



# ALTERNATIVE DISPUTE RESOLUTION OPTIONS FOR HOA MANAGERS, BOARDS, AND OWNERS

Presented by Sharon Sturges, Director, Office of Dispute  
Resolution, State Court Administrator's Office, Judicial Branch



**What is the one thing you would like to learn today about Colorado Common Interest Community Association Dispute Resolution?**

# Training Objectives



- 1) What is the Office of Dispute Resolution?
- 2) What is mediation or arbitration and why use mediation or arbitration rather than litigation?
- 3) How can mediation or arbitration help with disputes involving Common Interest Community Associations?
- 4) What should our Common Interest Community Association Dispute Resolution Policy include ?
- 5) How can I find a mediator or arbitrator?
- 6) What will mediation or arbitration cost?

# What is the Office of Dispute Resolution “ODR”?



- Established in 1983 to provide mediation and other dispute resolution services at a reasonable cost throughout the State of Colorado. Colorado Dispute Resolution Act (“CDRA”) § 13-22-303, C.R.S.
- ODR exists to establish and make available dispute resolution programs and services within the Colorado Judicial Branch. Through its 80+ contract neutrals, ODR offers mediation and other services across the state. ODR does not require you to have a court case in order to access services.



More than 63 million people are residents of communities with a homeowners association. That means 24 percent of U.S. homes are in community associations. The vast majority of members define their experience as positive, but what about when there is a dispute?



**§ 38-33.3-124, C.R.S. Legislative declaration-alternative dispute resolution encouraged-policy statement required.(1)(a)(I) The general assembly finds and declares that the cost, complexity, and delay inherent in court proceedings make litigation a particularly inefficient means of resolving neighborhood disputes. Therefore, common interest communities are encouraged to adopt protocols that make use of mediation or arbitration as alternatives to or preconditions upon, the filing of a complaint between a unit owner and association in situations that do not involve an imminent threat to the peace, health, or safety of the community.**

What are some ADR options for HOAs?

1. Mediation
2. Arbitration



# What is Mediation?



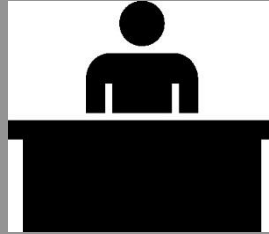
- Mediation is a voluntary, confidential, problem-solving process in which parties are assisted by a neutral to reach a mutually acceptable resolution to a dispute.
- Basic premise: Parties are best able to resolve a dispute themselves with assistance from a neutral third-party.
- Parties are generally more satisfied with, and have greater ownership in, solutions they have a role in creating.
- Process can assist parties to narrow and clarify the issues even if they are not able to reach total resolution.



# How is Mediation Different than...

Arbitration?

Litigation?



# Arbitration

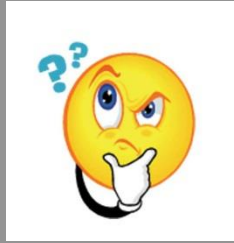
Arbitration is a process by which parties present evidence and testimony before a private neutral who renders an award after making findings of fact and applying the law. May be “binding.”  
See § 13-22-201, et seq.



**Litigation is an adversarial process involving a neutral third party who renders a decision after making findings of fact and applying the relevant law.**

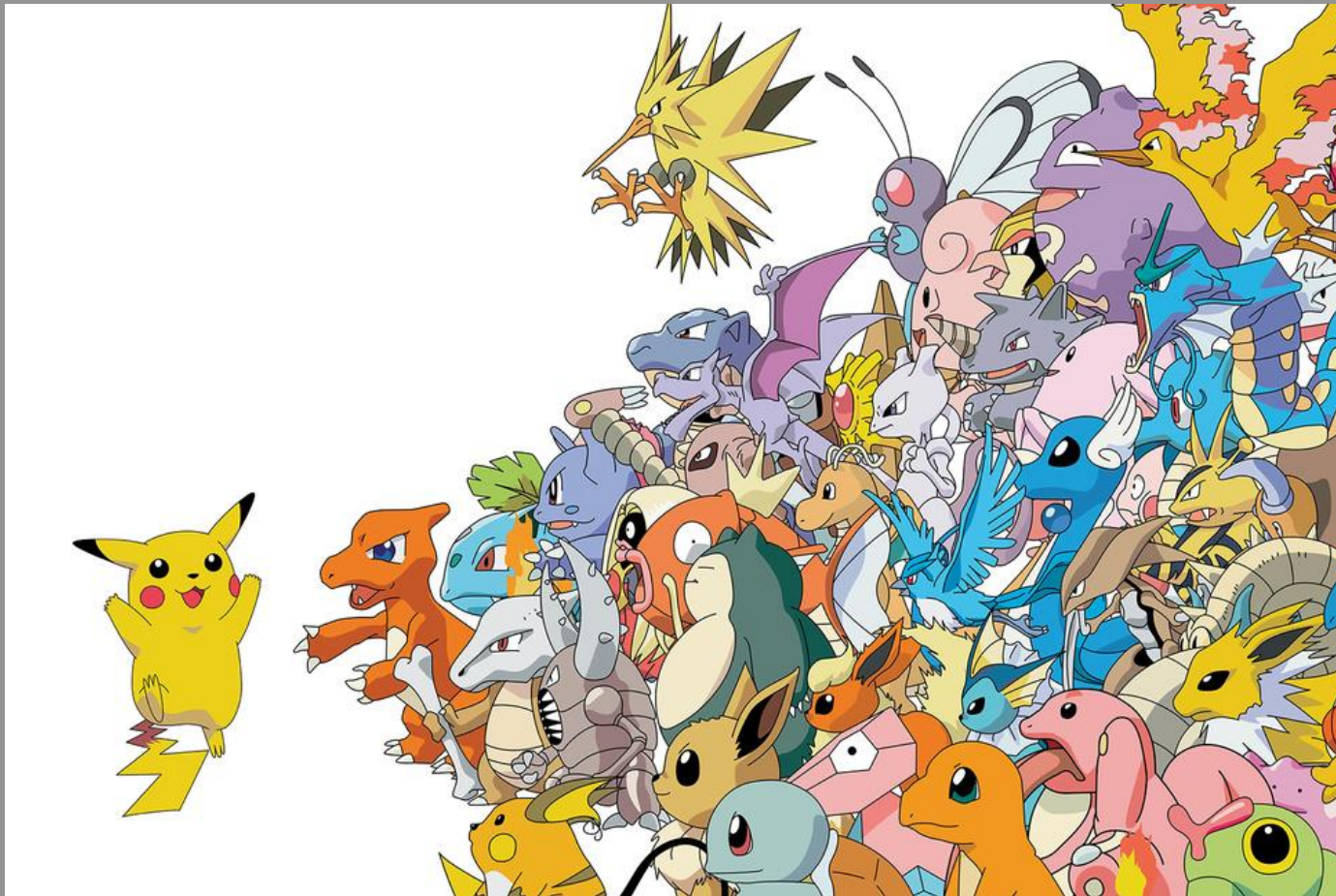


When to use arbitration or mediation?



Establish a practice of early mediation and/or arbitration for all alleged violations unless there is imminent harm. If unsuccessful, resolution can be sought by fine or in court.

Engage and treat every resident as valued and respected neighbors; instead of a formal letter, consider of phone call. Provide reasonable timeframes to correct.





- What ADR option is the HOA adopting?
- If arbitration, will it be binding or non-binding?
- How will an arbitrator be selected?
- What if the parties cannot agree on the arbitrator?
- If arbitration, will the arbitrator have the ability to award fees?
- If mediation, how will the mediator be selected?
- What if the parties cannot agree on the mediator?
- Will the process apply to disputes between unit owners in addition to the association and unit owners?
- What timelines will apply?
- How will this policy be adopted?
- Who pays?



## Finding a Mediator or Arbitrator

- **There is no certification process for mediators or arbitrators in Colorado.**
- **ODR does have strict standards for mediators on contract.**
- **Coloradoodr.org**
- **The Mediation Association of Colorado: coloradomediation.org**
- **Tip for choosing a mediator or arbitrator: Number of cases, training, attorney or non-attorney mediator, background check, HOA experience, availability, cost.**





## What does Mediation or Arbitration Cost?

- Mediation is usually less expensive and faster than arbitration.
- Denver metro rates for mediation \$140 to \$230 per hour; usually mediators require a deposit for either a half or full day.
- Arbitration rates vary but are generally much more than mediation rates.
- ODR contract mediator rates for civil are set at \$75 per party per hour, county court at \$50 per party per hour, and small claims set at \$30 per party per hour.

Both owners and HOA board members should not escalate the conflict, attempt resolution quickly, yet HOAs should exercise consistent enforcement.



Read the declarations and by-laws - ensure the proper party attends mediation - must have legal authority to enter contract/settle cases.



To access ODR Mediation Services (no case filing needed) go to coloradoodr.org



- Sections
- Find an ODR Mediator
- What is Mediation and How Do I Prepare?
- Información En Español
- Opportunities with ODR
- Dispute Resolution Library
- ODR Contractors Only

Home Administration Court Services

# Office of Dispute Resolution

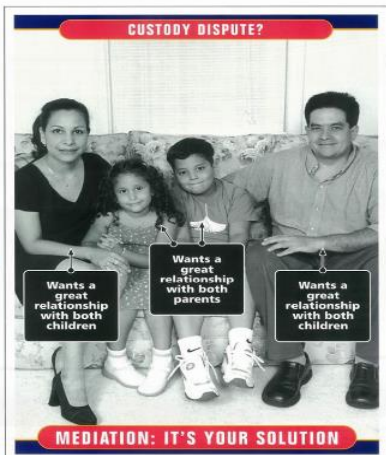
[Click here to select a mediator](#)

[Click here if you need assistance](#)

*Celebrating more than 30 years of Mediation excellence!*

Improving the court experience for all through quality mediation and other dispute resolution services to resolve cases in a prompt, self-determined, and cost-efficient manner.

Sharon Sturges, ODR Director



## Programs

- Access & Visitation (AV) Information
- CSE Technician Referrals
- HOA Mediations

## Special Announcements

- ODR Advisory Committee
- Chief Justice Decision on Proposed Voluntary Standards for Mediators January 6, 2017
- Revised Proposed Voluntary Standards for Mediators July 2016
- Transmittal Letter re Revised Proposed Voluntary Standards for

Enter all contact information and hit “submit.” You will be referred to an ODR mediator

The screenshot shows a web browser window with the URL <https://www.courts.state.co.us/Administration/Executive/O...> and the page title "STATE OF COLORADO JU...". The browser tabs include "Colorado Judicial Branch - ...". The website header features the Colorado Judicial Branch logo and a search bar. The navigation menu includes "Courts", "Probation", "Jury", "Self Help/Forms", "Careers", "Media", and "Administration". The breadcrumb trail is "Home > Administration > Executive Division > Office of Dispute Resolution >".

## Mediation Request

You will be contacted within 1 - 3 business days after ODR receives this information. You must include the information requested for all parties who will be attending the mediation. Please Note: You are not scheduled until someone contacts you by phone or email.

**Case Type:**

- District Court Civil / Probate / Court of Appeals
- Domestic Relations / Juvenile / County Court Civil / Other

| General Information   | Information  |
|---|--|
| <p>* Your Email Address: <input type="text"/></p>                             | <p>Date Mediation Must be Complete: <input type="text"/></p> |
| <p>* Mailing Address: <input type="text"/></p>                                | <p>Preferred Mediation Date: <input type="text"/></p>        |
| <p>* Case Number: <input type="text"/></p>                                    | <p>Preferred Mediation Time: <input type="text"/></p>        |
| <p>Case Name: <input type="text"/></p>  | <p>Alternate Mediation Date: <input type="text"/></p>        |
| <p>County of Filing: <input type="text" value="--- Select a County ---"/></p> |  |
| <p>* Petitioner/Plaintiff Name and Phone: <input type="text"/></p>            |  |
| <p>* Respondent/Defendant Name and Phone: <input type="text"/></p>            |  |

\* Is the Petitioner / Plaintiff represented by Counsel?  \* Is the Respondent / Defendant represented by Counsel?



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