

What is Alternative Dispute Resolution?

Alternative dispute resolution, or ADR, is a term used to describe any method for resolving disputes outside of traditional methods such as litigation. The concept behind ADR is to expand the available tools for resolving disputes. ADR is not a new concept—the first modern arbitration statute in the United States was passed in 1920 in New York State. Over time, the judiciary—including the U.S. Supreme Court through then-Chief Justice Warren Burger in 1982, have promoted private arbitration as the preferred alternative to litigation. ADR typically includes early neutral evaluation, negotiation, conciliation, mediation and arbitration.

Arbitration is where a neutral person, known as the arbitrator, considers evidence presented from all of the parties and makes a decision as to how the issues in dispute will be resolved. In Illinois, arbitration is governed by the provisions of the Uniform Arbitration Act (710 ILCS 5/). Arbitration can either be “binding” or “non-binding.” In non-binding arbitration, the unsuccessful disputant may request a new trial in the civil courts. In either method, the parties must participate in good faith and in a meaningful manner.

Unlike arbitration, mediation does not involve an adversarial hearing and there is no decision-maker present. Rather, the parties meet in one location, and a neutral facilitator acts as a go-between. The role of the mediator is to help the parties reach a voluntary settlement of the matter at hand. Most often, the parties meet in one room and present an overview of the underlying facts and their position to the mediator and impress the relative strengths of their cases. The parties then recess into different rooms and the mediator goes back and forth between the rooms, personally relaying the parties’ settlement offers and responses. Parties can share information about their matters in confidence, and the mediator will give the parties his or her thoughts about the dispute. The goal is for the parties to agree as to how to resolve the dispute.

There are a variety of ADR services in Illinois; those to which links are provided are representative of them and have had experience hearing disputes related to condominium and common interest community associations and their members.