

MEDIATION FACT SHEET (For Member to Member Mediations)

WHAT IS MEDIATION?

Mediation is an informal dispute resolution process whereby the mediation (neutral third party) facilitates the rehearing of an agreement satisfactory to all parties. Mediation is NOT an adversarial proceeding. There is no determination of guilt or innocence. Mediators do not decide cases; they help parties come to their own agreement. They may carry representations back and forth between the disputants but they do not argue on "behalf" of either complainant or respondent. Mediation is a "win-win" proposition where both sides come away with something, having given something and having aired their feelings. Should the parties not reach an agreement either party may request arbitration under the association rules.

MEDIATION vs. ARBITRATION

Mediation differs from arbitration in that it is voluntary. Arbitration before the Association is mandatory but a party may choose whether to try mediation. Nothing is lost should the parties not reach an agreement.

If mediation is successful, the arbitration is not automatically canceled unless either (1) the mediation agreement provides that the arbitration is withdrawn, or (2) the complainant subsequently withdraws the arbitration complaint. If there is a cross or counter claim, all parties making such a claim would also have to cancel the arbitration.

In an arbitration hearing, the parties have no control over the decision. The failure of a party to abide by the arbitration award can be enforced by the court. Final mediation agreements may also be enforced by the court if parties so specify.

MEDIATION AND THE CODE OF ETHICS

The Association's mediation program involves only monetary disputes. It does not involve "settling" matters involving an alleged violation of the Code of Ethics. These matters should be handled through the Grievance Committee and, if appropriate, a Professional Standards Hearing.

HOW DOES MEDIATION WORK?

One of the benefits of mediation is that it does not follow any particular formal or structural format. Typically, though, a mediation will begin with the mediator introducing him/herself to the parties, confirming that any documents, such as a confidentiality agreement, have been signed, and explaining the initial manner in which the mediation will be conducted. The Parties are then each given a chance to express to the other how they view the dispute. Some mediators will then meet with each of the parties individually.

The mediator looks for areas of agreement but does not tell the parties how to resolve their dispute. If agreement is reached, the mediator often assists the parties in reducing the agreement to writing.

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QUALIFICATION OF ASSOCIATION MEDIATORS

All mediators approved by the Association to participate in the Mediation Program are specially trained and have the following qualifications:

Extensive knowledge in real estate including real estate law.

Prior ethics or arbitration experience by serving on the Professional Standards Committee for at least 3 years, and have served as a panelist for at least 3 ethics or arbitration hearings.

Attendance of a minimum of 8 hours of professional standards mediation training.

Thorough familiarity with the C.A.R. California Mediation Manual.

WHY USE THE ASSOCIATION MEDIATION SERVICES?

The purpose of the Association mediation is to assist members of the Association to settle disputes swiftly and informally. By electing mediation, the parties can avoid arbitration where they will have no control over the decision. Association mediators are real estate specialists who are knowledgeable and possess a practical understanding of the industry. The Association's Mediation Program represents an outstanding value for PWR members by providing quality dispute resolution services at low rates.

HOW DO I FILE?

Upon receipt by the Association of a request for arbitration, the Association shall advise the parties of the voluntary mediation process. Each party seeking mediation shall submit a completed arbitration application or response and a copy of the documents shall be given to each party. The association may process a mediation request even in no party has filed for arbitration in which case it is not necessary for an arbitration application or response.

WHAT ARE THE FEES?

A filing fee of \$500 is required at the time the arbitration request is submitted.

If the dispute is resolved through mediation, \$250 is refunded.

For mediation only requests, the filing fee is \$250 which includes the services of

An Association mediator and all required documentation. If the dispute is not resolved through mediation and an arbitration is subsequently filed on the same matter, the arbitration filing fee is an additional \$250.

The mediation filing fees cover the Association's administrative costs and are very competitive with the fees of other mediation service providers in the area.