



The Sacramento Association of REALTORS® Dispute Resolution Service (SAR DRS) has been formed for the use of Clients of SAR Members to provide a forum for efficient, low cost, and fast resolution of disputes. Our Mediators are professionally trained in mediation and communication techniques, and have a wide variety of professional backgrounds relating to real estate matters.

SAR DRS is available for all real estate disputes, with a focus on real estate disputes among buyers and sellers arising under the CALIFORNIA ASSOCIATION OF REALTORS® Residential Purchase Agreement and Joint Escrow Instructions (RPA-CA). Disputes excluded from the RPA-CA mediation and arbitration terms are: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; and (iii) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court.

While the Association promotes mediation, please be advised of the following: mediation is a voluntary process and a mediation conference can only be scheduled for those parties that agree to mediation. If any party to your dispute does not agree to mediation or you are unable to reach a mutually acceptable resolution of the dispute, you may need to file for arbitration. SAR DRS does not offer arbitration services for buyer/seller disputes.

Enclosed you will find information on the mediation process, the *Request to Initiate Mediation* form, and The Sacramento Association of REALTORS® Dispute Resolution Service Rules and Procedures.

Please do not hesitate to contact our Professional Standards Administrator at lharank@sacrealtor.org should you have any questions regarding this process.



SACRAMENTO ASSOCIATION OF REALTORS®

DISPUTE RESOLUTION SERVICE

SAR DISPUTE RESOLUTION SERVICE

This service has been formed for the use of our members and their clients to provide a forum for efficient, low cost, and fast resolution of disputes. Our mediators are trained in mediation and communication techniques and have a wide variety of professional backgrounds and interests as relating to real estate matters.

WHAT IS MEDIATION?

Mediation is a means of resolving disputes through peaceful communication. It is an alternative to adversarial, expensive, and time-consuming litigation through the courts. It is non-adversarial, confidential, informal, inexpensive, and is now widely recognized as the forum of choice for the resolution of conflicts and misunderstandings.

WHEN IS MEDIATION APPROPRIATE?

Mediation may be initiated at any time by agreement between the parties. Sometimes mediation is required and other times it simply may be a useful tool used by the parties to efficiently, swiftly and affordably resolve a dispute. Section 22A of the C.A.R. Residential Purchase Agreement (RPA-CA) requires: "The Parties agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action..." In addition, mandatory mediation clauses are frequently contained in other real estate related agreements.

THE ROLE OF MEDIATORS

Mediators are professionally trained and are impartial third parties who provide their services with the dedicated belief in the power of mediation and collaborative negotiation. Mediators do not serve as judge or jury, do not seek to determine who is in the right, or place blame. *Mediators do not impose a decision* on either party like a judge or an arbitrator; their only interest is in helping you to resolve differences and reach a *mutually agreeable solution*.

Mediators do not give legal or professional advice. Rather they facilitate communications by helping disputants describe their feelings, clarify issues, determine their true interests, identify underlying concerns and where possible, reach agreement.

THE MEDIATION PROCESS

The mediation process begins by welcoming and introducing all participants followed by an opening statement from the Mediator. Initially, each party will be given an uninterrupted opportunity to define the conflict/problem as they see it and express their feelings about it to the Mediator. Each person will be given time to describe the conflict from their perspective while the Mediator and the other party listens. The Mediator may ask clarifying questions from time to time.

The process demands a high degree of mutual respect and honesty – no foul or threatening language, gestures, or actions will be permitted. Flexibility and respectful communication is key to the mediation process and parties must honestly express their needs and truly listen to what others have to say. If parties focus on blaming or revenge it merely promotes similar responses, lessening the chances of resolution.

Once the Mediator has a clear understanding of the problem, the Mediator will ask questions designed to ensure that each party fully comprehends the conflict from the perspective of the other disputant, and the issues and interests involved. In this way, a great deal of important information invariably comes to light which may not have been known or understood by the other party.

At this point in the process, the Mediator will help the parties understand that to solve a conflict each must be willing to acknowledge any new understanding they have about the dispute and the other person's situation. From time to time, the mediator may ask for a private meeting with one party at a time in order to get a clear idea of their refined interests, goals, and proposals as to the final outcome of the mediation.

In the final stages of the mediation, potential resolutions are explored.

AGREEMENTS

A settlement or resolution reached between the parties as a result of the mediation may be oral or written at the discretion of the parties.

A written agreement may be considered binding in the same way as a written contract is binding in the courts. This requires that the agreement must be in writing and signed by the parties. It must also contain a clear statement that: 1) each party wants the agreement to be binding, 2) each party understands the agreement is admissible in court should enforcement be necessary. Binding agreements in civil matters do not imply other means of enforcement such as intervention by police or sheriff's officers.

At the request of the parties, the Mediator will assist in writing the agreement, using the parties' own words, and their mutually agreed upon terms. *The Mediator has no intent or role in influencing the content of any agreement arrived at by the parties. The Mediator's only interest is to facilitate communication that is satisfactory to each side of the dispute.*

SAR DOES NOT MONITOR OR ENFORCE AGREEMENTS RESULTING FROM MEDIATION.

CONFIDENTIALITY

Except as otherwise provided by the California Evidence Code or California law, all communications, negotiations, or settlement discussions in the course of a mediation or mediation consultation are confidential and are not admissible or subject to discovery. For mediation to be successful, the parties must feel free to discuss the issues openly with the assurance that their presentations will be held confidential by law. Accordingly, the parties will be required to sign a confidentiality agreement, *before the mediation session can proceed*, to signify intent to comply with the rules of confidentiality.

It is important to note that if a written agreement is reached, both parties should recognize that the resolution itself is not confidential and may be enforceable by law in the courts.

For SAR Use Only Case No: _____ Received: _____

REQUEST TO INITIATE MEDIATION
Sacramento Association of REALTORS® Dispute Resolution Service

Date of Request: _____

Please include a check or credit card authorization payable to SAR for \$600 with your request to initiate mediation.

Minimum Mediation Fee: \$600 per party (includes \$65 non-refundable administrative fee).
Administrative fee will only be refunded if the mediation request is withdrawn in writing prior to scheduling mediation conference.

Fee Explanation: Fees are \$300 per hour for the mediator's services, with a \$600 minimum per party for two hours of mediation. Time exceeding the two-hour minimum, will be billed at \$300 per hour, paid directly to the Mediator. All costs/fees, as assigned by the mediator, are due and payable at the conclusion of the mediation conference.

1. PARTY REQUESTING MEDIATION:

Name: _____

Address: _____
(including City and Zip Code)

Phone: _____ Email: _____

Buyer Seller Name of requesting party's REALTOR®: _____

Preferred Contact: Phone Email Other _____

2. NAMES OF ADDITIONAL PARTIES TO THE DISPUTE:
(We must have an address to process the request.)

Name: _____

Address: _____
(including City and Zip Code)

Phone: _____ Fax: _____

Buyer Seller Broker

Name of party's REALTOR®: _____

Names of Additional Parties to Dispute continued:

Name: _____

Address: _____
(including City and Zip Code)

Phone: _____ Fax: _____

Buyer Seller Broker Salesperson Builder/Contractor Other _____

Name: _____

Address: _____
(including City and Zip Code)

Phone: _____ Fax: _____

Buyer Seller Broker Salesperson Builder/Contractor Other _____

Name: _____

Address: _____
(including City and Zip Code)

Phone: _____ Fax: _____

Buyer Seller Broker Salesperson Builder/Contractor Other _____

Name: _____

Address: _____
(including City and Zip Code)

Phone: _____ Fax: _____

Buyer Seller Broker Salesperson Builder/Contractor Other _____

3. BRIEF DESCRIPTION OF CLAIM:

(Please be aware that a copy of this request will be forwarded to the other party.)

4. AMOUNT OF MONEY REQUESTED: _____

5. DATE and TIME OF MEDIATION CONFERENCE:

Please list ANY dates and times within sixty (60) days of your filing this request that you ARE NOT available for a mediation conference. (Please remember that the object of mediation is to resolve the conflict as soon as possible, thus the reason for a short time frame of date selections.)

6. ATTACH COPY OF THE FOLLOWING:

- a. A fully executed copy of the Residential Purchase Agreement (C.A.R. RPA), Residential Listing Agreement (C.A.R. RLA), or any other agreement that indicates mediation as required in the agreement or contract.

7. Acknowledgement and Signatures:

I agree to mediation in accordance with the Sacramento Association of REALTORS® Dispute Resolution Rules and Procedures.

Signature

Signature

Date

Date

Please mail or drop off to:

Sacramento Association of REALTORS®
Attn: Professional Standards Administrator
2003 Howe Avenue
Sacramento, CA 95825

Sacramento Association of REALTORS® Dispute Resolution Service Rules and Procedures

1. Purpose. The Sacramento Association of REALTORS® Dispute Resolution Service (SAR DRS) has been formed essentially for the use of Clients of SAR Members to provide a forum for efficient, low cost, and fast resolution of disputes. Our Mediators are professionally trained in mediation and communication techniques, and have a wide variety of professional backgrounds and interests as relating to real estate matters.

2. Cases Eligible for Mediation. All real estate disputes, with a focus on real estate disputes among buyers and sellers arising under the CALIFORNIA ASSOCIATION OF REALTORS® Residential Purchase Agreement and Joint Escrow Instructions (RPA-CA). In addition, SAR DRS may consider and accept other types of disputes on a case-by-case basis.

Mediation is a voluntary process. SAR DRS cannot compel parties to participate in a mediation conference.

4. SAR DRS Contacts. All correspondence with SAR DRS should include the address of the property that is the subject of the dispute and be directed in writing to:

Email: lharank@sacrealtor.org

OR

Mail to: Sacramento Association of REALTORS®
Attn: Professional Standards Administrator
2003 Howe Ave
Sacramento, CA 95825

5. Fees and Costs. SAR DRS fees are set forth by the Sacramento Association of REALTORS® Board of Directors.

a. Filing Costs. A \$65 administrative fee is required for each party and is non-refundable. The administrative fee will only be refunded if the mediation request is withdrawn, in writing, prior to scheduling mediation conference.

b. Minimum Mediation Fee. The minimum fee to initiate mediation is \$600 per party, which includes the \$65 non-refundable administrative fee.

c. Fee Explanation. Fees are \$300 per hour for the mediator's services, with a \$600 minimum per party for two hours of mediation. Time exceeding the two-hour minimum will be billed at \$300 per hour payable to the Mediator. All costs and fees are due and payable at the conclusion of the mediation conference.

6. Mediators. SAR DRS Mediators (Mediators) are assigned by the SAR DRS Professional Standards Administrator (Administrator). Mediators are required to perform a conflict of interest check in connection with all mediation participants to determine matters potentially affecting their impartiality. Mediators do not give legal or professional advice.

7. Scheduling Process and Timeframes. The Administrator will immediately send a copy of the *Request to Initiate Mediation* to all named parties with a request to respond within fifteen (15) days. If no response is received after fifteen (15) days, the Administrator will refund the requesting party the minimum mediation fee minus the non-refundable administrative fee.

If a response is received and named parties agree to participate in a mediation conference, the Administrator will coordinate with all parties and the assigned Mediator for a date and time of the mediation conference.

8. Notice to the Parties. Once the mediation has been scheduled, the Administrator will provide written notice to the parties of the details of the mediation, the mediation process, and a copy of the *Agreement to Mediate*.

9. Confidentiality. Except as otherwise provided by the California Evidence Code or California law, all communications, negotiations, or settlement discussions in the course of a mediation or mediation consultation are confidential and are not admissible or subject to discovery.

It is important to note that if a written agreement is reached, both parties should recognize that the resolution itself is not confidential and may be enforceable by law in the courts.

10. Representation by Counsel. Any party may be represented by counsel. As the contract is between seller and buyer, these are the principal parties to the mediation. Attorneys, real estate agents, and/or other witnesses involved in the disputed transaction may be present at the mediation if the named parties request their attendance and the witnesses agree to attend. It is the parties' responsibility to make any witnesses aware of the mediation. SAR DRS has no jurisdiction to compel witnesses to attend.

11. Agreements. A settlement or resolution reached between the parties as a result of the mediation may be oral or written at the discretion of the disputants. At the request of the parties, the mediator will assist in writing the agreement, using the parties' own words, and their mutually agreed upon terms. SAR DRS does not monitor or enforce agreements resulting from mediation.