

# **Timber Valley Community Grievance Procedures**

In the event that a member of the association has a claim against the association pursuant to Indiana Code listed below, Claimant must notify in writing to the Associations Management Company or to an officer of the board the issue/claim pursuant to Indiana Code listed below to be considered a valid claim. The association has 10 days to respond if claimant has made a valid claim and included all information required per section 10 of Indiana Code listed below. Process will then follow the Indiana code listed below. If Claimant fails to agree to a meeting with the board or association then it is considered to be at an impasse. If Association fails to request a meeting, then claim is considered to be at an impasse.

Pursuant to Indiana Code:

SECTION 14. IC 32-25.5-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

## **Chapter 5. Grievance Resolution**

**Sec. 1. This chapter does not apply to an exempt claim unless the parties agree that this chapter is applicable to the exempt claim.**

**Sec. 2. (a) As used in this chapter, "claim" refers to any of the**

**following:**

- (1) A claim arising out of or relating to the interpretation, application, or enforcement of the governing documents.**
- (2) A claim relating to the rights or duties of the association of co-owners or the board under the governing documents.**
- (3) A claim relating to the maintenance of the subdivision.**
- (4) Any other claim, grievance, or dispute among the parties involving the subdivision or the homeowners association.**
- (b) The term does not include an exempt claim.**

**Sec. 3. As used in this chapter, "claimant" refers to a party who has a claim against another party.**

**Sec. 4. As used in this chapter, "exempt claim" refers to any of the following claims or actions:**

- (1) A claim by the homeowners association for assessments or dues and any action by the association to collect assessments or dues.**
- (2) An action by a party to obtain a temporary restraining order or equivalent emergency equitable relief:**
  - (A) to maintain the status quo and preserve the party's ability to enforce the governing documents; or**
  - (B) when an emergency condition exists that jeopardizes the health or safety of any of the residents within the community governed by the homeowners association.**
- (3) A suit to which an applicable statute of limitations would expire within the notice period. This subdivision does not apply if a party against which the claim is made agrees to toll the statute of limitations as to the claim for the period reasonably necessary to comply with this chapter.**
- (4) A dispute that is subject to mediation, arbitration, or other**

**alternate dispute resolution under applicable law, contract, warranty agreement, or other instrument.**

**(5) A claim that is substantively identical to a claim:**

**(A) that was previously addressed by the parties; or**

**(B) that was resolved by a judicial determination in favor of one (1) of the parties.**

**Sec. 5. As used in this chapter, "legal proceedings" refers to either of the following:**

**(1) An action maintained in a court.**

**(2) An administrative proceeding initiated under an applicable law.**

**Sec. 6. As used in this chapter, "party" refers to any of the following:**

**(1) The homeowners association.**

**(2) A member of the homeowners association.**

**(3) The board.**

**Sec. 7. As used in this chapter, "respondent" refers to the party against whom a claimant has a claim.**

**Sec. 8. The governing documents must include grievance resolution procedures that apply to all members of the homeowners association and the board.**

**Sec. 9. A claimant may not initiate a legal proceeding seeking redress or resolution of a claim until the claimant has complied with the procedures described in this chapter.**

**Sec. 10. A claimant must provide notice of the claim to the respondent, stating plainly and concisely the following information:**

**(1) The nature of the claim, including the date, time, location, persons involved, and the respondent's role in the claim.**

**(2) The basis of the claim, including the provision of the governing documents or other authority out of which the claim arises.**

**(3) What the claimant wants the respondent to do or not to do to resolve the claim.**

**(4) That the respondent has a right to meet with the claimant, if the respondent makes a written request for a meeting.**

**(5) The name and address of the person from whom the respondent must request a meeting under subdivision (4).**

**Sec. 11. (a) This section applies if a respondent has requested a meeting under section 10 of this chapter not later than ten (10) business days after the date of the notice of the claim given under section 10 of this chapter.**

**(b) The claimant and the respondent shall meet in person to resolve the claim by good faith negotiation, at the time and place agreed to by the claimant and the respondent.**

**(c) During the meeting, the parties must have full access to the property that is the subject of the claim to inspect the property, if appropriate or necessary. If the respondent agrees to take corrective action, the claimant must provide the respondent and the respondent's agents with full access to the property to take and complete corrective action.**

**Sec. 12. (a) The parties are considered to be at an impasse if:**

- (1) the respondent does not request a meeting under section 10 of this chapter;**
- (2) either party fails to attend a meeting agreed upon under**

**section 11 of this chapter; or**

- (3) the parties are unable to settle the claim at a meeting held under section 11 of this chapter.**

**(b) Either party may, not later than ten (10) days after an impasse is reached, request in writing to the other party that the other party submit the claim to mediation or binding arbitration.**

**(c) The party making the request under subsection (b) is responsible for the costs of the mediator or arbitrator.**

**Sec. 13. If an impasse is reached and:**

- (1) neither party requests mediation or arbitration; or**
- (2) mediation or arbitration does not result in a settlement of the claim;**

**the claimant may begin legal proceedings.**

**Sec. 14. (a) This section applies if a claim is settled through negotiation, mediation, or arbitration.**

**(b) The settlement of the claim must be documented in a written agreement signed by each of the parties.**

**(c) If a party fails to abide by the settlement agreement signed under subsection (b), the other party may begin legal proceedings without again complying with this chapter.**

**(d) If a party who begins legal proceedings under subsection (c) prevails in those legal proceedings, the party is entitled to recover from the other party:**

- (1) court costs;**
- (2) attorney's fees; and**
- (3) all other reasonable costs incurred in enforcing the settlement agreement.**

**Sec. 15. A release or discharge of a respondent from liability to the claimant with respect to the claim does not release or discharge the respondent with respect to any other person who is not a party to the claim.**

**Sec. 16. The board, on behalf of the homeowners association, and without the consent of the members of the homeowners association, may do any of the following:**

**(1) Negotiate settlements of claims or legal proceedings under this chapter.**

**(2) Execute settlement agreements, waivers, releases of claims, or any other documents resulting from application of this chapter.**

**Sec. 17. Except as otherwise provided in this chapter, each party shall bear its own costs for application of this chapter, including attorney's fees.**