

Salt Lake Board of REALTORS®
230 West Towne Ridge Parkway, #200
Sandy, Utah 84070
(801) 542-8840

MEDIATION IN LIEU OF ARBITRATION

WHY MEDIATE?

- Mediation is voluntary and no party may be forced to mediate.
- Mediation is offered as an alternative to full-blown Arbitration by a Arbitration Panel.
- Mediation requires no witnesses since the Mediation is *not a fact-finding conference*.
- Mediation requires no attorneys, because the process is *non-adversarial*. If you intend to have an attorney present, you need to inform the Board so the other party can be notified *in advance* of the session. *Failure to notify* may require that the Mediation be rescheduled to a future date when the other party may wish to bring his/her counsel. This is only fair.
- The process is private, only the actual parties and the Mediator need be there.
- The Mediation Officer will facilitate the discussion and be present at the proceedings.
- The Mediation Officer is available to discuss your concerns or questions throughout the process.
- The parties are in full control and can terminate the Mediation at any point up to agreement.
- Any settlement reached requires the agreement of all the parties to the Mediation.
- Mediation does not require the same lengthy scheduling process as a full Arbitration, which can take four months to resolve..
- Mediation saves the time of all concerned.
- Unlike Arbitration, where a panel decides how the disputed commission, etc., will be awarded (usually 100% to one party), parties in a Mediation may jointly decide on any division of the disputed amount that they wish.
- Mediations are successful 85% of the time – because the process works for the parties.
- Mediations are free and Mediators are volunteers.
- If you object to the appointed Mediator, you may request that a different Mediator be assigned, subject to the availability of other Mediators.

HOW DOES MEDIATION WORK?

- After the Grievance Committee has reviewed the Request for Arbitration and found it to be a proper matter for Arbitration, both parties are offered the option of Mediation.
- If *both* parties concur, Mediation will be scheduled as soon as possible to resolve the matter.
- If *either* party declines, Mediation cannot be held and the matter goes to full Arbitration.
- Mediations will be scheduled at a date/time suitable to all parties, preferably within 30 days of the time Grievance Committee sends the case up to Professional Standards.
- Mediation will be held at the Board Office, which is considered neutral ground for the parties.
- The Mediation Officer facilitates communication, enhance the parties' ability to satisfy their own and each others' needs, and help the parties understand the alternatives to settlement.
- Mediators may not impose a solution upon the parties, but may, with the consent of the parties, offer settlement proposals or evaluations of likely outcomes in an Arbitration Hearing.
- The parties need not prepare exhibits or extensive documentation. If a document would clarify and issue, it may be used in Mediation. However, since Mediation is *not* a fact-finding conference, the *focus would be on settlement of the dispute*.
- There is a presumption of *good faith* in Mediation unless a party demonstrates otherwise. The Mediation Officer shall terminate the mediation if either party acts in bad faith, such as falsifying/withholding information central to the Mediation or using the process merely to gain an advantage in further proceedings.
- Mediations may be rescheduled *provided all parties and the Mediation Officer agree*.
- If a party fails to appear at a scheduled Mediation, the Mediation shall not be rescheduled, absent the consent of all parties and the Mediation Officer or extenuating circumstances.
- The parties and the Mediation Officer should attempt to resolve the dispute in *one session*, unless all parties and the Mediation Officer agree that more than one session is appropriate.
- The entire Mediation process shall be *confidential*. Evidence or information generated, submitted or exchanged during Mediation **may not be used in an Arbitration**, except to the extent that it was obtained independent of the Mediation process. Motivations are different in Mediation than in Arbitration. In Arbitration you may lose everything, whereas in Mediation you may come away with some part of the disputed amount.
- Neither the parties nor the Mediation Officer shall/are required to report potential ethical violations discovered as a result of participation in the Mediation.
- The Mediation Officer shall not be called upon to testify in subsequent proceedings.
- The Mediation Officer will destroy any notes/documentation associated with the Mediation 30 days following the end of the Mediation process.

THE MEDIATION HEARING

- Each party shall have an opportunity to explain his/her perspective of the dispute.
- All parties and Mediation Officer shall identify the issues to be addressed in the mediation.
- The parties may respond to each other and explain/explore information, needs, feelings and ideas.
- The Mediation Officer may meet privately with parties to discuss feelings, information and options.
- The parties, with the Mediation Officer's assistance, explore and refine workable solutions.
- The parties should feel free to openly discuss the matter at hand and be confident that they are in full control of the outcome.
- While the parties are not expected to relinquish any rights they have, reasonableness is encouraged to reach some consensus acceptable to all parties.
- If the parties resolve the dispute, they shall *complete and sign the Settlement Form before leaving the Mediation session*.
- If the Mediation does not result in a settlement, the parties shall sign the No Settlement Form to be submitted to the Board.
- In the case of a failed Mediation, the Mediation Officer will explain the next steps to the parties.

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AGREEMENT TO MEDIATE

The undersigned Principal Broker member(s) of the Salt Lake Board of REALTORS® hereby agree to Mediate the business dispute between _____
(Name of filing Broker)

and _____
(Name of other Broker)

and which the Grievance Committee of the Board has found to be an a valid matter for formal Arbitration within the Professional Standards system as Docket # _____.

I understand that all parties must agree to Mediation before the matter can proceed to Mediation.

Signature of Broker

Printed Name of Broker

Name of Broker's Company

Date

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MEDIATION SETTLEMENT FORM

The undersigned Principal Broker member(s) of the Salt Lake Board of REALTORS® hereby agree that the Mediation held this date has resulted in the following Mediation Settlement between the parties regarding Docket # _____.

It is agreed that _____

Signature of Broker

Signature of Broker

Printed Name of Broker

Printed Name of Broker

Name of Broker's Company

Name of Broker's Company

Date

Date

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MEDIATION
NO SETTLEMENT FORM

The undersigned Principal Broker member(s) of the Salt Lake Board of REALTORS® hereby notify the Board that the Mediation held this date has resulted in a No Settlement decision by the parties regarding Docket # _____.

The parties realize that this matter will be referred to the Professional Standards Committee for processing as a formal Arbitration as required under the provisions of the Code of Ethics and Arbitration Manual of the National Association of REALTORS®.

Signature of Broker

Signature of Broker

Printed Name of Broker

Printed Name of Broker

Name of Broker's Company

Name of Broker's Company

Date

Date