

LAKE WALLKILL COMMUNITY ALTERNATIVE DISPUTE RESOLUTION POLICY

I. Purpose.

This Dispute Resolution Policy is intended to provide a fair and efficient procedure for the resolution of disputes between Lake Wallkill Community Inc. Members or between a Member and the Community by establishing a voluntary, non-binding dispute resolution procedure. Dispute Resolution is available as an alternative to litigation for certain matters. A pool of volunteer mediators will be established to provide assistance in resolving disputes. Eligibility for Dispute Resolution will be determined by these volunteer mediators. While this process cannot guarantee that a dispute will be resolved, it provides the Members with a reasonable alternative to potentially expensive and time-consuming litigation.

II. Applicability.

A. A dispute is covered by these procedures and therefore subject to mediation if it involves an action initiated by an individual member, and is:

1. A dispute between Members regarding Community properties, rules and regulations;
2. A dispute between a Member and the Community regarding an act of the Management Committee or community that imposes a special harm to them as individuals.

B. A dispute is not covered by these procedures and therefore not subject to mediation if it involves an action initiated by an individual but involves a derivative claim on behalf of the membership (unless the action imposes a special harm to a member as an individual), including, but not limited to:

1. The authority of the Community or its Management Committee under any law or under its governing documents to require a member to pay dues, fees or assessments;
2. Election procedure;
3. Any derivative claim; i.e. claims which are brought to assert rights on behalf of the membership. This would include claims that acts of the Community or its Management Committee are fraudulent, self-dealing or unconscionable.

III. Establishment of Dispute Resolution Board.

A. The Management Committee hereby establishes a Dispute Resolution Board (“DRB”) to be composed of volunteer Members in good standing or members of their immediate family residing in the same residence of a Member in good standing.

B. Members of the DRB will be accepted from applications submitted by interested Members in good standing, or members of their immediate family, or from nominations received by the Management Committee.

C. DRB members will be required to attend one mediation training session before being eligible to serve as a mediator under this Dispute Resolution Policy.

IV. Initiation of Dispute Resolution

A. Dispute resolution shall be initiated by the filing of a written request by the Member seeking dispute resolution in a format similar to that shown in Attachment A, as well as the non-refundable fee required as per Section VII.

B. The request should be filed as soon as possible following the action or decision of the Community or its Management Committee which precipitates the dispute, but in no case later than thirty (30) days following notice of the action or decision.

C. It is recommended that dispute resolution not be initiated until all remedies have been exhausted. Each Member is encouraged to discuss the matter in dispute with the other Member involved, or with the District Representative of such Member's geographical section, with the Management Committee prior to the filing of a request.

D. Since the process of dispute resolution is voluntary and the decisions of the Dispute Resolution Board are advisory only, the filing of a request has no effect on the right of any Member to take legal action with respect to the dispute.

V. Dispute Resolution Procedure.

A. Upon receipt of request for a dispute resolution, the Dispute Resolution Board will make an initial determination as to whether the dispute is properly subject to these procedures and will advise the applicant in writing whether mediation is applicable to the matter under the policy. In addition, if the dispute involves another member, the DRB will seek the consent of the opposing party to mediation, and will advise both in writing.

B. Mediation will be conducted by a panel of three (3) members of the DRB which shall be drawn at random from the DRB list of mediators. No mediator selected may have any interest in the dispute to be heard. Each party shall have the right to question the proposed panel to ascertain conflicts. In the event a mediator selected for the proposed panel is shown to have such a conflict, another mediator will be selected at random until the proposed panel is selected. Each party shall also have the right to strike one mediator from the proposed panel for any reason.

C. Since the DRB mediators have no legal authority to compel production of documents or the attendance of witnesses at hearing or other proceedings, the parties are expected to assist in resolution of the dispute by providing the relevant information.

D. Hearings and other proceedings conducted as part of the dispute resolution process shall be held within thirty (30) days of the receipt of the application. Hearings and other proceedings shall be closed to the general membership to facilitate a better resolution of the dispute. Parties to the dispute will be advised of the time, date and location of the hearing in writing.

E. The final recommendation of the mediation panel shall be in writing and shall be provided to each party within seven (7) days of the panel's deliberations. A recommendation of the panel must be agreed to by at least two panel members before it is considered a final recommendation.

VI. Confidentiality.

No aspect of mediation shall be relied upon or introduced as evidence in any arbitration, judicial or other proceeding, unless otherwise ordered by a court of competent jurisdiction, including but not limited to the following:

A. Views expressed or suggestions made by a party with respect to a possible settlement of that dispute;

B. Admissions made in the course of mediation;

C. Proposals made or views expressed by the mediators or the response of any party thereto;

D. No privilege shall be affected by disclosures made in the course of mediation;

E. Disclosure of any records, reports or other documents received or prepared by the Dispute Resolution Board or any member thereof cannot be compelled;

F. The Dispute Resolution Board or any member thereof shall not be compelled to disclose or to testify in any proceeding as to the information disclosed or presentations or communications made in confidence in the course of the mediation;

G. Neither the Dispute Resolution Board nor any member thereof, shall be deemed "necessary parties" in any judicial proceedings relating to mediation under these rules and procedures. Neither the Dispute Resolution Board nor any member thereof serving under these procedures shall be liable to any party for any act, error or omission in connection with any mediation service in the operation of these dispute resolutions procedures.

VII. Mediation Fees

A. Each request for mediation services as per Section IV shall be accompanied with a fee of \$100.00 to cover administrative costs, including the training of the volunteer mediators. Failure to tender the deposit with the request for mediation shall result in a rejection of the request for mediation by the DRB. Payment is non-refundable. The costs of mediation will be borne equally by the parties, subject to the agreement of the opposing party to participate in mediation.