

## **What don't some understand, or refuse to understand, about the need for an out of court binding dispute resolution process?**

Until there is an out of court binding dispute resolution process most Colorado HOA law will be basically unenforceable from the home owner's perspective.

Our proposal for an out of court binding dispute resolution process is easy to understand, effective, affordable, and accessible to homeowners. The process mostly mirrors the process DORA (Dept of Regulatory Agencies) uses for regulating industries and professions and to be implemented to license and regulate Community Association Managers (better known as property managers).

Briefly, an individual files a complaint with DORA, it is reviewed, if valid DORA can act and take action to rectify the problem by legal directives or levy penalties on violators. What happens, in general, is that if the complaint is found to be of substance, it is can be referred to in-house staff or arbiters for resolution and decision. Is this beginning to sound familiar (out of court, decision making, settlement, no endless litigation or mediation or other diversions, just decisions on issues!). Individuals can still opt to take their case through the court system. If a decision is made it can be appealed through the Courts (but homeowners really could care less about more and more legal processes, just a decision, period and they can live with it). So, homeowners file a complaint, it is accepted or rejected, if valid it is litigated out of court, and a decision is reached. Homeowners get their day in court, so to speak, for an affordable cost which was previously out of reach.

The benefit of our dispute resolution process is that it focuses on bringing dispute resolution to a conclusion and not adding in steps and extra costs such as mandating non-binding mediation. Mediation is already a means for dispute resolution in State HOA law for the past twenty years and that simply has not worked very well.

I heard criticism from some that by allowing for decision making on HOA complaints in an out of court binding process that this would not be conducive with ensuring our legal rights, is opening doors that are complicated and reckless in dispute resolution, that so many are unhappy with arbitration results (and I guess homeowners are wonderfully happy with the current inability to have their complaints heard), and quite frankly that our suggestion is not needed when mediators can simply ask folks to sit down, talk, and make the world well and forget about the hell a Board or property management company has caused a homeowner for the past year. Two words describe these arguments that inhibit bringing our dispute resolution process to all homeowners: red herring. Then there is the argument that mandatory mediation would resolve over half the disputes. I guess damn the other half who are still stuck with an expensive, litigious, time consuming court system. What don't the critics like about the word binding in pursuing dispute resolution out of court?

If these critics would read our proposal they would also understand our process only relates to simple cases that have to do with non-compliance with State HOA law and not major law suits or material financial amounts. These cases simply don't belong in court and should be settled through another

means! Again, a homeowner can still opt for and have fun in court to get a decision on their HOA complaint, good luck.

We don't need more steps in the HOA dispute resolution process that lead to more and endless litigation and costs. Homeowners simply don't need to pay for mandatory mediation that has a good chance of simply not ending a dispute and wasting their time and money. Why some fear a med-arb process that brings finality to a minor issue is beyond us. I repeat, We need a simple process to resolve simple cases out of court. We need finality in HOA complaints and not the introduction of any more processes that can leave folks stuck with ending in court.

How many more times need this be explained and how many more times will the critics contrive arguments to ensure our courts are cluttered with HOA cases and those who can't pay to play in such a system are left out in the cold. We embrace binding mediation and not the hope that mediation will work. There are no dangerous doors opened or infringing upon legal rights of citizens, a lot of bunk. The only harm is continuing a system that fosters a weak enforcement of HOA laws. There are too many problem finders and not enough problem solvers in improving homeowner rights.