

BCCA ADR Procedures

Alternative Dispute Resolution is an amendment to the NJ Condominium Act. It requires Associations of Private Communities to enact alternative dispute resolutions procedures. Basically ADR refers to any means of settling disputes within the community outside of the courtroom. ADR typically includes arbitration, mediation, early neutral evaluation and conciliation.

ADR covers owners v. owner disputes as well as owner v. association management staff and/or Board of Directors disputes.

All information and proceedings will be kept confidential. All discussions and documentation disclosed during any ADR session will remain confidential.

ADR must be requested in writing to the BCCA Board of Trustees. The Board will respond to the request within 14 days of submission. ADR request forms are available at www.bayberrycovemarmora.com or at the BCCA office.

Applicability of ADR to a specific complaint requires a determination of whether it relates to a discretionary Board management decision or it constitutes a violation of governing documents (Master Deed, Bylaws, and Association Rules etc.). Matters in which Boards properly exercise discretion are subject to review through the democratic process (petitions, elections, etc.) while violations of governing documents or other legal requirements justify the use of the ADR procedure. If you proceed to ADR, you should be prepared to refer to specific laws or portions of the governing documents which you believe were violated.

It is strongly recommended that Mediation and Arbitration proceedings be conducted in the conference room of the BCCA office. Extraordinary or unusual circumstances may require proceedings be held in another location/s as directed by the ADR panel.

The ADR panel consists of three (3) BCCA unit owners in good standing. ADR panel members have an equal vote, however the panel members shall appoint or elect a “lead” member or “team” leader to direct the investigative process and procedures, as well as the control of the proceedings. The “team” leader may change or rotate from proceeding to proceeding or season to season. The selection process for “team” leader will be determined by the panel members. The ADR panel will record the minutes of all their meetings and proceedings. All recordings are subject to the ADR guidelines stated above and attached to this document. Said minutes will stay in possession of the ADR panel team leader.

All ADR panel members must be impartial. Board members may not serve as ADR panel members. Any panel member with an involvement or conflict with any action, must immediately remove themselves from all proceedings on that matter. The Board will provide an alternate panel member for that proceeding.

Panel members are volunteers with no specific commitment or term. However it is strongly suggested that panel appointments be rotated periodically to insure the integrity of the process. Any panel member can be removed by the Board if said panel member displays an abnormal, unreasonable or unusual behavior in the execution of their duties. Even though there are no specific criteria for panel members, they should normally display restraint, critical thinking abilities, above average problem solving skills as well as the ability to evaluate a problem and recommend a solution without prejudice or bias to or for any particular party in the proceedings.

Unreasonable or unusual behavior constitutes extreme behavior outside the norm of civil proceedings and discussions. Such behavior or conduct would prevent or restrict the continuation of a normal proceeding.

ADR is a process that is designed for extreme cases and situations that would normally result in a legal proceeding. Association members are requested to attempt (in every way possible) to resolve matters on their own and to only request ADR for unusually difficult matters that require third party intervention.

ADR application is a service offered to the unit owners of BCCA. The ADR panel cannot mediate or arbitrate matters that do not involve BCCA member/owners. Matters between outside or other parties (non residents) will not be considered. Unit owner status applies to family members and invited and registered guest of said BCCA unit owners.

Additional detailed information and explanation of ADR is available on the BCCA web site under “unit owners”.

These procedures and guidelines may change periodically and without notice.