

## Mediation

### What is mediation?

Mediation is a form of facilitated negotiation in which an impartial third party attempts to help disputing parties reach a mutual solution to their problems.

"The act or process of mediating; intervention between conflicting parties to promote reconciliation, settlement or compromise." – Webster's 9th New Collegiate Dictionary

### Why mediate?

Mediation typically takes far less time and money than litigation. Additionally, the process is fair, flexible and confidential. Mediation is collaborative, not adversarial. The goal of a successful mediation is to have both parties come to a mutual agreement in writing upon the conclusion of the mediation. Once the mediation agreement is signed, the parties are legally bound to abide by its terms.

### What situations are appropriate for mediation?

- Disputes over earnest money deposits
- Condition of property & repair conflicts
- Most disputes arising out of a real estate contract/transaction

### What are the advantages of mediation?

- A mediator enables the parties to determine promptly whether there is a reasonable possibility of settling a dispute.
- Mediation saves time.
- Mediation can salvage relationships.
- Mediation is consensual and the ultimate solution is in the hands of the parties.
- Mediation is confidential.
- Mediation costs less than litigation.

### Process Overview

Mediation is a process whereby both parties agree to attend. Either party may leave the process at any time. Both parties have complete control over the outcome. The mediator is a neutral/impartial participant that is familiar with real estate practices and customs. The mediator will facilitate and assist with negotiations and control the process, not the substance. Mediation is a confidential process. Settlements discussed in mediation are not admissible in arbitration. A mediator cannot be a witness in arbitration or any court proceedings.

Parties do not need to be represented by attorneys in mediation because the process is non-adversarial and does not involve findings of fact or law. If one party intends to have an attorney present, all other parties to the mediation will be notified in advance of the session. If a party appears at the mediation with legal counsel and has not notified the other side, the



unrepresented party has the option of rescheduling the mediation to a future date when their own counsel may be present.

If a party fails to appear at a scheduled mediation, the mediation can be rescheduled, with the consent of all parties and the mediation officer.

All parties and the mediation officer should attempt to resolve the dispute in a single session. Further sessions shall be scheduled only if all parties and the mediation officer agree that it is appropriate.

In conclusion, the mediation officer's role is to facilitate communication, enhance the parties' ability to satisfy their own and each other's needs, and help the parties understand the alternatives to settlement. Mediation officers may not impose a solution upon parties.

## How much does the process cost?

### **Earnest Money Disputes:**

- \$24,999 or less, \$275.00 for 3 hours, \$100.00 per hour if the mediation exceeds 3 hours
- \$25,000 - \$74,999. \$425.00 for 3 hours, \$100.00 per hour if the mediation exceeds 3 hours
- \$75,000 and above, \$550.00 for 3 hours, \$100.00 per hour if the mediation exceeds 3 hours

### **Other Contractual Disputes:**

- \$275.00 for 3 hours, \$100.00 per hour if the mediation exceeds 3 hours

## Getting Started

To begin the mediation process, contact Amber Alvarado and additional information will be forwarded to you, including:

- Request for Mediation form
- Agreement to Mediate form
- Mediation Officer Selection Form
- Fee Agreement

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