

DISPUTE RESOLUTION IN THE CIC

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It would be interesting to see how many associations have an Internal Dispute Resolution (IDR) in their communities vs. just waiting for external processes to kick in.

Nevada has a formal Dispute Resolution statute, NRS 38 – Mediation and Arbitration, which is the Uniform Arbitration Act of 2000. This statute was put in place because judges hated having dog poop cases, or similar minor issues, choking up their calendars when they had domestic violence and other criminal cases, etc. that needed scheduling.

More and more states in the country are coming up with these formal resolution solutions, but why don't we have more of the associations trying to resolve these cases internally before they escalate to external sources.

Internal Dispute Resolution is a new term to this author. Associations became required to have these internal processes since 2005 in California and I think it is a really good idea. Their law, however, demands that they do this first before going forward with formal ADR process. It is actually called a "meet and confer" process.

Why not adopt an internal procedure to "meet and confer" process for resolving disputes? Managers become really good at trying to do this continually, but at times they alone can't succeed. Some communities actually have a Compliance Committee or a Hearing Committee. This will help keep our legislators from making this mandatory as the State will see that we are all trying to work internally before seeking the outside processes. The policy would be intended to foster open communication and that the communication not be binding on either party. They could pursue the formal ADR process required now in Nevada if it fails.

This policy adopted by the board could and should include provisions where the board or a homeowner can request that the other party meets and confers in an effort to resolve a dispute involving their rights, duties or liabilities. The policy should be written to be "fair and reasonable" and should have deadlines set up in the policy. This policy could actually be part of the fine and enforcement policy that is required to be in place if the association plans on even considering levying a fine. If the association is receiving a written request to meet and confer, why would the association not set this up?

Many members of the board may have this type of resolution training in their employment or past employment and could serve well to help with this process. Even the manager could be one of persons set aside to do this, but the board should expect payment for those services, not the homeowner. The policy would require that the owner can appeal to the board if others are used in this process.

Sending out the policy annually with the budget and the collection policy could definitely help owners know that there are options out there to help them understand their documents better or explain what they may disagree with.