

SELLER – BUYER
INFORMATION PACKET

DISPUTE
RESOLUTION
SYSTEM



Mediation Program

A Fast, Easy and Inexpensive Alternative to Litigation

This mediation concerns property located at:

Street Address: _____

City: _____

State: _____

Zip: _____

Complainant or Respondent must be a member of the Valley Board of REALTORS®
This service is provided only for our members

\$300 per party for REALTORS® or their clients
\$500 per party for non-REALTORS® or their clients
Payment is due at the time the DRS package is submitted



Valley Board of REALTORS®
741 E. Susitna Ave. Wasilla, AK 99654
Phone: (907)376-5080
Fax: (907)376-5081
Email: valleybd@mtaonline.net

**HOMESELLERS/HOMEBUYERS DISPUTE RESOLUTION SYSTEM
SELLER-BUYER GUIDE FOR INITIATING MEDIATION**

**PLEASE NOTE: THIS SERVICE WILL BE RENDERED ONLY IF THE FILING PARTY
HAS PROVIDED COMPLETE CONTACT INFORMATION.**

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

When a dispute arises The decision to initiate mediation under DRS Program Rules should be made only after all attempts to negotiate an acceptable solution have been exhausted. In mediation, a neutral third party assists 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 no guarantee that the dispute will be resolved, surveys reveal that settlements are reached over 80% of the time.

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

Consult your Attorney You should inform your attorney of your intent to initiate mediation under the DRS rules. Your attorney 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.

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

1. Contact your broker or licensee or the Valley Board of REALTORS® to request a Seller-Buyer Dispute Resolution System Information Packet. The 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 and with the current mailing addresses and telephone numbers for both the Complainant and the Respondent.

The Board is not responsible for securing current addresses and telephone numbers for the parties.

**Valley Board of REALTORS®
REQUEST TO INITIATE MEDIATION FORM**

Date: _____

AS THE ORIGINAL FILING PARTY, YOU ARE RESPONSIBLE FOR COMPLETION OF ALL INFORMATION ON THIS FORM. AN INCOMPLETE FORM WILL BE RETURNED TO THE FILER.

This mediation concerns property located at:

Street Address: _____

City: _____ State: _____ Zip: _____

Party Requesting Mediation

Complainant () Buyer () Seller

Name: _____ e-Mail: _____

Current Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone Days: _____ Eve: _____

Cell: _____ Fax: _____

Complainant's REALTOR®

Name: _____ Phone: _____

Real Estate Office: _____ Fax: _____

Other Party

Respondent () Buyer () Seller

Name: _____ e-Mail: _____

Current Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone Days: _____ Eve: _____

Cell: _____ Fax: _____

Respondent's REALTOR®

Name: _____ Phone: _____

Real Estate Office: _____ Fax: _____

**Valley Board of REALTORS®
REQUEST TO INITIATE MEDIATION FORM**

This Mediation concerns the following Property:

Street Address _____

Brief Description of Dispute:

Are there any other actions pending regarding this transaction? Please explain.

Amount of Money Involved \$ _____

Have there been any formal court pleadings filed in this case? () Yes () No

Do you have authority to enter into and sign a binding written agreement to settle this on behalf of the party you represent? () Yes () No

Comments: _____

Has a prior agreement to mediate been signed by the parties? () Yes () No

Fees:

\$300 per party, for REALTORS® or their clients, **payable at the time that the DRS package is submitted.**

\$500 per party, for Non-REALTORS® or their clients, **payable at the time that the DRS package is submitted.**

Please return this form to:

**Valley Board of REALTORS®
741 E. Susitna Ave. Wasilla, AK 99654
Phone: (907) 376-5080
Fax: 907-376-5081**

AGREEMENT TO MEDIATE

The undersigned further agree to submit the above dispute to mediation in accordance with the Mediation Rules and Procedures of the Valley Board of REALTORS®. Any agreement signed by the parties, pursuant to the mediation procedure, shall be binding.

Complainant

Signature Date_____

Signature Date_____

Respondent

Signature Date_____

Signature Date_____

Valley Board of REALTORS®

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® 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.** Any party may initiate mediation under these Rules and Procedures by completing, signing and mailing to the Valley Board of REALTORS® *and to all other parties* a Request to Initiate Mediation Form. Such form shall contain or be accompanied by the following information, to the extent known or readily available:
 - a) A fully executed true copy of the agreement containing the mediation clause;
 - b) A copy of such other written agreement invoking these Mediation Rules and Procedures;
 - c) In the absence of a contract clause or other such written agreement, a written request by any party seeking to have the mediation vendor attempt to persuade one or more of the others to submit an existing dispute or claim to mediation under these Rules and Procedures;
 - d) The names, addresses and telephone numbers of the parties to the case, including the name of the party's insurance company;
 - e) Nature and amount of the claim (brief statement of the facts that give rise to the claim, the damages of relief sought);
 - f) Mediations are conducted at the Valley Board of REALTORS® offices on a date and time mutually agreed upon by the parties.
 - g) **Selection of Mediator.** Not later than ten days after receipt of the Transmittal Form from both parties the mediation vendor shall appoint a qualified mediator.
 - h) 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.

- 3) **Time and Place of Mediation Conference.** Within ten days of the appointment, the mediator and the parties shall set the date, time, and place of the mediation conference provided; however, such date shall not be more than sixty days from date of receipt of the Request to Initiate Mediation Form, and shall allow for not less than twenty days advance notice of the conference, which notice shall be given by the mediation vendor to all parties. With the agreement of both parties the conference may occur in less than 20 days. 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 conference by counsel. In the interest of fairness; however, a party who intends to be represented by counsel shall notify the mediation vendor and other parties of such intent at least ten days in advance of the conference.
 - a) Allowing the presence of persons other than the parties and their attorney(s) in the mediation rests solely with the mediator.
 - 6) **Confidentiality.**
 - 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;
 - iii) Proposals made or views expressed by the mediator or the response of any party thereto.
 - 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 mediation vendor 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 reduced to 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 later than ten days after the conclusion of the mediation conference.
 - 8) **Judicial Proceedings and Immunity.** Neither the mediation vendor, nor the mediator, nor the NATIONAL ASSOCIATION OF REALTORS® 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 mediation vendor, 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) **Mediation Fees.** Mediation fees are \$300 for REALTORS® or their clients, \$500 for non-REALTORS® or their clients. The fee is used for DRS training and materials. One party must be represented by a member of the Valley Board of REALTORS®.
 - 10) **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.
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MEDIATION RESOLUTION AGREEMENT

Complainant _____ Respondent _____

The undersigned have voluntarily participated in the Valley 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 the Valley Board of REALTORS® or to litigate the matter. We further agree to hold the Valley Board of REALTORS® and the assigned mediator harmless, and expressly waive any and all liability of the Valley Board of REALTORS®, or any claims that we have against the Valley Board of REALTORS® and the assigned mediator arising out of the manner in which the Valley Board of REALTORS® conducted the mediation, or the resolution of the controversy reached as a result of the Valley Board of REALTORS® mediation procedures.

(SIGNATURE)

(DATE)

(SIGNATURE)

(DATE)

The undersigned, as Mediation Officer of the Valley 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 to the dispute.

(SIGNATURE)

(DATE)

If desired, you may have 3 calendar days from the date signed to have legal counsel review the Mediation Resolution Agreement. Please notify the Valley Board of REALTORS® no later than _____, if you wish to rescind the Resolution Agreement.