

Alternative Dispute Resolution
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Representative Rosemary Brown, authored legislation in 2018 to provide for Alternative Dispute Resolution for property owners and it was signed into law on July 3, 2018.

The law provides that under certain conditions the property owner may file a complaint with the Pennsylvania Attorney General. The areas that may be addressed by the Attorney General deal with meetings, proxy voting and quorums. The law now provides that Associations created prior to July 3, 2018 may adopt an Alternative Dispute Resolution procedure. If the ADR procedure is adopted the property owner must exhaust that process prior to filing a complaint with the Attorney General.

The full text of the law can be found in the Pennsylvania Code section 68 Pa.C.S. § 5321 and 5322.

The Rules and Regulations Committee has recommended the following changes for approval by the Board of Directors. In accordance with the 1st and 2nd Reading Policy, we submit the proposed change below for Membership response and feedback. Feedback is due by March 29, 2019.

Alternative Dispute Resolution
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1st Reading
2/9/2019

- A. The Association adopts this Section in compliance with the provisions of Act 2018-17 (H.B. 595), § 7, approved May 4, 2018, eff. July 3, 2018, which amended the Pennsylvania Uniform Planned Community Act to allow planned communities to establish procedures for the alternative dispute resolution of disputes between: (i) two or more unit owners; or (ii) a unit owner and the association.
- B. "Alternative dispute resolution" (ADR) is defined as a procedure for settling a dispute by means other than litigation, such as arbitration or mediation.
- C. Upon passage of this Section in accordance with Article XVII of these Bylaws, there will exist an ADR procedure in the Association to adjudicate disputes between unit owners and between a unit owner and the Association.
- D. ADR shall be limited to only those disputes where all parties agree to ADR.
- E. To commence an ADR proceeding with another unit owner and/or the Association, a Complainant must submit a formal Request to Submit Matter to ADR (the "Request") to all prospective parties to the ADR.
- F. The Request must set forth the nature of the dispute with reasonable particularity and the proposed form of ADR (i.e., arbitration, mediation, etc.)
- G. The responding party(s) will be given 30 days to provide a response, in writing, setting forth whether they agree to submit the dispute to ADR and, if so, what form of ADR they would prefer.

- H. If all parties are in agreement with ADR, the ADR procedure will commence upon the selection of a mutually agreed upon Arbitrator or Mediator. The Association can provide names of Arbitrators and Mediators upon request.
- I. Unless otherwise agreed upon, the Complainant will be responsible for contacting the chosen Arbitrator or Mediator and coordinating the date of the Arbitration or Mediation.
- J. Costs and fees associated with ADR (e.g. the cost of the Arbitrator or Mediator) shall be shared equally by all parties to the dispute. The parties are responsible for their own legal fees.
- K. If a Complainant exhausts the ADR procedure without a resolution or more than 100 days have passed since the Complainant commenced the ADR procedure and parties have not reached a resolution the ADR process will end and the unit owner will be free to exercise the rights set forth in 68 Pa.C.S. § 5322.
- L. Nothing in this section shall be construed to affect or impair the right of a unit owner or the Association to pursue a private cause of action or seek other relief.