



Recommendation
OUT OF COURT BINDING DISPUTE RESOLUTION
 Administered by the Dept of Regulatory Agencies, State HOA Office

START: HOMEOWNER DECIDES HOW TO FILE HOA COMPLAINT

COURT SYSTEM

Home owner chooses to take complaint through court system, decision in court, can appeal decision, and assumes assigned court costs

STATE HOA OFFICE

Home owner chooses to use State Managed Complaint Filing and Resolution Process, decision enforceable through Dept of Regulatory Agencies that manages the program within the State HOA Office, home owner files complaint on-line. Complaints involve violations of HOA governing documents and State HOA laws (not felonies or other criminal activity). Home owners must show evidence they attempted problem resolution through HOA process reaching no mutual agreement. This process is not for filing a complaint against the HOA management company.

Complaint reviewed by State HOA Office

Complaint not applicable to process, rejected

Complaint investigated by State HOA Office

Enforceable Decision Rendered

This process funded by HOA Registration fees and supplemented as needed by a complaint filing fee. A complaint filing fee would not only help fund the program but mitigate the number of frivolous. HOA registration fees or other means of collection to be used to fund program at a rate of approximately \$2 per household per year initial year (start-up) then \$1.50 – 1.75 per year thereafter. The HOA Office currently has the funded infrastructure to support this program: office space, on-line complaint filing system, data base system, experience in receiving, investigating and rendering decisions (DORA already completes these tasks), web site, etc. and the new resources would relate to those involved in labor costs to review and investigating complaints and render decisions (Office already reviews, records and classifies complaints so no material added costs for these processes). Cost savings in legal costs for both the HOA and home owners by avoiding court can be claimed to be upwards of a million dollars with additional savings in our court system by litigating these cases out of court. No new taxpayer funds required. This process would encourage both parties in the complaint to not use lawyers but to resolve issues among the home owner, HOA Board and as needed management company. The State process would focus on compliance with State HOA laws and HOA governing documents. Recovery of financial damages vs compliance would be referred to Small Claims or other courts as applicable. Felony actions would not be part of this system. This system would not require any costly and time consuming pre-processes such as formal mediation that mostly add time, process, cost, uncertainty to gaining a decision for the home owner, agreement can often be walked away from ending the homeowner in court after gambling \$400-600 on mediation: the cost to mediate can often exceed the benefit of pursuing one’s rights (see discussion below)

This out of court binding dispute resolution process administered by the State: 1) allows homeowners to avoid the costly, time consuming, and litigious court system as a sole source for HOA dispute resolution, 2) provides a total process under one Office and does not involve third parties or other Government Offices 3) relieves our court system of case load and cost and trying cases that should otherwise be litigated out of court 4) provides for staff that will be trained/knowledgeable of HOA law 5) this process is affordable (low to no cost to the home owner to file a complaint) and accessible to all home owners 6) will save HOAs and homeowners millions each year in legal cost thus it is a program that saves, not costs, money 7) will make all HOA laws effective and enforceable from the homeowner's perspective as this was the missing enforcement element in all legislation and 8) a complaint filing fee of \$35 is suggested to reduce the number of repetitive and/or frivolous complaints. A 2013 State Study and Sunset Review Study 2019 suggests an out of court binding dispute resolution process. The fact that the State HOA Office has received thousands of complaints in its' brief history brings to notice a need for a workable dispute resolution process. NOTE: the State administers a home owner dispute resolution process for those in mobile home and manufactured home communities and previously for complaints by homeowners with the HOA management company and this process would be similar. Since this process doesn't involve a regulated business or licensing it is best administered separate from DORA regulatory resources and management and placed within the State HOA Office.

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