

Resolution No. 1

Date: 10/24/2019

City: New Orleans, LA

NAHB Resolution

Title: Alternative Dispute Resolution
Sponsor: Construction Liability, Risk Management, and Building Materials
Committee
Submitted by: Don Pratt

WHEREAS, using litigation to resolve disputes can be an expensive and time-consuming process – taking years to move through the courts, often requiring expensive legal counsel and consuming significant amounts of time for defendants and plaintiffs alike;

WHEREAS, in many instances arbitration and other Alternative Dispute Resolution (ADR) can represent a simpler, faster and less costly alternative to lawsuits;

WHEREAS, multiple-party or class-action lawsuits are generally precluded from the arbitration process;

WHEREAS, in enacting the Federal Arbitration Act, “Congress declared a national policy favoring arbitration;”

WHEREAS, many NAHB members rely on this long standing public policy when they negotiate and enter into residential real estate contracts with pre-dispute arbitration provisions for the rapid, fair and cost-effective resolution of disputes arising out of the construction and/or sale of the home;

WHEREAS, precluding the use of pre-dispute arbitration will expose home builders and subcontractors to increased risk of uncertainty, liability and litigation expenses.

WHEREAS, litigation frequently leaves homeowners with insufficient funds to perform repairs once legal fees and costs are deducted from any court recovery they may receive (if any);

WHEREAS, litigation increases home builders’ and subcontractors’ costs and, in turn, can make housing less affordable;

WHEREAS, for several years, a top priority for trial lawyers and anti-arbitration groups has been eliminating pre-dispute arbitration agreements; and

WHEREAS, trial lawyers have also been challenging the enforceability of arbitration agreements where the agreement requires that consumer complaints be arbitrated individually (instead of on a multiple-party or class-action basis),

NOW, THEREFORE, BE IT RESOLVED THAT NAHB:

1. Support initiatives that promote Alternative Dispute Resolution, including, but not limited to, mandatory, binding, pre-dispute arbitration agreements in residential construction contracts;
2. Defend against legislation, rules, policies or initiatives intended to eliminate or minimize the use of Alternative Dispute Resolution, including, but not limited to, mandatory, binding, pre-dispute arbitration agreements in residential construction contracts;
3. Promote and defend contract language and policies that require that consumer complaints be arbitrated individually (instead of on a multiple-party or class-action basis);
4. Support efforts to limit judicial, agency, or board invalidation of reasonable arbitration agreements.

Leadership Council Action:

Resolutions Committee Action:

Multifamily Board of Trustees Committee Action:

Construction Liability, Risk Management, and

Building Materials Committee Action:

Federal Government Affairs Committee Action:

Single Family Builders Committee Action:

Legal Action Committee Action:

Business Management and

Information Technology Committee Action:

State and Local Government Affairs Committee Action:

Custom Home Builders Committee Action:

APPROVED

Recommends Approval

Recommends Approval

Recommends Approval

Recommends Approval

Recommends Approval

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