
Lewiston Townhouse Condominium Association

MEDIATION POLICY

Introduction Statement:

The Lewiston Townhouse Condominium Association acting pursuant to the powers set forth in the Association's Bylaws, Declarations, Rules, Regulations and Policies and in compliance with the recommendations of the Colorado Common Interest Ownership Act (CCIOA), effective 2017, has enacted the following mediation policy effective August 1, 2018. The purpose of this policy is to provide a framework for addressing disputes between the association and owners, and to protect the same from delay or adverse effect on their rights by allowing proceedings to remedy violations of the association documents. These may include any matter that may require an injunction, restraining order, protection order or violation dispute resolution.

Types of Disputes:

1. Matters involving past due assessments are not considered disputes subject to this policy. Rather, these are considered collection matters to be handled in accordance with the Collection Procedure and Policy of unpaid assessments.
2. If an owner claims that any enforcement action should be abated because of any act or omission by the Association, such claim of abatement shall be considered a dispute subject to the procedures of this policy.
3. All other disputes arising between the association and any owner shall be addressed as set forth in this policy.

Notice of Dispute:

In the event of a dispute between the association and any owner, either the association or owner may provide written notice of the dispute by USPS mail or electronic mail (e-mail) to such address for the recipient shown by public records. The notice shall be considered effective 3 days following deposit in the mail or immediately following read receipt of the electronic message. The notice must contain specific information regarding the facts, circumstances and concerns giving rise to the dispute.

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Request for Mediation:

Within (30) thirty days of receipt of the notice, the association and owner shall make good faith efforts to discuss and resolve the dispute amicably. If the parties are unable to reach an amicable resolution of the dispute, either the association or owner may request mediation by an independent, third-party mediator. A request for mediation must be in writing and mailed to the association or owner by USPS mail to the intended recipients address in public records. The request will be considered effective within 3 days of deposit into the mail. The parties shall make reasonable efforts to select a mediator and schedule mediation within 30 days of the request. If mediation does not occur within 45 days, or the parties are unable to settle the dispute through mediation, the association or owner may pursue any other lawful remedy allowed by the association documents or Colorado law.

Mediation:

The mediation agreement, if one is reached, may be presented to the court as a stipulation. Either party to the mediation may terminate the mediation process without prejudice. If either party subsequently violates the stipulation, the other party may apply immediately to the court for relief. Mediation is not binding arbitration but an alternative to lawsuit for dispute resolution.

Mediation Fees

Fees and costs associated with the mediation, if applicable, including payment of fees to the mediator, shall be paid as follows:

1. The requesting party shall pay the mediator in advance for the first two hours of mediation.
2. If the mediation lasts more than 2 hours, the mediators fees for time beyond the first two hours shall be divided equally between the association and the owner and paid at the conclusion of the mediation.
3. The association and any participating owner may be represented by their respective attorneys at the mediation. Each party shall pay their respective attorney fees with the mediation.
4. If an owner requests mediation but fails to appear at the date and time scheduled for the mediation, the owner shall pay all expenses of the association related to the mediation, including attorney fees and costs and those expenses shall be assessed against the owner as part of the owner's assessment.
5. A lawsuit for the collection of the assessments or enforcement of the association documents may be commenced prior to or after receiving a notice of request for mediation and such request shall not suspend or stay the lawsuit.