations; and
- c) Any claim of the Association which if not pursued by the filing of a lawsuit would be deemed barred due to the applicable statute of limitations.

#### Procedure for All Other Claims.

The Association, or any condominium owner having a Claim ("Claimant") against an owner or the Association (respectively "Respondent") other than an EXEMPT CLAIM, shall notify each Respondent in writing of the Claim, stating the nature of the Claim, the date, time, location, persons involved, basis of the Claim (i.e. provisions of the Declaration, Bylaws, Articles of Incorporation, Rules & Regulations or other authority out of which the Claim arises), and Respondent's role in the Claim (hereby referred to as "Notice"). It should further outline what the Claimant wants the Respondent to do or not do to resolve the Claim; and that Claimant wishes to resolve the Claim by mutual agreement with Respondent, and is willing to meet in person with the Respondent at a mutually agreeable time and place to discuss in good faith, ways to resolve the Claim.

Negotiation. The parties shall make every reasonable effort to meet in person to resolve the Claim by good faith negotiation.

Mediation. If the parties do not resolve the Claim through negotiation within 20 days of the date of Notice, the Claimant shall have an additional 30 days to submit the Claim to mediation by an independent mediation service agreed upon by the parties.

If the parties do not settle the Claim within 45 days after submission of the matter to the mediation process, or if the Claimant does not submit the Claim to mediation within 30 days after the failure of negotiation, the mediator shall issue a notice of termination of the mediation proceedings, and the Claimant shall be deemed to have waived the Claim, and the Respondent shall be released and discharged from any and all liability to the Claimant on account of the Claim.

Arbitration. If the parties do not resolve the Claim through Negotiation, or Mediation, and the mediator has declared a Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to Arbitration in accordance with appropriate rules of the American Arbitration Association, or if the Claim has been abandoned, the Respondent shall be released and discharged from any and all liability to the Claimant arising out of the Claim. However, nothing herein shall release or discharge the Respondent from any liability to anyone not a party to the proceedings.

This Policy is an agreement of the Association and the Owners to arbitrate all Claims except EXEMPT CLAIMS and is specifically enforceable under the applicable arbitration law of the State of Colorado. If specifically agreed to by both parties to the arbitration, it shall be final and binding and judgment may be entered upon it in any court of competent jurisdiction of the State of Colorado.

Costs.

If the Claims are resolved through Negotiation or Mediation, as provided above, each party shall bear all of its own costs incurred in resolving the Claim, including attorney fees and mediation expenses. If the Claims are not resolved through Negotiation or Mediation, and the Claim goes to Arbitration, the prevailing party shall receive as a part of its award from the opposing party, all of its costs, including attorney fees, costs for other representatives in resolving such Claim, and any expenses incurred as a result of the dispute resolution procedures of this Policy.

Failure to Comply with Settlement.

If the parties resolve any Claim through Negotiation, Mediation, or Arbitration, and the other party fails to abide by the terms of the agreement or award, then the other party may file suit or initiate administrative proceedings to enforce such agreement or award without need to comply with the provisions of this Policy. In such event, the party taking action to enforce the agreement or award shall be entitled to recover from the non-complying party all costs incurred in enforcing such agreement or award, including without limitation, attorney fees and costs.

Supplement of Law.

The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing this condominium community.

Deviations. The Board may deviate from the procedures set forth in this Resolution, if in its sole discretion such deviation is reasonable under the circumstances.

Amendment. This Policy may be amended from time to time by the Board of Managers.