

**Resolution  
of  
Vista Mesa Homeowners' Association, Inc.**

**Alternative Dispute Policy**

The undersigned being all of the Directors of Vista Mesa Homeowners' Association, Inc. a Colorado non-profit corporation (the "Association") hereby consent to, vote in favor of, and adopt the following resolution:

**WHEREAS**, the Board of directors is empowered to govern the affairs of the Association pursuant to Article VII, Section 7.1(a) of the Bylaws;

**WHEREAS**, Senate Bill 05-89, approved May 3, 2006, amending the Colorado Common Interest Ownership Act §§3S-33.3-101 et. seq, requires the Association to establish a procedure for Alternative Dispute Resolution; and

**WHEREAS**, the Board of Directors, in an effort to comply with this statute, desires to establish a policy that shall govern the manner in which the Association's Alternative Disputes is handled; therefore a need to officially adopt and accept the Alternative Dispute Resolution Policy;

**IT IS THEREFORE RESOLVED** that the policy attached hereto as Exhibit A (hereafter referred to as "The Alternative Dispute Resolution Policy") shall be adopted to replace any previous policy on ADP and hereby established as the policy of this Association;

**IT IS FURTHER RESOLVED** that this policy shall remain in effect until amended or hereby terminated by a majority vote of the Board of Directors, and

**IT IS FURTHER RESOLVED** that this policy shall take effect August 1, 2010. EXECUTED this 29th day of July 2010.



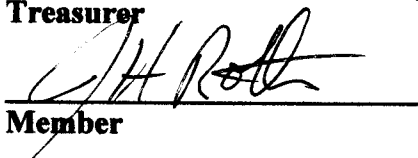
**President**



**Vice President**



**Treasurer**



**Member**

## EXHIBIT A

### The Alternative Dispute Resolution Policy

#### **Background:**

The Association believes that the cost, complexity, and delay inherent in court proceedings make litigation a particularly inefficient means of resolving community disagreements. Further, relationships in our community may be damaged through use of adversarial means of resolving disputes. Accordingly, the Association encourages the use of alternative methods for resolving disputes.

#### **General Policy:**

In the event of any dispute between the Association and Member (and disputes between individual Members or Residents) in situations that do not involve an imminent threat to the peace, health, or safety of the community, the Association and Member(s) involved in the dispute shall work to resolve the dispute using the procedures set forth below prior to filing a complaint in court or otherwise initiating a legal proceeding. For each of the resolution processes, Colorado law governs the process and the parties do not waive their right to employ legal counsel at their own expense to assist them.

#### **Procedures for Resolving Disputes:**

The Association or any Member wishing to resolve a dispute ("Initiating Party") will provide the other participant, to the dispute, with a written statement, referred to as "Request for Resolution" describing:

1. The nature of the dispute, including the date, time, location, persons involved, and the other participant's role in the dispute; and
2. A request for what the Initiating Party would like the other participant to do or not do to resolve the dispute; and
3. Times and dates that the Initiating Party may be available to communicate directly with the other participant to discuss in good faith ways to resolve the dispute.

#### **Negotiation:**

Any member is entitled to attend and address his concerns with the Board at a Board meeting and under certain reasonable time restrictions set by the Board. Any request should be in writing stating the nature and details of the dispute. Both parties must agree to the negotiation. The meeting should be within 30 days unless otherwise extended in writing. If the member is being fined by the association, then he or she is entitled to a hearing at which time he or she can present evidence as to why he or she should not be fined and/or is not in violation of the association's governing documents.

## **Mediation:**

### **Beginning the process:**

Unless otherwise agreed, if the participants do not resolve the dispute within 20 business days of the date of receipt of the Request for Resolution, the Initiating Party may begin efforts to schedule a mediation session with a trained, neutral mediator to assist them in reaching their own solutions. The mediator will facilitate the process but will not make decisions for the parties. The participants shall meet with the mediator within 60 days of the date of receipt of the Request for Resolution.

### **Selecting a mediator**

Unless otherwise agreed, the participant shall select a mutually acceptable mediator within thirty (30) business days of the date of receipt of the Request for Resolution. Each participant will provide the other(s) with the name of at least one acceptable mediator. If the participants cannot reach agreement on whom to select as a mediator, a mediator shall be appointed by a third party or parties. The parties will work with the mediator to establish the date for the mediation meeting. The cost of mediation will be shared equally among the participant unless they agree otherwise.

### **Documentation of mediation:**

The mediator shall provide the participants, and the Association if the Association is not a participant, with documentation noting who attended and that the mediation occurred.

## **Arbitration:**

### **Beginning the process:**

If the participants do not resolve the dispute through mediation, and at the acceptance of the parties, binding arbitration with a trained, neutral arbitrator who will decide the outcome of the dispute based on evidence and testimony provided by the parties may be utilized. If both parties agree to accept binding arbitration, the decision of the arbitrator will be final and binding on them to the fullest extent permitted under the laws of Colorado. Judgment may be enforced in any court having jurisdiction.

### **Selecting an arbitrator:**

The participants shall mutually agree on an arbitrator. The cost of arbitration will be shared equally among the participants unless they agree otherwise. Unless otherwise agreed, the participants shall select a mutually acceptable arbitrator within thirty (30) business days of the completion of mediation. Each participant must provide the other(s) with the name of at least one acceptable arbitrator. If the participants cannot reach agreement on who to select as an arbitrator, an arbitrator shall be appointed by a third party or parties. The participants will work with the arbitrator to establish the date(s) for the arbitration. The arbitrator shall have authority to require one participant to pay all or a portion of the other participant's legal fees to the extent such an award is permissible under law.

**Arbitration Award:**

The Arbitrator shall provide the participants and the Association if the Association is not a participant, with an award including findings of fact and conclusions.

**Failure to comply with Agreement or Award:**

If the participants resolve any dispute through mediation, or arbitration, and a participant fails to abide by the terms of the agreement or award, the other participant may initiate legal proceedings to enforce the agreement or award without need to comply with the provisions of this Policy. Additionally, the participant taking action to enforce the agreement or award shall, if that participant prevails, be entitled to recover from the non-complying participant all costs incurred in enforcing the agreement or award, including without limitation, attorney fees and costs.