



## DISPUTE RESOLUTION GUIDE

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### **Contacting the Principal Broker**

If you are experiencing difficulty with an agent, the first person to call is that agent's Principal Broker. Many difficulties between real estate professionals result from misunderstanding, miscommunication, or lack of adequate communication. If you have a problem with a real estate professional, you may want to speak with them or with a principal broker in the firm. Open, constructive discussion often resolves questions or differences, eliminating the need for further action. If you need the name of the Principal Broker, please complete the online request form.

### **Types of Complaints and Requests**

Ethics Complaints deal with a member's conduct. Ethics is personal therefore you must name the person(s) who you believe is in violation, not a company. Arbitration Requests deal with a monetary dispute between the parties. Mediation can be requested for arbitration.

### **Ombuds Service**

Some problems can be solved by a few phone calls from a neutral party, called "ombudsmen." If you have a breakdown in communication between you and your agent or between agents, an ombudsman can speak to you and the other party on the phone to try to resolve the problem before it escalates.

### **Mediation**

Mediation is a preferred alternative for solving arbitrable disputes. Mediation is free to file and is an in-person, informal process. If all parties agree to mediate, a mediator will be assigned to assist the parties in coming to a mutually agreeable settlement. The settlement agreement is put in writing for all parties to sign. The agreement is enforceable in the courts. In some cases mediation is a mandatory first step in dispute resolution.

### **Filing a complaint against a REALTOR® member**

If you have a complaint about a real estate transaction that involves a REALTOR® member of the REALTORS® Association of Maui (RAM), you may file your complaint with our office. As the person filing the complaint, you are the Complainant. The person you are filing the complaint against is the Respondent. Complainants and Respondents are called "parties" to the dispute. Parties are the ones named in the complaint.

### **Ethics Complaint**

To file an Ethics Complaint you should review the National Association of REALTORS® (NAR) Code of Ethics. The first 16 Articles in the Code of Ethics are the specific obligations that can subject the member to disciplinary action after a due process hearing. After carefully reading the Code, if you feel that a member has violated one or more of the Articles, you will need to file an Ethics Complaint form (you may request this form by completing the online form or calling RAM). A complete filing cites the Article(s) alleged to have been violated and your narrative explaining the violation(s). There is no fee to file an ethics complaint.

Return your completed, signed Ethics Complaint form and statement, along with any supporting evidence to RAM. This is your chance to tell your story. Your narrative should be concise, complete, clear, and persuasive. All documents should be single sided, unstapled, untabbed, and not highlighted, as RAM numbers and duplicates the submissions to build an official case file. Do not send originals.

Ethics complaints must be filed within one hundred eighty (180) days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or one hundred eighty (180) days after the closing of the transaction or event, if any, whichever is later.

### **Arbitration**

To file a Request for Arbitration to obtain a monetary award, please review Article 17 of the NAR Code of Ethics to see which specific types of arbitration can be heard by the Board. You will need to complete a form (you may request this form by completing the online form or calling RAM). When filing, state the amount you are seeking and the date you first became aware of the subject of the dispute. You must also include a clearly written breakdown of how you arrived at the amount. Be specific. In filing a Request for Arbitration, it is necessary to name the Principal Broker of a firm because the Principal Broker is the one who has the authority to disburse funds. If you wish, you can also name the agent, other brokers, and the Company as co-respondents. There is a \$250 filing fee required to file a Request for Arbitration. An Arbitration Request is not deemed filed without the fee.

Return your completed, signed Request for Arbitration Form and statement, along with any supporting evidence you may have with the \$250 filing fee to RAM. All documents should be single sided, unstapled, untabbed, and not highlighted as RAM numbers and duplicates the submissions to build an official case file. Do not send originals.

Request for arbitration must be filed within one hundred eighty (180) days after the closing of the transaction, if any, or within one hundred eighty (180) days after the facts constituting the arbitration matter could have been known in the exercise of reasonable diligence, whichever is later.

### **Complaint Process**

Once a complaint is received by the Board with the completed forms, statements, documents and fees, if applicable, RAM notifies the Respondent and sends them a complete copy of the entire complaint that has been submitted by the Complainant. The full complaint is then submitted to RAM's Grievance Committee which reviews the matter to decide if the case meets the criteria for a hearing by the Professional Standards and Arbitration Committee. Please make every effort to submit the most complete complaint possible.

Throughout the entire process, all correspondence received by all parties will be disseminated to all parties via secure email. Parties are asked to confirm receipt within 24 hours. Many parts of the process have specific deadlines that must be met; you need to open your email correspondence as soon as possible to avoid missing deadlines.

### **Hearings**

If the Grievance Committee determines that either an Ethics or an Arbitration Hearing is warranted, the parties will be offered a chance to mediate the dispute to come to a mutually agreed upon resolution to the matter. In some arbitrations, mediation shall be a mandatory first step in the resolution process.

In certain ethics cases, a Respondent may request an expedited administration procedure in lieu of a hearing. In this procedure, neither the Complainant nor the Respondent is present. A Panel is convened to review the case for determination of sanction and/or discipline. The Respondent may submit a one page explanation which may be taken into consideration if there is a sanction imposed.

If a case moves forward to Hearing, parties are given a minimum of 21 days-notice before the hearing date. Hearings are held at the RAM office and typically start at 9:00 a.m. Parties are encouraged to attend in person but remote participation may be granted in certain circumstances. All hearings conducted at the REALTORS® Association of Maui are conducted in the spirit of Due Process. Due Process is defined as a full and fair hearing. All parties to a hearing will have an opportunity to present witnesses and/or documents in support of their case as provided for in the Rules.

### **Confidentiality**

All information received is considered confidential and is not disseminated to anyone other than the parties involved, and those RAM staff and volunteer REALTORS® who are involved in the professional standards process.

**Questions?** Contact Nicole Trivison, Professional Standards Administrator - [nicole@ramaui.com](mailto:nicole@ramaui.com) - 808.270.4619.