

**SACRAMENTO ASSOCIATION OF REALTORS®**

**DISPUTE RESOLUTION SERVICE**

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**IF YOU ARE CONTEMPLATING MEDIATION**

If you are contemplating mediation as a means of resolving a dispute or conflict, the following information regarding the mediation process and the Sacramento Association of REALTORS® Dispute Resolution Service (SAR/DRS) should be helpful in making a decision.

**SAR/DRS**

This service has been formed essentially 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: **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 and 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, impartial third parties who provide their services with the dedicated belief in the power of mediation and collaborative negotiation as effective conflict mediation tools.

Mediators do not serve as judge or jury, do not seek to determine 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 hitherto 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 or "caucus" with one disputant 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.

If the disputants wish, 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 disputant wants the agreement to be binding, 2) each disputant 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 sheriffs officers. **SAR/DRS DOES NOT MONITOR OR ENFORCE AGREEMENTS RESULTING FROM MEDIATION.**

**At the request of the parties, the mediator will assist in writing the agreement as a scrivener, 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.***

### **CONFIDENTIALITY**

**The California Evidence Code reflects the importance placed by the law on the need for confidentiality in mediation. 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 (and the mediator), will be required to sign a confidentiality agreement before the mediation, *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.**

**REQUEST TO INITIATE MEDIATION**  
Homesellers/Homebuyers Dispute Resolution (Mediation) Service  
(a.k.a. S.A.R. DRS)

**Date of Request:** \_\_\_\_\_

**Please attach check or Visa/MC authorization payable to S.A.R. for \$600, which covers your portion of the minimum mediation and administrative fees.**

**Minimum Mediation Fee:** \$600/party (refundable minus a \$65 administrative fee, if mediation request is withdrawn prior to scheduling of mediation conference)

**Fee Explanation:** Fees for S.A.R.'s DRS are \$300/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/hour per party. 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: \_\_\_\_\_ Fax: \_\_\_\_\_

Buyer  Seller  Other

Name of requesting party's REALTOR® \_\_\_\_\_

**2. NAMES OF ADDITIONAL PARTIES TO THE DISPUTE:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Buyer  Seller  Other

Name of responding party's REALTOR® \_\_\_\_\_

**Names of Additional Parties to Dispute continued:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Buyer  Seller  Broker  Sales Agent  Builder/Contractor

Other \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Buyer  Seller  Broker  Sales Agent  Builder/Contractor

Other \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Buyer  Seller  Broker  Sales Agent  Builder/Contractor

Other \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Buyer  Seller  Broker  Sales Agent  Builder/Contractor

Other \_\_\_\_\_

**3. BRIEF DESCRIPTION OF CLAIM:**

**4. AMOUNT OF MONEY INVOLVED:** \_\_\_\_\_

**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 TO THIS SIGNED AGREEMENT:**

- a. A fully executed true copy of the Agreement containing the mediation clause (i.e., C.A.R.'s Purchase Contract); **or**
- b. In the absence of a contract clause or other such written agreement, a written request detailing the nature of the dispute by any party seeking to submit an existing dispute or claim to mediation under S.A.R. DRS Rules and Procedures.

**Please mail this form with \$600 to:**

Sacramento Association of REALTORS®  
Attn: Lyndsey Harank, Professional Standards Manager  
2003 Howe Avenue  
Sacramento, CA. 95825

(Please be aware that upon receipt of this request for mediation, a copy will be forwarded to the other party.)