

INTERNAL DISPUTE RESOLUTION PROCEDURES AND GUIDELINES  
REGARDING DISPUTES RELATING TO THE ART JURY

Section 1- Nature and Purpose

1.1 The Davis Stirling Common Interest Development Act (“Davis-Stirling Act”) (Section 5900 et seq.) requires that the association of a common interest development provide a procedure for the resolution of disputes separate and independent of the requirements for alternative dispute resolution. The statute requires that the association adopt a fair, reasonable and expeditious procedure for resolving disputes between an association and a member of the association. The Rancho Santa Fe Association (“Association”) follows the statutory procedure for Internal Dispute Resolution (“IDR”) set forth in the Davis-Stirling Act. These Procedures and Guidelines serve to clarify certain aspects of the IDR process.

Section 2 – Initiation and Scheduling

2.1 Request for IDR. Any Association Member in good standing may make a request for resolution of a dispute (“Request for Resolution”) between that Member and the Association based on any final act, decision and/or ruling of the Rancho Santa Fe Association Art Jury (“Art Jury”). However no Member of the Association shall be entitled to request an IDR Meeting based on any final act, decision and/or ruling of the Art Jury if such member would be entitled to file a written petition appealing such act, decision or ruling to the Board of Directors of the Association under Paragraph 64 of the Rancho Santa Fe Protective Covenant until such time as the appeal has been filed and heard.

2.2 The Request for Resolution shall be in writing and shall contain the following information:

(a) the specific project and the final act, decision and/or ruling of the Art Jury that is the subject of the dispute;

(b) the specific provision of Rancho Santa Fe Protective Covenant, the Rancho Santa Fe Regulatory Code, the Rancho Santa Fe Residential Design Guidelines and/or the Village Commercial District Architectural Design Guidelines (“Governing Documents”) that has been violated;

(c) a brief statement of how the individual Member has been adversely impacted by the final act, decision and/or ruling of the Art Jury and the relief sought;

(d) a brief statement of what steps the Member has taken to address the alleged violations during the Art Jury review process and any steps taken to address the Owner/Applicant during the Art Jury review process; and

(e) a list of dates within the first fifteen (15) business days following the date of the Request for Resolution on which the member will not be available to participate in a meeting to attempt to resolve the dispute (“IDR Meeting”). In the event the Member believes the nature of the dispute will necessitate an IDR Meeting longer than 90 minutes, the Member shall so state in the Request for Resolution, shall request an IDR Meeting of greater length, shall specify the amount of time the Member believes will be required for the IDR Meeting, and shall provide a brief statement of reasons why resolution of the dispute will require an IDR Meeting of longer than 90 minutes. The Request for Resolution shall be delivered to the Manager of the Association personally, via facsimile, email, or via first class mail. No fee shall be charged to the Member of the Association for the submission of a Request for Resolution or participation in the IDR process. For purposes of these Procedures and Guidelines, Member shall mean the individual(s) who own of record a Building Site, or if the Building Site is owned of record by an entity or trust, up to two individuals designated in writing by such entity or trust in the Request for Resolution.

2.3 Notice and Acknowledgment. Within two (2) business days of receipt of the Request for Resolution, the Association shall send to the Member, the Owner/Applicant, the Art Jury and any other relevant parties, via facsimile, email or via first-class mail, an acknowledgment of receipt of the Request for Resolution, together with notice of the date and time of the IDR Meeting (the "Acknowledgment and Notice"). To the extent practicable, the IDR Meeting shall be scheduled for a date within 15 business days of the Association's receipt of the Request for Resolution. In the event a member has indicated a belief the nature of the dispute will necessitate an IDR Meeting longer than 90 minutes, the Acknowledgment and Notice shall state whether the Association agrees to the request for a longer meeting and shall state the maximum length of the IDR Meeting.

### Section 3- Participation in IDR Meeting

3.1 The IDR shall be attended by the following persons:

- (a) the Member who made the Request for Resolution;
- (b) the Owner/Applicant;
- (c) One or more, but typically two Directors of the Association, who shall be designated by the Board of Directors (the "Board Designee(s)");
- (d) an Art Jury designated Committee Member; and
- (e) such Association staff as the Board of Directors may designate.

The Member may be represented by counsel or other person at the IDR Meeting provided that not less than (5) working days before the IDR Meeting the Member has notified the Association, in writing, of the Member's intention to be represented by such other person. The Association has the right to be represented by counsel as and shall so notify the Member of its intent to have counsel present. In the event the Member is one individual, in addition to the other persons identified in this paragraph, the Member may also be accompanied by one member of such individual's immediate family.

3.2 Other Participants. To the extent the Member wishes to have persons in addition to those specified in Section 3.1 present at the IDR Meeting, the Member shall identify those persons in the Request for Resolution, and shall provide in the Request for Resolution a brief statement of the reasons why the presence of those persons would be of assistance in resolving the dispute. If a request for the presence of persons other than those specified in Section 3.1 is made, the Acknowledgment and Notice shall state whether such request is granted. The Association shall have the sole discretion to determine whether the presence of such other persons is necessary or appropriate to further the purpose of the IDR Meeting.

3.3 Association Board Member(s). Prior to the IDR Meeting, the Association Board of Directors shall confer with the Board Designee(s) and shall convey to the Board Designee(s) such authority to resolve the dispute as the Board of Directors deems appropriate (the "Authority"). The scope of the Authority so conveyed by the Board of Directors may be as general or specific as the subject matter of particular dispute requires, provided that in no event shall the Authority include any proposed resolution of a dispute which is in conflict with the law or the governing documents of the Association.

3.4 Prior to the IDR Meeting, the Board Designees shall view the Applicant/Owner's submitted final plans and conduct a site visit of the project that is the subject of the Request for Resolution. The Board Designees shall be accompanied by Association staff knowledgeable of the project. The Board Designees shall discuss the project with the Art Jury designated Committee member and the Applicant/Owner.

## Section 4 – Conduct of IDR Meeting

4.1 Presentation of Positions. The Board Designee(s) shall preside over the IDR meeting. The Board Designee(s) may, in their discretion, select Association staff to preside over the IDR meeting. The IDR Meeting shall begin with the Member stating the nature of the dispute, focusing on those Art Jury acts, decisions and/or rulings allegedly in violation of the Governing Documents or other documents; articulating what steps the Member has taken to address the alleged violations during the Art Jury review process and any steps taken to address the Owner/Applicant during the Art Jury review process; the resolution requested by the Member, and the basis for the Member's requested resolution. The requesting Member should articulate how the individual Member has been adversely impacted by the final act, decision and/or ruling of the Art Jury. Following such statement, the Association, through either the Board Designee(s) or through any participating Association staff, shall state the Association's position with respect to the dispute and the requested resolution, the basis for the Association's position as to both the dispute and the Member's requested resolution, and any counter-proposal for resolution of the dispute which the Association may wish to propose.

4.2 Attempt to Resolve. Following the exchange of statements described in Section 4.1, the Board Designee(s), or any participating Association staff, and the Member shall engage in discussions in an effort to resolve the dispute. While discussion may include dialogue and appropriate questions and answers, there shall be no direct or cross-examination of either the Member or the designee(s), and any questions and answers shall be directed to ascertaining additional information as to the nature of the dispute, the respective positions of the Member and the Association, and the nature of the resolution proposed by either the Member or the Association.

4.2.1 The presenting Member should be diligent in making a Request for Resolution as soon as is possible following the final act, decision and/or ruling of the Art Jury. The scope of the inquiry and available relief may be severely curtailed after the issuance of a building permit and/or after construction has commenced as the project progresses toward completion.

4.3 Confidentiality. Unless a resolution of the dispute is reached, all communications and discussions which occur in the IDR Meeting shall remain confidential.

## Section 5 – Resolution

5.1 Written Resolution. In the event the Member, the Owner/Applicant and the Board Designees are able to agree on a resolution of the dispute, the basic terms of that resolution shall be reduced to writing, during the IDR Meeting and shall be signed by the Member, the Owner/Applicant and the Board Designees who participated in the IDR Meeting (the "Resolution"). The Resolution shall be presented to the Board of Directors pursuant to Section 5.2 either for confirmation that it is within the scope of the Authority or ratification if the Resolution is outside of the scope of the Authority.

5.2 Presentation to the Board of Directors. The Resolution shall be presented to the Board of Directors at the next regular meeting. The Board of Directors shall first determine whether the Resolution is within the scope of the Authority. In the event the Board of Directors determines the Resolution is within the scope of the Authority, no further action of the Board of Directors shall be required, and the Resolution shall be binding under the Davis-Stirling Act. In the event the Board of Directors determines the Resolution is not within the scope of the Authority, the Board of Directors shall proceed to consider whether to ratify the Resolution. In the event the Resolution is ratified, the Resolution shall be binding under the Davis-Stirling Act.

If appropriate, the Resolution may be considered in executive session.

#### Section 6 – Disputes Not Resolved

6.1 In the event the Board Designees find that the Member’s presentation of a dispute is without merit, the Board Designees shall so present their finding to the Board of Directors at the next regularly scheduled meeting and recommend that no further action be taken. The recommendation of the Board Designees’ shall be ratified by a majority of the Board of Directors and shall be final.

6.2 In the event the Board Designees find that the Member’s presentation of the dispute has merit, the Board Designees shall present their finding to the Board of Directors. The Board of Directors shall have the discretion to hold an additional Meeting to which all stakeholders are invited to attend (generally those parties listed in section 3.1 above)

In the event a majority of the Board of Directors after due consideration of all matters presented at the Additional IDR Meeting; finds that a specific provision(s) of the Rancho Santa Fe Protective Covenant and/or the Rancho Santa Fe Regulatory Code and/or the Rancho Santa Fe Residential Design Guidelines and/or the Village Commercial District Architectural Design Guidelines has been violated by the Art Jury’s final act, decision and/or ruling it may modify such act, decision and/or ruling of the Art Jury. In the event a majority of the Board of Directors finds that the Art Jury’s final act, decision and/or ruling did not violate any provision of the Governing Documents the final act, decision and/or ruling of the Art Jury shall not be modified. The Board of Directors decision shall be final, conclusive and binding upon the Art Jury, the Owner/Applicant, the Member and all parties concerned.

6.2 Alternative Dispute Resolution. Participation in the IDR Meeting shall have no effect on the rights of the Member or the Association under Section 5930(a) of the Davis-Stirling Act relating to alternative dispute resolution as a prerequisite to an enforcement action.

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