

The parties participate in selection of the arbitrator. Once the file is assigned to an arbitrator, the Division has no involvement in the arbitration process. The Division's role is completely neutral and it has no involvement with the any decisions concerning the claims in the ADR program. The arbitrator is solely responsible for deciding the cases assigned to him/her. The Division has no authority to change or direct an arbitrator to change his/her decisions or to take any action concerning an arbitrator's decision.

**The Division cannot give legal advice,** which includes determining whether a provision of an association's governing documents has been violated or whether a provision is enforceable.

To obtain copies of all forms utilized in the ADR program, log onto the Division's web site at [www.red.state.nv.us](http://www.red.state.nv.us), Common-Interest Communities, Common-Interest forms, Alternative Dispute Resolution section.

\*To the extent that funds allocated by the Commission for Common-Interest Communities and authorized by the Legislature, for this purpose remain available.

\*\*The fiscal year starts on July 1 and ends on June 30 of the following calendar year.

Revision date: 08/27/09

## ADR SUBSIDY CHECKLIST

- ✓ File a claim with the Ombudsman Office on ADR Claim Form #520 with subsidy application Form #625. The required \$50 filing fee must be attached to process claim. If the \$50 check is not attached, the documents will be returned.
- ✓ The Claim Form #520, Overview of the ADR Law Form #523, Respondent Answer Form #521, and the subsidy application Form #625 with the ADR subsidy brochure **must be properly served** upon respondent (the party against whom the claim is being made) within 45 days of initial filing the Claim with the Ombudsman's Office. The Ombudsman's Office will provide the forms that need to be served and answer any questions on proper service.
- ✓ A notarized copy of the Affidavit of Service Form must be filed with the Ombudsman's Office within 10 days of serving respondent.
- ✓ The respondent has 30 days from date served to complete the Respondent Answer Form and file it with the Ombudsman's Office. The Respondent is also required to pay a \$50 filing fee, which should be included with the Respondent's Answer Form. If the Respondent has not answered within 30 days, an arbitrator will be appointed by the Division. **Failure to participate in the arbitration process may result in an arbitration award being entered against you! The award can be filed with the court for a judgment. The judgment can be enforced by the court.**
- ✓ Both the Claimant Form and the Respondent Answer Form are reviewed to determine whether binding arbitration was selected. The applications of qualified parties, that selected binding arbitration and submitted a request for subsidy, will be notified if their application for subsidy is approved. If an application for subsidy is approved, the arbitrator will be notified.
- ✓ If a subsidy is approved for an association, the association must be in good standing both at the time of application for subsidy, and when the request for payment is received from the arbitrator.

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## ALTERNATIVE DISPUTE RESOLUTION (ADR) SUBSIDY PROGRAM

State of Nevada  
Business and Industry  
Real Estate Division  
Office of the Ombudsman  
for Owners in  
Common-Interest Communities



2501 E. Sahara Ave., Suite 202  
Las Vegas, NV 89104  
PHONE – 702-486-4480  
FAX – 702-486-4520  
STATEWIDE TOLL FREE  
1-877-829-9907

[www.red.state.nv.us](http://www.red.state.nv.us)  
[CIOmbudsman@red.state.nv.us](mailto:CIOmbudsman@red.state.nv.us)

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Under NRS 38.300 to 38.360, **no civil lawsuit** can be brought before the dispute goes through the ADR process facilitated by the Division regarding the interpretation of the governing documents or the procedures used for increasing or decreasing assessments, or for making additional assessments.

***ADR IS NOT REQUIRED in matters where health and safety violations are in dispute.***

The Commission for Common-Interest Communities has adopted Nevada Administrative Code (NAC) 116.520 offering subsidization for parties that agree to participate in binding arbitration in the Alternative Dispute Resolution (ADR) process to resolve their dispute.

On August 1, 2006, the ADR subsidy program was implemented by the Nevada Real Estate Division, Office of the Ombudsman for Owners in Common-Interest Communities.

### **What is binding arbitration?**

A binding arbitration is an arbitration in which the decision rendered by the arbitrator is **final**. None of the parties to a binding arbitration can proceed with a court action after the decision, and there is no appeal. The arbitrator will decide all claims involved. ***All parties must agree*** that an arbitration will be binding. If all parties indicate that they are willing to submit a case to binding arbitration, the parties will proceed to a binding arbitration. A decision in a binding arbitration can only be vacated for the reasons stated in NRS 38.241 including, but not limited to,

corruption, fraud, or where an arbitrator's misconduct is proven.

### **Why should I opt for binding arbitration?**

NAC 116.520 allows parties who participate in **binding arbitrations** in the Common Interest Community ADR program to obtain a contribution (**subsidy**) from the Division to reduce the amount a party will be required to pay for the arbitrator's fees.\*

The arbitrators in the program are very knowledgeable and experienced in law concerning homeowners' associations. The decision will be final and not be appealable, insuring that further time and expense will not be required to end the dispute.

### **How much is the subsidy?**

A party whose application for subsidy is approved, may receive up to the lesser of the 50% of the fees owed by a party to the arbitrator or \$500.\* The amount of the subsidy will be paid by the Division directly to the arbitrator.

The funds from the subsidy must not be applied to the NRS 38.320 filing fee, or to any attorney's fees or costs associated with the claim.

### **How does a party apply for subsidy?**

- Submit the application form to the Division. The form is available at the Division or on its web site;
- File a claim for binding arbitration within 1 year after the date of discovery of the alleged violation; and
- If the applicant is an association, be

registered and in good standing with the Office of the Ombudsman.

**To be in good standing** an association must be current on its registration and unit fees with the Ombudsman's Office, and have its current board of directors' declarations submitted. The association must be in good standing **both** at the time it applies for subsidy, and when payment of the arbitrator's bill is due.

### **How often can a party obtain a subsidy?**

**A unit owner** can receive one per fiscal year.\*\*

**An association** may receive one subsidy per fiscal year against the same unit's owner for each unit that he owns.

### **When will the subsidy be paid?**

The Division will pay the cost of arbitration (the lesser of 50% or up to \$500) when the Division receives a copy of the final decision from the arbitrator and issues a certificate pursuant to NAC 38.350.

The arbitrator must complete and submit the Division's request for payment form and a copy of his final decision to the Division within 10 days of rendering his decision.

The Division facilitates the ADR program. The staff will assist each party in understanding the procedures and the required forms for the ADR subsidy program.