

RESOLUTION MANAGEMENT FAQs



MEDIATION:

1. What is mediation?

Mediation is a cost effective alternative to litigation. In mediation two parties attend a conference facilitated by a trained neutral third party (the mediator) to work out a resolution to their issue. Mediation is:

- Less expensive than litigation. Typically the party requesting mediation pays a non-refundable \$50 administrative fee and the parties share the mediator fee. The cost of the mediator ranges from \$200 - \$800 for a three hour conference.
- Faster than litigation. Typically a mediation conference can be scheduled within 45 days from the initial request.
- Less confrontational than litigation. In mediation, the parties are assisted by the mediator to reach a conclusion that is satisfactory to both.

2. What types of disputes can be mediated?

Almost any type of dispute between or among buyers and sellers to a real estate transaction can and should be mediated. These include: disputes over earnest money deposits (i.e. who get the deposit if the sale falls through); cost of repairs to property when there is a question of possible negligence or failure to disclose a known defect (i.e. a defective roof or termite infestation, claims for damages when there is a charge of possible misrepresentation concerning the condition of the property, e.g., central air-conditioning was never connected to the new addition on the house.)

3. Are there any types of disputes that can't be mediated under DRS?

Yes. Disputes that cannot or should not be mediated under the DRS Mediation Rules include: disputes that involve extremely complex legal issues or allegations of criminal misconduct, violations of a states real estate license laws; and dispute that are not directly connected to a real estate transaction. Disputes between REALTORS® over entitlement to fees or commissions are handled by the mediation component of professional standards.

4. Who are the mediators?

Mediators are individuals who have taken a certified mediator training class. Mediators in the Home Sellers/Home Buyers Dispute Resolution System (DRS) are REALTORS®, Lawyers and other individuals with experience in real estate transactions. Each mediator must supply proof of training and a resume supporting their experience in real estate matters.

5. What if my client does not want to give up their right to litigation?

The right to litigation is not relinquished just because the parties' attempt mediation. If successful, a resolution in mediation is binding on the parties. However, if unsuccessful, the parties are free to pursue any legal means available to them.

6. Where can the buyer or seller get more information on mediation?

Mediation is explained on the back of page 7 of the Agreement of Sale (A/S-R). You can also encourage your client to call the Association if they have questions.

7. How does a buyer or seller initiate mediation? Does it matter who makes the request?

Mediation can be initiated by either party. The forms can be requested by phone call to the Association (610) 560-4800 or downloaded from the Association website at www.SuburbanWestRealtors.com under Resolution Management/Buyer Seller Dispute.

8. On average, how successful is mediation?

Approximately 85% of cases that come to mediation are successfully settled by the process.

ARBITRATION REQUEST:

9. Who can file a request for arbitration?

Real Estate commissions can only be paid by brokers; therefore, the request (and a response) must be filed by the broker. The REALTOR® with a financial interest in the outcome has the right to participate in the hearing.

10. When can a request for arbitration be filed?

A request for arbitration must be filed within one hundred and eighty (180) days from the close of the transaction or within one hundred and eighty (180) days of when the requestor could have known the transaction close in the exercise of reasonable diligence.

11. How does a REALTOR® initiate a request for arbitration?

Forms can be requested by phone call to the Association (610) 560-4800 or downloaded from the Association website at www.SuburbanWestRealtors.com under Resolution Management/Professional Standards.

12. Are there alternatives to arbitration?

Yes. Mediation is available as a first step alternative to Arbitration. If both parties agree, mediation can be conducted with the help of a professional standards committee member specifically trained in mediation.

13. On average how successful is arbitration?

Approximately 90% of cases that come to arbitration are successfully settled by the process.

ETHICS COMPLAINT:

14. Who can file an ethics complaint?

Anyone (member of the public or REALTOR®) who can provide clear, strong and convincing proof to a hearing panel may file an ethics complaint.

15. When can an ethics complaint be filed?

An ethics complaint must be filed within one hundred and eighty (180) days of the date when the offense occurred or when the facts relating to it could have been known by the complainant in the exercise of reasonable diligence or within 180 days of the conclusion of the transaction, which ever is later.

16. How does a member of the public or a REALTOR® file an ethics complaint?

Forms can be requested by phone call to the Association (610) 560-4800 or downloaded from the Association website at www.SuburbanWestRealtors.com under Resolution Management/Professional Standards.

17. Are there alternatives to filing an ethics complaint?

Yes. The Association offers the Ombudsman program to members of the public and REALTORS® who are having difficulty with a REALTOR®. The Ombudsman program allows for a member of Association staff to facilitate communication between the parties when appropriate. In certain circumstances, the Ombudsman program may be utilized anonymously. That is, only the Ombudsman will know the identity of the person making the complaint.