



To Whom It May Concern:

Thank you for your interest in using the Sacramento Association of REALTORS® Ethics Dispute Resolution Service.

Mediation is a win-win for all parties to a real estate dispute. It is a voluntary process giving the parties an opportunity to meet and work out a mutual resolution of the matter before it becomes a written complaint.

Enclosed you will find some information on the mediation process as well as the *Request for Ethics Mediation* form that you will submit to start the mediation process prior to filing an ethics complaint.

Please do not hesitate to contact Lyndsey Harank at (916) 437-1226 or lhharank@sacrealtor.org should you have any questions regarding this process.



Sacramento
Association of REALTORS®
2003 Howe Avenue
Sacramento, CA 95825
916-922-7711

REQUEST FOR ETHICS MEDIATION

Do you have a dispute you would like to try and resolve before filing a written complaint? Mediation is a dispute resolution process whereby a mediator works with you and the other parties to facilitate a mutually acceptable resolution of your dispute. Mediation is usually less adversarial and less formal and the parties are directly involved in the decision making process to resolve their dispute. As a general policy, the Association promotes mediation and strongly encourages you to consider using mediation. We have enclosed a copy of the Association's mediation guidelines and procedures for your review.

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 an ethics complaint.

If you agree to use mediation, please provide the information requested below. If other parties agree to mediation, we will notify you and schedule a mediation conference as appropriate. Thank you.

I agree to mediation in accordance with the Association's mediation guidelines and procedures with the following parties*:

- | | |
|-------------------------------|-------------------------------|
| 1. _____
(Print/Type Name) | 3. _____
(Print/Type Name) |
| 2. _____
(Print/Type Name) | 4. _____
(Print/Type Name) |

*Use additional sheets if necessary.

I will not be available for a mediation conference on the following dates: _____

_____		_____	
Your Name (Type or Print)		Signature	
_____		_____	
Telephone	E-mail	Date	
_____		_____	
Address	City	State	Zip

Please return to:

SACRAMENTO ASSOCIATION OF REALTORS®
Attn: Lyndsey Harank
2003 Howe Avenue
Sacramento, CA. 95825
lharank@sacrealtor.org

SACRAMENTO ASSOCIATION OF REALTORS® ETHICS DISPUTE RESOLUTION SERVICE

IF YOU ARE CONTEMPLATING ETHICS MEDIATION

The following information regarding the ethics mediation process and the Sacramento Association of REALTORS® Dispute Resolution Service should be helpful if you are contemplating mediation as a means of resolving a dispute or conflict.

SAR ETHICS DISPUTE RESOLUTION SERVICE

This service has been formed essentially for the use of our members and their clients to provide a forum for efficient resolution of disputes. Our mediators have received mediation training and are themselves practicing REALTORS® familiar all aspects of the real estate transaction. **THEY SHARE A COMMITMENT TO SERVING THE SACRAMENTO ASSOCIATION OF REALTORS® THROUGH THE MEDIATION PROCESS.**

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.

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 disputant 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 - and 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: *OFTEN THE FIRST MAJOR STEP TOWARD RESOLVING THE CONFLICT!*

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 disputants.

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.