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Please be sure that you have contacted a mediator from the mediator's list and submitted a full packet to DRS as instructed.

SUBMIT ONLY THIS PAGE WITH THE INFORMATION REQUESTED TO:

Greater Gateway Association of REALTORS®
10 Ginger Creek Parkway
Glen Carbon, IL 62034

Case Number: _____

Name of Mediator: _____

Date Sent to Mediator: _____

Party Requesting Mediation: _____



REALTOR® is a registered collective membership mark which may be used by real estate professionals who are members of the National Association of REALTORS® and subscribe to its strict Code of Ethics.

Process Overview

Pre-mediation Preparation

- Ten days prior to session, parties receive a letter explaining the mediation process and logistical issues.
- Parties agree to mediate.
- Mediator is selected/appointed by random rotation, mutual request, or objection to a proposed mediator.
- Arrangements are made via letter or telephone.
 - Pre-mediation concerns are addressed.
 - Date and time typically scheduled at the convenience of the parties after a request for arbitration or mediation is received or following the grievance committee's determination of arbitrability.
- Witnesses and/or attorneys may attend, but this is not necessary because the process is non adversarial; there are no "findings of facts."
- Information is exchanged.
 - Parties need not prepare exhibits or extensive documentation. If a document will clarify an issue it may be used, but parties are reminded that mediation is not a fact-finding conference.

Mediation Conference

1. Mediator's opening statement/questions

Explain process and rules/goals, including the mediator's and parties' roles, voluntariness, neutrality, and confidentiality.

2. Parties' initial statements/questions

- Understanding perspectives
- Venting

3. Identification of issues

4. Create agenda

5. Cross-talk

Parties respond to each other and explain/explore information, needs, ideas and feelings.

6. Caucus (private meeting)

Mediator may meet privately with the parties to clarify needs and explore options for resolution and proposals.

7. Building an agreement

With the mediator's assistance, parties explore and refine workable solutions.

8. Conclusion

Agreement is reached/signed before leaving mediation or all agree that no further progress can be made, in which case parties are free to pursue arbitration.

Code of Ethics
NATIONAL ASSOCIATION OF REALTORS®

Mediation

The Winning Solution
for Buyers and Sellers

collaborative
ethics
agreement
voluntary
buyers & sellers
resolution
confidential
process
quick
non-adversarial
decisions
control
neutral
conference

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Even the best-intentioned buyers and sellers occasionally have honest disputes with other parties. There is an ongoing need for an efficient, economical mechanism to resolve such disputes. Arbitration is valuable, but mediation is simpler and easier.

What is Mediation?

"The act or process of mediating; intervention between conflicting parties to promote reconciliation, settlement, or compromise."

—Webster's Ninth New Collegiate Dictionary

- Arbitration and mediation are valuable in resolving business disputes.
- Both mediation and arbitration are private and neutral/with expertise.
- But . . .**
- Mediation is an attractive alternative to arbitration.

Why Use Mediation?

Mediation

- Low or no cost
- Little delay
- Win/win outcome
- Collaborative
- Maximum range of solutions
- Improves relationships

Arbitration

- Moderate cost
- Moderate delay
- Win/lose/split
- Adversarial
- Result limited to monetary award
- May damage relationships

Key Features

Voluntary*/Private Process

- Parties decide to enter the mediation process.
- Parties can leave the mediation process at any time.
- Parties have complete control over the outcome.

Neutral/Impartial Mediator

- Understands issues quickly because typically, the facilitator is familiar with real estate practices and customs.
- Mediates only matters in which he/she remains neutral and impartial.
- Discloses conflicts of interest (parties may agree to continue following disclosure or terminate session).

- Facilitates and assists with negotiations - controls the process, not the substance.

- Honors the concepts of self-determination, respect, and civility.

- Enhances the parties' abilities to understand their own and each other's needs.

- Helps parties understand the alternatives to settling.

- Should possess these qualities, according to William Simkin in *Settling Disputes*:

- wisdom of Solomon
- the hide of a rhinoceros
- the patience of Job
- abilities of a half-back
- wit of the Irish

*Voluntary unless REALTORS® are required to mediate by their association

Confidential Process

- Mediation is a confidential settlement process.
- Neither the mediator nor the parties disclose the communications or conduct of the mediation, unless all parties agree (with limited exceptions, such as risk of harm).
- Ethical violations discovered as a result of participation in the mediation are not reported.
- Settlements discussed in mediation are not admissible in arbitration.
- Generally a mediator is not a witness in arbitration or court.

- Information gathered and exchanged may be used in arbitration only to the extent that it was obtained independently from the mediation process.

Why Mediation Works

- Most disputes are successfully resolved

- High speed

- Low or no cost

- Flexible

- Maintains/improves relationships

- Improves poor communication/clarifies misunderstandings because parties come together and talk

- Discovers/addresses the true interests of parties

- Moves beyond different views of law/fact

- Allows creative solutions beyond win/lose

- Mediated resolution is just as binding and enforceable as an arbitration award

When It Will Not Work

- When a precedent is necessary
- When there is no relationship and it is cheaper to contest the claim
- When vindication/punishment remains the main objective
- When the "jackpot syndrome" is involved (maximize/minimize recovery)

"Mediation is user friendly.

It takes a potential conflict, turns it around and saves relationships." —Larry Apple

"Mediation is the ONLY win/win solution in dispute resolution." —Mike Wasmann

"Mediation lets participants accept responsibility for the outcome of their disputes, as opposed to relinquishing that authority to a third party." —C. Hilea Walker

"Mediation is the best alternative because you have more control over the results, a better chance to communicate your story, and it strengthens REALTOR® relationships through mutual gain and satisfaction." —Patrick Reilly

Mediation can save time and money and can be quicker, easier, and more amicable for resolving business disputes than arbitration.



**HOMEBUYERS/HOMESSELLERS DISPUTE RESOLUTION SYSTEM
REQUEST TO INITIATE MEDIATION – TRANSMITTAL FORM**

(To be completed and mailed to DRS mediation provider by party requesting mediation)

Date: _____

1. NAMES OF ALL PARTIES TO THE DISPUTE: _____

2. PARTY REQUESTING MEDIATION

Name: _____

Phone: _____ Fax: _____

Mailing Address: _____

City, State, Postal Code: _____

Buyer Seller Broker Salesperson Builder/Contractor

Other _____

Professional Liability Insurance Company: _____

LEGAL COUNSEL OR OTHER REPRESENTATION:

Name: _____

Firm: _____

Phone: _____ Fax: _____

Mailing Address: _____

City, State, Postal Code: _____

3. OTHER PARTIES

Name: _____

Phone: _____ **Fax:** _____

Mailing Address: _____

City, State, Postal Code: _____

Buyer Seller Broker Salesperson Builder/Contractor

Other _____

Professional Liability Insurance Company: _____

LEGAL COUNSEL OR OTHER REPRESENTATION:

Name: _____

Firm: _____

Phone: _____ **Fax:** _____

Mailing Address: _____

City, State, Postal Code: _____

Name: _____

Phone: _____ **Fax:** _____

Mailing Address: _____

City, State, Postal Code: _____

Buyer Seller Broker Salesperson Builder/Contractor

Other _____

Professional Liability Insurance Company: _____

LEGAL COUNSEL OR OTHER REPRESENTATION:

Name: _____

Firm: _____

Phone: _____ **Fax:** _____

Mailing Address: _____

City, State, Postal Code: _____

4. BRIEF DISCRIPTION OF CLAIM: _____

5. COST INVOLVED: (\$) _____

6. Have there been any formal court pleadings filed in this case? () Yes () No

If yes, are there any trial dates or time limitations involved? () Yes () No

Date: _____ **Court:** _____

County: _____ **Judge:** _____

Court Case #: _____

7. Do you have authority to enter into and sign a binding written agreement to settle this on behalf of the party you represent? () Yes () No

Comment: _____

8. Do you need additional information from another attorney? () Yes () No

If yes, what?: _____

9. Has a prior agreement to mediate been signed by the parties? () Yes () No

If yes, please attach copy a of the signed agreement.

Please mail this form to the DRS mediation provider who has been selected and agreed upon by the parties. If no agreements exist, mail to any qualified DRS mediation provider in your area.

Please provide a CONFIDENTIAL copy of this form to:

Dispute Resolution System Liaison
Office of General Counsel
National Association of REALTORS®
430 North Michigan Avenue
Chicago, IL 60611-4087

Name of DRS Mediation Provider Selected: _____