

An overview of the cost effectiveness of an Out-of-Court Binding Dispute Resolution process within the State's HOA Office

An out of court binding dispute resolution for HOA home owner complaints with their HOA Boards will cost taxpayers nothing, as in zero. Most requirements to implement are already funded through HOA registration fees: staffing including Office Head; web site; complaint submission, review, and reporting process; office space and telecommunications; office equipment; and skills, knowledge and ability to investigate and render decisions (learning curve is zero as this program would replicate the dispute resolution process in the Dept of Regulatory Services (DORA) for regulated profession, disputes between mobile home park home owners and their park managers, and that which DORA used for HOA property manager complaints). The primary new tasks would concern assigning substantive complaints to arbiters for investigation, hearings and rendering decisions. Any increases in HOA Registration fees to fund this program would amount to pennies per year per HOA home (yes, pennies!). Legal cost savings to HOAs and home owners would be conservatively a million dollars a year and cost savings to our court system would be realized through reduced caseloads.

Additional savings to HOAs and home owners in implementing an out of court binding dispute resolution process within the State HOA Office: no lawyers thus cost avoidance and avoiding the pitfalls and cost of required mediation. Home owners would be encouraged to pursue and document efforts to resolve their problems as stated within their HOA governing documents but wouldn't be burdened with the cost, time and uncertainty in hiring a mediator. Out of court binding dispute resolution within the State Office: is direct and understandable; doesn't burden the home owner of shopping for a mediator; is time efficient, impartial, wouldn't burden the home owner with gambling their money on the uncertainty of a gaining a mediated agreement and thus ending up in court; can more than often result in home owners spending money on mediation only not to gain an agreement or when they do having to end up in court to gain enforcement or to end up in court when implementation of an agreement is constantly delayed. Most home owner complaints are simple and involve violations of HOA governing documents and HOA State law; don't belong in court; don't require lawyers or the time and expense of mediators and other processes; and when such complaints are processed through a DORA system with competency and fair and impartial rules can be highly cost effective, efficient and lead to better HOA governance and reduced number of home owner complaints.

A few comments are worth consideration on the ineffective and costly use of mediators in HOA home owner disputes with their HOA Boards:

No mandated credentials, anyone can instantly become an HOA mediator
HOAs can hand-pick mediators and/or use selected home owner(s) in community to serve as mediator

No mandated background/educational requirements

No required background checks

No vetting of mediators: confirming the competency and work history, too costly for State

No process to legally remove unethical mediators from practicing

Mediation has been available/used by Coloradans for 20 years and complaints have only increased.

HOAs can refuse to mediate and nothing, except court action, can mandate with STILL an uncertain outcome

No mediators are involved in dispute resolution of regulated professions, property managers, and mobile home park home owner disputes, this is the working model