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Statement of Alternate Dispute Resolution

To All Homeowners:

A law amending Section 1354 of the California Civil Code was enacted in 1994 which requires that certain types of disputes between homeowners associations and their members, or between members themselves, must be submitted to arbitration or mediation (collectively called "**Alternate Dispute Resolution**".) This law prohibits the filing of a lawsuit until after certain conditions have been met. This new law will affect you if you have a dispute with the Association or with another homeowner.

The new law applies only to disputes regarding the Association's "governing documents", which include C.C. & R's, By-Laws, Articles of Incorporation and Rules and Regulations. Further, it applies only to two types of cases. The first type of case is "declaratory relief". In this type of case a party is asking the court to declare or interpret the party's rights or obligations under one or more of the governing documents. For example, someone may ask the court who has responsibility for maintaining a balcony, patio or plumbing line. The second type of case is "injunctive relief". Here a party is asking the court to order the other party to do something, or to stop doing something. Examples would be an order to a homeowner to stop parking in the guest parking, or an order that the Association fix a leaky roof. Either type of case may also include a claim for money damages as long as it does not exceed \$5,000.00. The new law does not apply to cases that seek only money damages or to cases involving assessments.

The **Alternate Dispute Resolution** procedure is commenced by serving upon the other party an offer to submit the dispute to arbitration or mediation. The offer is called a "Request for Resolution". The new law requires that this document contain certain mandatory language.

The party receiving a "Request for Resolution" has thirty days to respond. If the party accepts it, the arbitration or mediation must be completed within ninety days. If the offer is refused, the other party may then file its lawsuit. Refusing arbitration or mediation does carry a risk. If the court awards attorneys' fees and costs, it may consider a party's refusal to participate in arbitration or mediation when considering the amount of the award. In other words, a party could be required to pay more attorneys' fees if that party does not agree to arbitration or mediation.

The new law contains a number of other technical provisions and requirements, and it should be read in its entirety and discussed with your own legal counsel. It does, however, require us to quote the following language in this letter. **"Failure by any member of the association to comply with the pre-filing requirements of Section 1354 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."**

The Board of Directors
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