

Dispute Resolution System

MEDIATION PROGRAM



Dispute Resolution System Introduction

Although the vast majority of real estate transactions close without incident, there is always a possibility that a problem or dispute will occur. When a dispute does arise, it is usually successfully resolved through normal channels of communication and negotiation. In the past, when negotiations failed, parties took their case to court. Today, they are taking their disputes to mediation.

WHAT IS MEDIATION?



Mediation is a process by which disputing parties attempt to resolve their disagreements with the help of an impartial, third party – the mediator. The mediator does not offer opinions, pass judgment or render legally binding decisions. The mediator's only function is to help parties identify their differences and reach agreement on how to resolve them.

When the disputing parties have reached a mutually acceptable solution, they sign a written agreement which outlines the terms of the settlement. Once the agreement is signed, parties are legally bound to abide by its terms. If the parties cannot reach a mutually agreeable settlement, they are free to arbitrate or litigate their dispute as if the mediation never took place.

In addition to being easier, faster and less expensive than litigation, mediation is non-adversarial. Decisions rendered by an arbitrator or judge usually involve a winning party and losing party. In mediation, however, there are no losing parties because the parties have been part of the process and together have agreed on the terms of the settlement.

HOME SELLERS/HOME BUYERS DISPUTE RESOLUTION SYSTEM MEDIATION



Dispute Resolution System (DRS) mediation can be used by any of the **direct** parties to a real estate transaction established within the Pennsylvania REALTORS® Association's agreement of sale. With the exception of controversies that are subject to hearing under REALTOR® Professional Standards procedures, including disputes between REALTORS®, almost any type of dispute that arises from the transaction can be mediated under the DRS Rules and Procedures.

RULES AND PROCEDURES

How, and by whom mediation is initiated and conducted is covered under the Dispute Resolution System Rules and Procedures. The Rules and Procedures ensure fairness, uniformity and expediency.

WRITTEN AGREEMENT TO MEDIATE

Parties usually commit to mediation when a sales contract is executed. Others may agree to submit disputes to mediation by signing a written Agreement to Mediate.

INITIATING MEDIATION



Any party who has been represented by a RAYAC member can invoke the Dispute Resolution System mediation program by submitting the proper forms to the REALTORS® Association of York & Adams Counties (RAYAC). Mediation forms can be obtained by contacting RAYAC or online at www.rayac.com. The mediator arranges, schedules and conducts the mediation conference. When scheduling permits, the mediation conference is held within 60 days of the date on

which the mediator receives the mediation case. The typical conference lasts between one and three hours.

MEDIATORS

Dispute Resolution System mediators are licensed attorneys in the Commonwealth of Pennsylvania who have agreed to participate in the program. Subject to the parties' approval, the Realtors Association shall appoint a mediator in advance of the mediation conference.

ROLE OF THE ATTORNEY



Although parties to the mediation have the right to be represented by counsel, attorneys do not have to participate in the mediation conference. Parties should consult an attorney if they have any questions or concerns about mediation or the Dispute Resolution System mediation program.

FEES

The fee for the Dispute Resolution System mediator begins at the minimum rate of \$175 per party for up to two hours of mediation services. Thereafter, the fee shall be at the rate of \$50 per hour per party. The cost of the mediator shall be shared equally by all parties to the mediation and shall be paid in advance to "RAYAC."

FACTS ABOUT MEDIATION

- Mediation is *faster* than litigation. A lawsuit can take anywhere from several months to several years to be decided. Generally, mediation takes about 60 to 90 days from beginning to end.
- Mediation is *less expensive* than litigation. Mediation fees begin at \$175 per party.
- Mediation is *non-adversarial*. Arbitration and litigation focus on disagreements between the parties and result in win-lose decisions imposed by the arbitrator or judge. Mediation, on the other hand, focuses on agreement between the parties and results in a win-win settlement reached and agreed on by the parties themselves.
- Parties who agree to mediate *retain the right to pursue other legal remedies*. If parties cannot reach a mutually acceptable settlement during the mediation conference, they are free to arbitrate or litigate their dispute as if the mediation never took place.

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