

DISPUTE RESOLUTION
WALNUT CREEK MUTUAL NO. FORTY
A California nonprofit mutual benefit corporation.

Adopted on October 26th, 2023

1.0 RESOLUTION OF NEIGHBOR DISPUTES

Most disputes between residents can be resolved through communication and discussion. Should a dispute occur which cannot be resolved between the residents, the Board must be notified, preferably, in writing and a member or members of the Board will investigate and determine how to respond. The investigation will take place in a timely manner and all parties to the dispute will be involved, if possible. The Board may take whatever measures it deems necessary and reasonable to resolve the issue.

Owners and Residents who wish to call attention to problems such as unruly behavior, unsafe or illegal parking, other disruptive activities, threats, violence or safety and health hazards should:

- Dial 911 in case of an emergency
- Notify the Golden Rain Foundation's Department of Public Safety at 925-988-7841

2.0 INTERNAL DISPUTE RESOLUTION ("IDR")

Internal disputes between the Mutual and any Resident or Owner will be subject to the following procedure:

- Either party may request the other party to meet and confer in an effort to resolve the dispute. The request must be in writing.
- An Owner or Resident may refuse a request to meet and confer. The Mutual may not refuse a request to meet and confer.
- The Mutual Board shall designate a member or members of the Board to meet and confer.

- The parties shall meet promptly and at a mutually convenient date, time and place, explain their positions to each other and confer in good faith in an effort to resolve the dispute.
- A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the Board designee on behalf of the Mutual.

3.0 ALTERNATIVE DISPUTE RESOLUTION (“ADR”)

In addition to the procedures stated in the CC&Rs, California Civil Code Section 5965 addresses the alternative dispute (“ADR”) prerequisite to a civil action to enforce the Governing Documents.

Any party to a dispute may initiate ADR in the form of mediation by serving on all other parties to the dispute a Request for Resolution pursuant to Civil Code section 5935. A party on whom a Request for Resolution is served has 30 days following services to accept or reject the request. If not accepted within 30 days, the Request is deemed rejected.

If the party on whom a Request for Resolution is served accepts the Request, the parties shall complete the ADR within 90 days, unless a different time is agreed to by the parties.

The costs of ADR shall be borne by the parties, e.g., if there are two parties, each party shall pay half of the costs of ADR.

Civil Code Section 5965 requires that the Owners shall be provided each year with a summary that must include the following language:

“FAILURE BY ANY MEMBER OF THE ASSOCIATION TO COMPLY WITH THE PREFILING REQUIREMENTS OF SECTION 5965 OF THE CIVIL CODE MAY RESULT IN THE LOSS OF YOUR RIGHTS TO SUE THE ASSOCIATION OR ANOTHER MEMBER OF THE ASSOCIATION REGARDING ENFORCEMENT OF THE GOVERNING DOCUMENTS OR THE APPLICABLE LAW.”

