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Real Estate Dispute Resolution Methods

## Arbitration Procedures

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Acceleration Clause refers to a provision in a contract that requires the borrower to pay the entire amount due if they miss a payment, which is often used in mortgage agreements to protect the lender's interests. This clause is usually included in the contract to ensure that the lender can recover their investment quickly if the borrower defaults. Acceleration clauses are commonly used in real estate contracts, and they can have significant implications for both the borrower and the lender. For example, if a borrower misses a payment, the lender can invoke the acceleration clause and demand that the borrower pay the entire amount due, which can be a significant burden for the borrower.

Alternative Dispute Resolution (ADR) refers to a process of resolving disputes outside of the court system, which can include arbitration, mediation, and negotiation. ADR is often used in real estate disputes because it can be faster and less expensive than going to court. There are several types of ADR, including arbitration, which involves a neutral third-party decision maker, and mediation, which involves a neutral third-party facilitator who helps the parties reach a settlement. ADR can be an effective way to resolve real estate disputes, but it requires the parties to be willing to compromise and work together to find a solution.

American Arbitration Association (AAA) refers to a non-profit organization that provides arbitration and other alternative dispute resolution services. The AAA has a set of rules and procedures that govern the arbitration process, and it provides training and certification for arbitrators. The AAA is one of the largest and most well-established arbitration organizations in the world, and it has a wide range of resources and expertise available to help parties resolve their disputes. For example, the AAA has a panel of experienced arbitrators who can hear cases and make binding decisions.

Appeal refers to the process of asking a higher court to review a decision made by a lower court. In the context of real estate disputes, an appeal can be used to challenge a judgment or order made by a trial court. The appeal process typically involves filing a notice of appeal and submitting briefs and other documents to the appellate court. The appellate court will then review the record and make a decision based on the law and the evidence presented. For example, if a party is unhappy with a trial court's decision in a real estate dispute, they can file an appeal with a higher court and ask for a review of the decision.

Arbitration refers to a process of resolving disputes through the use of a neutral third-party decision maker. In arbitration, the parties agree to submit their dispute to an arbitrator who will hear evidence and make a binding decision. Arbitration is often used in real estate disputes because it can be faster and less expensive than going to court. There are several types of arbitration, including binding arbitration, which is final and enforceable, and non-binding arbitration, which is advisory and not enforceable. For example, if two parties are involved in a real estate dispute, they can agree to submit their dispute to an arbitrator who will hear

evidence and make a binding decision.

Arbitration Agreement refers to a contract between two or more parties to submit their disputes to arbitration. An arbitration agreement typically includes the terms and conditions of the arbitration, including the selection of the arbitrator, the procedure for conducting the arbitration, and the scope of the arbitrator's authority. Arbitration agreements are commonly used in real estate contracts to provide a mechanism for resolving disputes quickly and efficiently. For example, a real estate contract might include an arbitration agreement that requires the parties to submit any disputes to binding arbitration.

Arbitrator refers to a neutral third-party decision maker who is appointed to hear and decide a dispute. An arbitrator is typically an expert in the subject matter of the dispute and has the authority to make a binding decision. Arbitrators can be selected by the parties or appointed by an institution such as the American Arbitration Association. For example, if two parties are involved in a real estate dispute, they can agree to appoint an arbitrator who will hear evidence and make a binding decision.

Binding Arbitration refers to a type of arbitration where the decision of the arbitrator is final and enforceable. In binding arbitration, the parties agree to be bound by the decision of the arbitrator and waive their right to appeal the decision to a court. Binding arbitration is often used in real estate disputes because it can provide a quick and efficient way to resolve disputes. For example, if two parties are involved in a real estate dispute, they can agree to submit their dispute to binding arbitration, which means that they will be bound by the decision of the arbitrator.

Case Law refers to the body of law that is based on the decisions of courts and other tribunals. Case law is an important source of law in real estate disputes because it provides a framework for interpreting statutes and regulations. Case law can be used to guide the parties in a real estate dispute and to predict the likely outcome of a case. For example, if a party is involved in a real estate dispute, they can research the case law on the issue to determine the likely outcome of the case.

Certificate of Title refers to a document that certifies the ownership of a piece of real property. A certificate of title is typically issued by a government agency or a title company and provides proof of the owner's rights to the property. Certificates of title are commonly used in real estate transactions to verify the ownership of the property and to transfer title to the buyer. For example, when a buyer purchases a piece of real estate, they will typically receive a certificate of title that certifies their ownership of the property.

Closing refers to the process of completing a real estate transaction. The closing process typically involves the transfer of title to the buyer, the payment of the purchase price, and the execution of other documents necessary to complete the transaction. Closings can be complex and involve multiple parties, including the buyer, the seller, the lender, and the title company. For example, if a buyer is purchasing a piece of real estate, they will typically attend a closing meeting where they will sign documents and transfer title to the property.

Commission refers to the fee paid to a real estate agent or broker for their services in a real estate transaction. The commission is typically a percentage of the sale price of the property and is paid by the seller. Commissions can vary depending on the location and the type of property being sold. For example, if a seller is selling a piece of real estate, they will typically pay a commission to the real estate agent or broker who assisted with the sale.

Condemnation refers to the process of taking private property for public use. Condemnation is typically done through the power of eminent domain, which allows the government to take property for public purposes such as building a road or a school. Condemnation can be a complex and controversial process, and property owners may be entitled to compensation for the value of their property. For example, if the government wants to build a new highway and needs to take private property to do so, they may use the power of eminent domain to condemn the property and pay the owner compensation for its value.

Contract refers to a binding agreement between two or more parties that outlines the terms and conditions of a real estate transaction. A contract is typically signed by the parties and includes provisions such as the purchase price, the closing date, and the terms of the financing. Contracts can be complex and involve multiple parties, including the buyer, the seller, the lender, and the title company. For example, if a buyer is purchasing a piece of real estate, they will typically sign a contract that outlines the terms and conditions of the sale.

Counteroffer refers to a response to an offer that includes changes or modifications to the original terms. A counteroffer is typically made by the seller in response to a buyers offer and may include changes to the purchase price, the closing date, or the terms of the financing. Counteroffers can be negotiated back and forth between the parties until they reach a mutually acceptable agreement. For example, if a buyer makes an offer on a piece of real estate, the seller may respond with a counteroffer that includes changes to the purchase price or the terms of the financing.

Default refers to the failure of a party to perform their obligations under a contract. Default can occur in a variety of contexts, including the failure to make payments on a loan or the failure to close a transaction on time. Default can have serious consequences, including the loss of the property or the imposition of penalties. For example, if a buyer defaults on their loan payments, the lender may foreclose on the property and sell it to pay off the debt.

Deposition refers to the process of taking testimony from a witness or a party in a lawsuit. A deposition is typically conducted by an attorney and involves the questioning of the witness or party under oath. Depositions can be used to gather evidence and to preserve the testimony of a witness for use at trial. For example, if a party is involved in a real estate dispute, they may take the deposition of a witness or an expert to gather evidence and build their case.

Disclosure refers to the process of providing information about a piece of real property to a potential buyer. Disclosure is typically required by law and involves the provision of information about the condition of the

property, including any defects or problems. Disclosure can be complex and involve the provision of multiple documents and reports. For example, if a seller is selling a piece of real estate, they may be required to provide a disclosure statement that includes information about the condition of the property and any known defects.

Due Diligence refers to the process of investigating and evaluating a piece of real property before making a purchase. Due diligence typically involves the review of documents and reports related to the property, including the title report, the appraisal, and the inspection report. Due diligence can be complex and involve the evaluation of multiple factors, including the condition of the property, the location, and the market trends. For example, if a buyer is purchasing a piece of real estate, they may conduct due diligence by reviewing documents and reports related to the property and evaluating the risk of the investment.

Earnest Money refers to a deposit made by a buyer to demonstrate their good faith and commitment to a real estate transaction. Earnest money is typically held in escrow until the closing of the transaction and can be refunded to the buyer if the transaction does not close. Earnest money can be a significant portion of the purchase price and is often used to secure the buyer's commitment to the transaction. For example, if a buyer is purchasing a piece of real estate, they may make an earnest money deposit to demonstrate their good faith and commitment to the transaction.

Eminent Domain refers to the power of the government to take private property for public use. Eminent domain is typically used for public purposes such as building a road or a school. Eminent domain can be a complex and controversial process, and property owners may be entitled to compensation for the value of their property. For example, if the government wants to build a new highway and needs to take private property to do so, they may use the power of eminent domain to condemn the property and pay the owner compensation for its value.

Equity refers to the value of a piece of real property that is owned by the property owner. Equity is typically calculated by subtracting the outstanding balance of any loans or liens from the market value of the property. Equity can be a significant portion of the value of the property and is often used to secure loans or other financing. For example, if a property owner has a piece of real estate with a market value of \$100,000 and an outstanding loan balance of \$50,000, they may have \$50,000 in equity in the property.

Escrow refers to the process of holding funds or documents in a neutral account until the completion of a real estate transaction. Escrow is typically used to hold the earnest money deposit and other funds until the closing of the transaction. Escrow can be complex and involve the management of multiple accounts and documents. For example, if a buyer is purchasing a piece of real estate, they may put their earnest money deposit into escrow until the closing of the transaction.

Eviction refers to the process of removing a tenant or an occupant from a piece of real property. Eviction is typically done through the court system and involves the filing of a lawsuit and the service of a notice to the tenant or occupant. Eviction can be a complex and controversial process, and tenants may have rights and

protections under the law. For example, if a landlord wants to evict a tenant for non-payment of rent, they may need to file a lawsuit and serve the tenant with a notice of eviction.

Foreclosure refers to the process of taking possession of a piece of real property due to the default of a loan or a lien. Foreclosure is typically done by the lender or the lienholder and involves the sale of the property to pay off the outstanding balance of the loan or lien. Foreclosure can be a complex and controversial process, and property owners may have rights and protections under the law. For example, if a borrower defaults on their loan payments, the lender may foreclose on the property and sell it to pay off the outstanding balance of the loan.

Inspection refers to the process of examining a piece of real property to determine its condition. Inspection is typically done by a professional inspector and involves the evaluation of the property's systems and components, including the plumbing, the electrical, and the roofing. Inspection can be a critical step in the real estate transaction process, as it can help to identify potential problems or defects in the property. For example, if a buyer is purchasing a piece of real estate, they may hire a professional inspector to conduct an inspection of the property and identify any potential problems or defects.

Lease refers to a contract between a landlord and a tenant that outlines the terms and conditions of the rental of a piece of real property. A lease is typically signed by the parties and includes provisions such as the rent, the length of the lease, and the responsibilities of the landlord and the tenant. Leases can be complex and involve the negotiation of multiple terms and conditions. For example, if a landlord is renting a piece of real estate to a tenant, they may sign a lease that outlines the terms and conditions of the rental agreement.

Lien refers to a claim or a security interest in a piece of real property. A lien is typically filed by a creditor or a lender and involves the attachment of the lien to the property until the debt is paid. Liens can be complex and involve the management of multiple accounts and documents. For example, if a borrower takes out a loan to purchase a piece of real estate, the lender may file a lien against the property to secure the loan.

Mediation refers to the process of using a neutral third-party facilitator to help resolve a dispute. Mediation is typically used in real estate disputes to help the parties communicate and negotiate a settlement. Mediation can be a cost-effective and efficient way to resolve disputes, as it can help to avoid the need for litigation. For example, if two parties are involved in a real estate dispute, they may use mediation to help resolve their differences and reach a settlement.

Mortgage refers to a loan that is secured by a piece of real property. A mortgage is typically obtained by a borrower to finance the purchase of a piece of real estate. Mortgages can be complex and involve the negotiation of multiple terms and conditions, including the interest rate, the length of the loan, and the monthly payments. For example, if a borrower wants to purchase a piece of real estate, they may obtain a mortgage to finance the purchase.

Negotiation refers to the process of communicating and reaching a mutually acceptable agreement between two or more parties. Negotiation is typically used in real estate transactions to help the parties reach a settlement or to resolve a dispute. Negotiation can be a complex and delicate process, as it requires the parties to be able to communicate effectively and to be willing to compromise and find a mutually acceptable solution. For example, if two parties are involved in a real estate dispute, they may use negotiation to help resolve their differences and reach a settlement.

Notice refers to the process of providing information or notification to a party or a government agency. Notice is typically required by law and involves the delivery of a document or a notification to the party or agency. Notice can be a critical step in the real estate transaction process, as it can help to ensure that the parties are aware of their rights and obligations. For example, if a landlord wants to evict a tenant, they may need to provide the tenant with a notice of eviction.

Offer refers to a proposal or a bidding price that is made by a buyer to a seller in a real estate transaction. An offer is typically made in writing and includes terms and conditions such as the purchase price, the closing date, and the terms of the financing. Offers can be negotiated back and forth between the parties until they reach a mutually acceptable agreement. For example, if a buyer wants to purchase a piece of real estate, they may make an offer to the seller that includes the purchase price, the closing date, and the terms of the financing.

Option refers to a contract or an agreement that gives a buyer the right to purchase a piece of real property at a later date. An option is typically granted by the seller and involves the payment of a fee or a premium by the buyer. Options can be complex and involve the negotiation of multiple terms and conditions. For example, if a buyer wants to purchase a piece of real estate, they may obtain an option to purchase the property at a later date.

Partition refers to the process of dividing a piece of real property among multiple owners. Partition is typically done through the court system and involves the appointment of a commissioner or a referee to oversee the partition process. Partition can be a complex and controversial process, as it may involve the valuation of the property and the determination of the ownership interests of the parties. For example, if multiple owners of a piece of real estate cannot agree on the use or the sale of the property, they may seek a partition through the court system.

Plaintiff refers to the party that files a lawsuit or a complaint in a real estate dispute. The plaintiff is typically the party that is seeking relief or damages from the defendant. Plaintiffs can be individuals, companies, or government agencies, and they may be represented by an attorney in the court proceedings. For example, if a buyer is involved in a real estate dispute with a seller, the buyer may be the plaintiff in the lawsuit.

Property refers to a piece of real estate, including the land and any improvements or structures on the land. Property can be residential, commercial, or industrial, and it can be owned by an individual, a company, or a government agency. Property can be a valuable asset, and it can be used as collateral for a loan or as a

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source of income. For example, if a buyer purchases a piece of real estate, they may use the property as a primary residence or as a source of rental income.

Quiet Title refers to the process of resolving a dispute over the ownership of a piece of real property. Quiet title is typically done through the court system and involves the appointment of a judge or a referee to oversee the quiet title process. Quiet title can be a complex and controversial process, as it may involve the valuation of the property and the determination of the ownership interests of the parties. For example, if multiple owners of a piece of real estate cannot agree on the use or the sale of the property, they may seek a quiet title action through the court system.

Real Estate refers to a piece of land or a property that includes the land and any improvements or structures on the land. Real estate can be residential, commercial, or industrial, and it can be owned by an individual, a company, or a government agency. Real estate can be a valuable asset, and it can be used as collateral for a loan or as a source of income. For example, if a buyer purchases a piece of real estate, they may use the property as a primary