

THE M.P.R. HOMEOWNERS ASSOCIATION

Party Wall Policy

Rules and Process For

Addressing Party Wall Issues

Forward

The Association, its Board and Owners must follow the Declaration of Covenants, Conditions and Restrictions for Mountain Park Ranch ("Declaration") recorded with the Maricopa Recorder's Office at recording number 1984-2244539. The Declaration is a contract between the Association and the Owners and the Owners themselves per Arizona case law. The Declaration is superior to the Board adopted Rules For Community Living ("Rules"). If a Rule contradicts a provision in the Declaration, the provision in the Declaration controls.

Article I, Section LL of the Declaration defines "Party Fence" to mean "a fence constructed on or immediately adjacent to the common boundary of Lots or Parcels or the common boundary of Common Areas and a Lot or Parcel."

Article I, Section LL of the Declaration defines "Party Wall" to mean "a wall constructed on or immediately adjacent to the common boundary of Lots or Parcels."

Article IV, Section 2(q) of the Declaration set forth the rights and obligations of Owners of Lots who have a Party Wall to use, rebuild and repair such wall.

Article IV, Section 2(q)(ii) of the Declaration states in part:

"In the event any Party Wall or Party Fence is damaged or destroyed through the act of an Owner or any of his tenants, agents, guests or members of his family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair such Party Wall or Party Fence without cost to the Owner of the adjoining Lot or Parcel. Any dispute over an Owner's liability for such damage shall be resolved as provided in subsection (v) below..." Emphasis added.

Article IV, Section 2(q)(iii) of the Declaration states in part:

"In the event any Party Wall or Party Fence is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner, his tenants, agents, guests or family, it shall be the obligation of all Owners whose Lots or Parcels adjoin such Party Wall or Party Fence, to rebuild and repair such Wall or Fence at their joint expense, such expense to be allocated among the Owners and, if applicable, the Association in

accordance with the frontage of their Lots or Parcels on the Party Wall or Party Fence." Emphasis added.

Article IV, Section 2(q)(v) of the Declaration states:

"In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a Party Wall or Party Fence, or with respect to the sharing of the cost thereof, **such adjoining Owners shall submit the dispute to the Board**, the decision of which shall be binding." Emphasis added.

Article XV, Section 1 of the Declaration titled "Interpretation of the Covenants" states:

"Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the covenants and provisions hereof."

The Declaration does not define what constitutes an "act of an Owner or any of his tenants, agents, guests or members of his family." The Declaration does state that such act does need to meet the legal requirement of negligence. The Association is **NOT a Party** to the repair or rebuilding of Party Walls or Party Fences that do **not adjoin Common Area**. Owners must work together to repair or rebuild Party Walls or Party Fences that adjoin Lots.

The Association and its Board should be involved in Owners' Party Wall issue **only** if there is dispute between Owners regarding the repair or rebuilding of Party Walls or Party Fences of adjoining Lots and **BOTH Owners** submit the dispute to the Board for a binding decision of the dispute. *The process for that follows.*

If **BOTH Owners** do not agree to submit the dispute to the Board for a binding decision of the dispute, then either Owner may pursue legal action against the other Owner seeking a Court's determination of the Party Wall dispute. The Association will not file such a lawsuit on behalf of an Owner.

**Process for Requesting the Board of Directors
to
Act as a Binding Arbitration Panel**

1. Each Owner must complete and file a Party Wall Dispute Form with the Association. Upon receipt, the MPR Property Manager(s) will review the Party Wall issue and provide the Executive Director with their report(s).
2. Each Owner must file a written request to invoke Article IV, Section 2(g)(v) of the Declaration with the Association seeking the Board Of Directors to act as a binding arbitration panel. With the request, each Owner must provide all documentation to support his/her position.
3. After each Owner has submitted the request, at the next regularly scheduled Board Of Directors meeting the Board will review the requests and may schedule a hearing for the Owners to attend.
4. If the Board schedules a hearing, at the Board's discretion, each of the Owners will have an appointment date and time for which they will be able to present their position. At the Boards discretion, there may be more than one (1) hearing with all, some or only one (1) Owner at a time, to present their position. Board Members may ask questions of the Owner(s) and request additional information or documentation that the Board requires to render its decision.
5. If the Board decides that it requires outside assistance from legal counsel, engineers, contractors or others ("Resource"), the Board may issue a continuance to obtain such assistance. The Board will notify the Owners of the estimated fees for such Resource and email an acceptance form which BOTH Owners MUST complete before the Association engages any Resource.
6. Each Owner agrees that he is responsible for a pro rata share of the expenses of the Resource incurred by the Association. For instance, in a party wall dispute between two Owners, each Owner is responsible for 50% of the fee for the Resource incurred. The Association shall invoice each Owner for such fees.
7. After receiving receipt of the Owners' acceptance form and the Board has obtained such outside assistance from the Resource, the Board may reconvene a hearing with the Owners for further discussion There is no set time period for this part of the process.

8. If the Board does not require assistance, the Board may conduct its own investigation, conduct hearing(s) with the Owners as needed and submit its decision in writing to the Owners.
9. If the Board utilizes an outside Resource, the Resource shall provide its findings in writing to the Board. The Board will review the findings and either issue its final decision, request more information from the Owners or seek additional clarification from the outside Resource.
10. Owners may not terminate the Board Arbitration process AFTER the receipt of the Owners' acceptance form for the Association to obtain outside assistance.
11. Based upon a majority vote of the Board of Directors at an open meeting of the Board, the Board of Directors shall cause a written decision to be issued to the Owners.
12. The Board Of Directors' decision shall be final and binding upon the Owners and may not be appealed.
13. As part of the decision, the Board will provide a deadline for compliance by the Owner(s) with the Board of Directors decision.
14. If Owner(s) have not complied with the Board's decision by the deadline given, the Owner(s) may request a one-time extension. If Owner(s) do not comply with the Board's decision, then the Owner may file a lawsuit in Maricopa County Superior Court to obtain enforcement of the Board of Directors' binding decision.
15. Owner(s) agree to hold the Association, each individual Board Director and the MPR Management Team harmless against any claims, causes of actions, fees or damages arising out of the Board's decision or this Arbitration process. Owner(s) agree to defend and indemnify the Association, each individual Board Director, and the MPR Management Team against any claims, causes of actions, fees or damages arising out of the Board's decision or this Arbitration process.

MPR Process for Handling Requests

1. Receive Party Wall Dispute Form from each Member.
2. Conduct inspection if possible to do so without entering and Owner's Lot(s).
3. If the dispute is a part wall in the Owner's rear yard, the Property Manager or Executive Director may make an appointment for inspection.
4. Notify Owners that the party wall is damaged and is a matter for the adjoining Owners to address.

Legal Compliance

This Policy is intended to comply with the **Arizona Planned Communities Act (A.R.S. § 33-1801 et seq.)**, and all applicable federal, state, and local laws governing community associations in the City of Phoenix.

If any provision of this Policy is found to conflict with applicable law, the law shall control, and the remaining provisions shall remain in full force and effect.

Pursuant to Article V, Section 3 of the Declaration of Covenants, Conditions And Restrictions recorded with the Maricopa County Recorder's Office at recording number 1984-224539 ("Declaration"), the Board of Directors of The M. P. R. Homeowners Association ("Association") adopts the following **Party Wall Policy** ("Policy") for **Rules and Process For Addressing Party Wall Issues**. This Policy will be deemed part of the Association Rules and is subject to amendment or modification at any time by a majority vote of the Board of Directors at an open Board meeting.

Adoption and Effective Date

This Policy was adopted by the Board of Directors on July 28, 2026 at an open Board meeting and shall take effect immediately and shall remain in force unless amended or rescinded by the Board.

Certified By:



Name: Bruce Jensen

President of Board of Directors



Name:

Secretary of the Board of Directors