

SELLER-BUYER INFORMATION PACKET

DISPUTE RESOLUTION SYSTEM



Mediation Guide

A Fast, Easy and Inexpensive Alternative to Litigation.

This service is provided only for our REALTOR® members.

One of the clients involved in the mediation, either the Complainant and/or the Respondent must be a REALTOR® or represented by a REALTOR® of the Alaska REALTORS®.

\$300 per party for REALTORS® or their clients.

\$500 per party for non-REALTORS® or their clients.

Payment is due at the time the *Request to Initiate Mediation* and the *Agreement to Mediate Forms* are submitted.

For more information contact the:

Anchorage Board of REALTORS®

- Phone: **907.561.2338**
- Email: info@ancboard.com
- Address:

**Anchorage Board of REALTORS®
4700 Business Park Blvd Ste E-15
Anchorage AK 99503**

HOME SELLERS/HOMEBUYERS DISPUTE RESOLUTION SYSTEM (DRS) SELLER-BUYER GUIDE FOR INITIATING MEDIATION

Please note: This service will be rendered only if the party requesting mediation has provided correct and complete contact information for both parties.

Mediation Services are provided only for REALTORS®. The Alaska REALTORS® in connection with your local Board of REALTORS®, provides mediation services only to its REALTOR® members or their clients. One of the two parties involved in mediation must be represented by a REALTOR®. The mediator for your case will not be affiliated with a brokerage involved in this dispute.

Call your Broker or REALTOR®. Your broker or REALTOR® can be instrumental in resolving conflicts and disputes. Talk with your broker or REALTOR® *before* you initiate mediation proceedings. If mediation becomes necessary, your broker or REALTOR® and/or counsel may be able to assist you in obtaining the agreement of the other parties to mediate the dispute.

Consult your Counsel. You should inform your counsel of your intent to initiate mediation under the mediation rules. Your counsel will be able to provide you with advice and counsel and may be able to help resolve the dispute without having to proceed to mediation.

When a Dispute Arises. The decision to initiate mediation under the Dispute Resolution System (DRS) rules should be made only after all attempts to negotiate an acceptable solution have been exhausted. In mediation, a neutral third-party assist the disputants in negotiating a mutually acceptable settlement. Mediators do not render decisions but help to facilitate the parties to the dispute to come to their own agreement by clarifying issues, utilizing persuasion and other conflict resolution strategies. Although there is not a guarantee that the dispute will be resolved, surveys reveal that settlements are reached over 80% of the time.

To Initiate Mediation. When all attempts to negotiate a settlement have failed, you should proceed as follows:

1. Contact your broker and/or REALTOR®, or the Association Executive at your local Board of REALTORS® office, to request a *Seller-Buyer Dispute Resolution System Information Packet*. This packet contains everything you will need to initiate mediation.
2. It is the responsibility of the Complainant and the Respondent to provide the Board with the names of the parties involved in the request ***along with the current e-mail, mailing address, and telephone numbers for both the Complainant and Respondent.*** *The Board is not responsible for securing current contact information for any of the parties.*
3. If you have questions about the mediation process, contact the Association Executive at your local Board of REALTORS® office; your questions and inquiry is confidential.

MEDIATION RULES AND PROCEDURES

1. **Agreement of Parties.** These Mediation Rules and Procedures shall apply when the parties have agreed in writing to mediation under the National Association of REALTORS® Mediation Program. By mutual written agreement of all the parties to the claim, any specific provision of these Rules and Procedures pertaining to mediation may be modified.
2. **Initiation of Mediation.** To initiate mediation, under these *Mediation Rules and Procedures*, each party must **complete, sign, and submit a Request to Initiate Mediation and the Agreement to Mediate Forms, by email or mail to your local Board of REALTORS® office.** Forms shall contain and/or be accompanied by the following information, to the extent known or readily available:
 - a. The name(s), e-mail address, mailing address, and telephone number of all parties to the case.
 - b. Nature and amount of the claim, brief statement of the facts that give rise to the claim, and the damages of relief sought.
 - c. A fully executed true copy of the agreement containing the mediation clause and/or a copy of such other written agreement invoking these Mediation Rules and Procedures.
3. **Association Executive Duties.** Upon receipt of the *Request to Initiate Mediation* and the *Agreement to Mediate Forms* from the Complainant, the Association Executive will:
 - a. **Ask Respondent to Reply.** Upon receipt of the *Request to Initiate Mediation* and the *Agreement to Mediate Forms* from the Complainant, the Association Executive will submit a copy of such forms to the Respondent by email and/or US mail with a deadline to return the signed forms and payment. All mediation inquiries and cases are held strictly confidential.
 - b. **Select a Mediator.** Not later than 10 business days after the Association Executive receives the signed copy of the *Request to Initiate Mediation* and the *Agreement to Mediate Forms*, and payment from both parties, the Association Executive shall appoint a qualified mediator. *No person shall serve as a mediator in any dispute if that person has any financial or personal interest in the results of the mediation unless, after full disclosure, the parties have given their written consent.*
 - c. **Schedule Mediation Conference.** Within 10 business days of the appointment of the mediator, the Association Executive will contact the parties by email to set the date and time of the mediation conference. The mediation conference shall not be held more than 60 days from date of receipt of the *Request to Initiate Mediation* and the *Agreement to Mediate Forms*.

Not less than 20 days prior to the mediation conference, the Association Executive will give notice by email to all parties. With the agreement of all parties, the mediation conference may occur with less than 20 days' notice. A typical mediation conference lasts between one and four hours.
4. **Conduct of Mediation Conferences.** At the mediation conference, the parties will be expected to produce all information reasonably required for the mediator to understand the issue presented. Such information will usually include relevant written materials and a description of any witnesses and what each could testify to. For more complex cases, the mediator may ask the parties for written materials or information in advance of the mediation conference.

- a. At the mediation conference, the mediator will conduct an orderly settlement negotiation. Parties at the mediation conference shall have authority to enter into and sign a binding written agreement entitled *Mediation Resolution Agreement* to settle the dispute. The mediator will be impartial in such proceedings and has no authority to force the parties to agree to a settlement.
5. **Representation by Counsel.** Any party may be accompanied by and represented at the mediation conference by counsel. In the interest of fairness; however, a party who intends to be represented by counsel shall notify the Association Executive of such intent at least 10 business days in advance of the mediation conference.
 - a. Allowing the presence of persons other than the parties and their counsel in the mediation rests solely with the mediator.
6. **Confidentiality.** All mediation inquiries and cases are held strictly confidential by the Association Executive, staff, and mediator; we encourage all parties involved to do the same.
 - a. No aspect of the mediation shall be relied upon or introduced as evidence in any arbitration, judicial or other proceeding, including but not limited to:
 - i. Views expressed or suggestions made by a party with respect to a possible settlement of the dispute;
 - ii. Offers and proposals of compromise made in the course of the mediation; or
 - iii. Proposals made or views expressed by the mediator or the response of any party.
 - b. No privilege shall be affected by disclosures made in the course of mediation.
 - c. Disclosure of any records, reports, or other documents used in the mediation cannot be used in later litigation or arbitration unless they could have been used had there been no mediation.
 - d. The Association Executive shall not be compelled to disclose or to testify in any proceeding as to information disclosed or representations made in the course of the mediation or communication to the mediator in confidence.
7. **Mediated Settlement.** The mediated settlement must be produced in writing by the parties or by the mediator, then dated and signed at the mediation conference by all parties agreeing to its terms, but in no event, shall the settlement be signed by all parties not later than 10 calendar days after the conclusion of the mediation conference.
8. **Judicial Proceedings and Immunity.** Neither the Association Executive, nor the mediator, nor the NATIONAL ASSOCIATION OF REALTORS® (NAR) or any of its member associations, shall be deemed "necessary parties" in any judicial proceedings relating to mediation under these *Mediation Rules and Procedures*. Neither the Association Executive, nor any mediator, nor the NATIONAL ASSOCIATION REALTORS®, serving under these procedures shall be liable to any party for any act, error or omission in connection with any service or the operation of the NAR Mediation Program.
9. **Timing of Claims.** The time limitation by which parties must bring court claims is governed by state law. Legal counsel should be consulted regarding this issue.

**Alaska REALTORS® and/or Anchorage Board of REALTORS®
MEDIATION RESOLUTION AGREEMENT**

This mediation concerns property located at:

Street (Property) Address: _____

Complainant: _____ Respondent: _____

The undersigned have voluntarily participated in the _____ (state/local) Board of REALTORS® Mediation Procedures and agree to the following resolution:

The undersigned agree to be bound by the above resolution and waive any and all future rights to submit the controversy to arbitration before the Professional Standards Committee of Alaska REALTORS® and/or the local board of REALTORS® or to litigate the matter. We further agree to hold Alaska REALTORS® and/or the local board of REALTORS® and the assigned mediator harmless, and expressly waive any and all liability, or any claims that we have against Alaska REALTORS® and/or the local board of REALTORS® and the assigned mediator arising out of the manner in which the mediation was o, or the resolution of the controversy reached as a result of Alaska REALTORS® and/or the local board of REALTORS® mediation procedures.

Complainant

Signature: _____ Date: _____, 20____

Signature: _____ Date: _____, 20____

Respondent

Signature: _____ Date: _____, 20____

Signature: _____ Date: _____, 20____

The undersigned, as Mediation Officer of the local board of REALTORS®, does attest that I was present during the mediation process and that the above resolution agreement was voluntarily entered into by the parties of the dispute.

_____ Date: _____, 20____
Mediation Officer

If desired, each party has three (3) calendar days from the date signed to have legal counsel review the Mediation Resolution Agreement. Please notify the local board of REALTORS® no later than _____, 20____ if you wish to rescind this Resolution Agreement.