

DELAWARE CODE TITLE 10

Courts and Judicial Procedure

Organization, Powers, Jurisdiction and Operation of Courts

CHAPTER 3. COURT OF CHANCERY

Subchapter III. General Jurisdiction and Powers

§ 348 Disputes involving deed covenants or restrictions.

(a) Without limiting the jurisdiction of any court of this State, the Court of Chancery shall, through a Master in Chancery or such other person as may be appointed that Master in Chancery's designee, mediate disputes involving the enforcement of deed covenants or restrictions when:

(1) An action involving the enforcement of deed covenants or restrictions has been filed with the Court;

(2) At least 1 party is an association or other entity representing the homeowners or lot owners of a subdivision, if such an association or entity exists; and

(3) At least 1 party is a homeowner or lot owner in that subdivision. The mediator shall assist the parties in trying to reach a mutually satisfactory resolution of their dispute. Mediation proceedings under this section are confidential and not of public record.

(b) By rule, the Court of Chancery may further define those types of deed covenant or restriction cases which must be mediated.

(c) Upon the filing of an action involving the enforcement of deed covenants or restrictions, the Court shall schedule a mandatory mediation hearing to be held within 60 days of the filing. If the parties fail to resolve the dispute, the Court shall schedule a trial to be held within 120 days of the failed attempt to mediate the dispute, unless for good cause shown the Court in its discretion concludes that a longer period of time is warranted. A Master in Chancery shall preside over the trial.

(d) The parties to a dispute mediated pursuant to the provisions of this section are not required to be represented by an attorney during a mandatory mediation proceeding.

(e) The nonprevailing party at a trial held pursuant to the provisions of this section must pay the prevailing party's attorney fees and court costs, unless the court finds that enforcing this subsection would result in an unfair, unreasonable, or harsh outcome.

[75 Del. Laws, c. 379, § 1](#); [70 Del. Laws, c. 186, § 1](#).