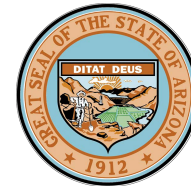




Homeowners Association Dispute Process



Department Authority & Background

The ADRE **does not** regulate Homeowners Associations (HOA). However, after reviewing submitted Petitions and verifying statutory requirements, including that fees are paid, ADRE refers cases to the Arizona Office of Administrative Hearings (OAH).

In 2011, the Arizona Legislature passed legislation providing Arizona homeowners and the condominium and planned community associations (HOA's) an added venue for resolving disputes. These administrative procedures provide an alternative to the civil court system and do not limit the legal rights of the parties to further pursue matters. This legislation became law on July 20, 2011.

In 2016, the Arizona Legislature passed legislation transferring the HOA Dispute Process to the Arizona Department of Real Estate (ADRE). OAH will accept all cases referred by the ADRE and schedule a Hearing date before an Administrative Law Judge (ALJ). The filing fee is set by the ADRE according to the actual cost of providing the program's services to the parties who use it.

- Petitioner — One who presents a petition (written address or application) to a court, officer, or legislative body.
- Respondent — The person against whom action or relief is sought, or who opposes the petition.
- Property Manager - An individual that conducts management of single properties and/or units (Holds an Arizona Real Estate License with ADRE).
- Community Manager — Manages communities, often affiliated with a Community Management Company. (Not licensed through ADRE.)

Deciding on a Petition

♦ **Must the dispute be between an owner and an association?**

Only an owner or homeowners association (HOA) may Petition the Department for a hearing. The Petition of an owner must be regarding a dispute between an owner and an association, not against an individual or individual Board member.

The Department **cannot accept** Petitions filed by or against renters, non-owners, directors, representatives, other homeowners or community management companies.

♦ **Have all means of settlement with the other party been pursued?**

Talk to the Other Party — Talking with the other party or the HOA Board of Directors is often the most cost effective way to settle a dispute. Members of the association are neighbors and part of a community. By talking, many times solutions to conflicts may be found.

An HOA where homeowners participate in meetings, vote, volunteer for committees, and run for the board is what makes a community more than just the governing documents.

Mediation — Mediation may be a less expensive alternative to filing a civil lawsuit. Mediation provides an opportunity to find a solution which satisfies both parties. Resources may be available in the local community.

Visit the ADRE website at
www.azre.gov

Arizona Department of Real Estate
100 N. 15th Ave., Suite 201
Phoenix, AZ 85007



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HOA Dispute Process Overview

1. **Submit the Petition Form:** All Petitions must be in writing on the form approved by the ADRE. The fillable form can be found on the main website www.azre.gov under "HOA Dispute Process."
2. **Fees:** The filing fee for a Petition is \$500 per issue.
 - Payment may be made by credit card online through the Message Center or by check or money order made payable to the Arizona Department of Real Estate.
 - Filing Fees are **NON-REFUNDABLE** except when the Petition is dismissed at the request of the Petitioner before a hearing is scheduled, or by stipulation of the parties before a hearing is scheduled. A.R.S. § 32-2199.01(A).
3. **Response and Hearing Date:**
 - Response: When the Petition is filed with the ADRE, the Respondent must respond within twenty days.
 - Hearing: If the Respondent does not resolve the dispute, the case is referred to OAH. Hearing dates are set within sixty days after the case is referred.

Additional Resources

Message Center — The HOA Coordinator may only answer questions concerning the forms and/or the process. These questions should be directed to the ADRE HOA Coordinator through ADRE's Message Center at www.azre.gov.

Please **do not ask specific HOA questions**, as ADRE cannot give legal advice, or indicate position on any HOA matter.

Arizona HOA Related Laws & Statutes:

- Condominium Act, A.R.S. Title 33 Chapter 9 ,
- Planned Communities Act, A.R.S. Title 33, Chapter 16
- Arizona Non-Profit Corporation Act, A.R.S. Title 10
- ADRE Legislative Report (HOA Related Bills)

Arizona Government Agency & Legal Resources

- Office of Administrative Hearings (OAH)
www.azoah.com
- Office of the Attorney General
www.azag.gov
- State Bar of Arizona
www.azbar.org
- AZ Law Help
www.azlawhelp.org
- Arizona Corporation Commission
www.azcc.gov

County Recorders

- Maricopa County Recorder
www.recorder.maricopa.gov
- Pima County Recorder
www.recorder.pima.gov
- Pinal County Recorder
www.pinalcountyz.gov/recorder
- (Other Arizona County Recorder web-sites can be located through a general Online search.)

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