

**Homesellers/Homebuyers
DISPUTE RESOLUTION SYSTEM
(DRS)**

Mediation Program

A Fast, Easy and
Inexpensive Alternative
To Litigation

Adapted from the
NATIONAL ASSOCIATION OF REALTORS®

The Voice for Real Estate™

by the
Professional Standards Office
of the

Greater Las Vegas Association of REALTORS®

1750 East Sahara Avenue
Las Vegas, Nevada 89104
(702) 784-5052

WHAT IS MEDIATION?

Mediation is a process in which disputing parties attempt to resolve their disagreements with the help of an impartial, trained third party - the mediator. The mediator does not offer opinions, pass judgment or render legally binding decisions. The mediator's only function is to help parties identify their differences and reach agreement on how to resolve them.

When the disputing parties have reached and agreed on a mutually acceptable solution, they sign a written agreement which outlines the terms of the settlement. Once the agreement is signed, parties are legally bound to abide by its terms. If the parties cannot reach a mutually agreeable settlement, they are free to arbitrate or litigate their dispute as if the mediation never took place.

In addition to being easier, faster, and less expensive than litigation, mediation is non-adversarial. Decisions rendered by an arbitrator or judge usually involve a winning party and a losing party. In mediation, there are no losing parties because the parties have been part of the process and together have agreed on the terms of the settlement.

HOMESELLERS/HOMEBUYERS DISPUTE RESOLUTION SYSTEM (DRS) MEDIATION PROGRAM

- **Access to Service**

DRS mediation can be used by any of the parties to a real estate transaction - sellers, buyers, brokers, agents. With the exception of controversies that are subject to hearing under REALTOR® Professional Standards procedures, including disputes between REALTORS®, almost any type of dispute that arises from the transaction can be mediated under the DRS Rules and Procedures.

- **Rules and Procedures**

How, when, and by whom mediation is initiated and conducted is covered under the DRS Rules and Procedures. The Rules and Procedures ensure fairness, uniformity, and expediency.

- **Written Agreement to Mediate**

Parties who decide to submit potential disputes to mediation sign either a sales contract that contains a mediation clause or an addendum that is attached to the sales contract. The clause states, in part, that parties agree to submit any dispute or claim that arises from the transaction to mediation under the DRS Rules and Procedures. Once the contract or addendum is signed by the parties, parties must submit their disputes to mediation. Parties who do not pre-commit to mediation when the sales contract is executed may agree to and submit disputes to mediation by signing a written Agreement to Mediate. Parties can sign this agreement either before or after a dispute arises.

PLEASE NOTE: We cannot Mediate a dispute with a builder.

- **Mediators**

DRS mediators are experienced, qualified mediators who have agreed to participate in the program.

- **Role of Attorney**

Although parties to the mediation have the right to be represented by counsel, attorneys are not required to participate in the mediation conference.

- **Fees**

Fees for DRS mediation services are established by the mediation provider and are published in accordance with the DRS Rules and Procedures.

**GREATER LAS VEGAS ASSOCIATION
OF REALTORS®**

1750 East Sahara Avenue
Las Vegas, Nevada 89104-3706
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Facts about mediation...

Mediation is **FASTER** than litigation. A lawsuit can take anywhere from several months to several years to be decided. As a rule, mediation takes about thirty days from beginning to end.

Mediation is **LESS EXPENSIVE** than litigation. There is a fee in the amount of **\$100.00**, please make check or money order payable to GLVAR. Credit cards are also accepted.

Mediation focuses on agreement between the parties and results in a win-win settlement reached and agreed on by the parties themselves.

Parties who agree to mediate RETAIN THE RIGHT TO PURSUE OTHER LEGAL REMEDIES. If parties cannot reach a mutually acceptable settlement during the mediation conference, they are free to arbitrate or litigate their dispute as if mediation never took place.

Statistics show that **MEDIATION IS SUCCESSFUL 80% - 90%** of the time.

Mediation is a **VOLUNTARY process** – we cannot compel anyone to participate in mediation.

Key Features of Mediation Process:

- Voluntary
 - Parties decide to enter process
 - Parties can leave process at any time
 - Parties decide on outcome of dispute
- A Neutral/Impartial Mediator
 - Shall mediate only matters in which she/he can remain impartial
 - Shall disclose conflicts of interests/parties agree to continue following disclosure
 - Shall honor the principle of self-determination
- Confidential Process
 - Mediation is a confidential settlement process
 - Neither the mediator nor the parties shall disclose the communications/conduct of the mediation unless all parties agree (with limited exceptions)

Why Mediation Works

- Low cost - **\$100.00 filing fee for both parties**
- Maintains/improves relationships
- Gets parties to come together/talk
- Improves poor communication/resolves misunderstanding
- Discovers/addresses the true interests of parties
- Moves beyond different views of law/fact
- Allows creative solutions beyond win/lose

YOU MUST SUBMIT 5 COPIES OF YOUR ENTIRE COMPLAINT, INCLUDING THE COMPLAINT FORM, SUMMARY AND SUPPORTING DOCUMENTS AT THE TIME OF SUBMISSION. PLEASE CAREFULLY READ AND ADHERE TO THE FOLLOWING REQUIREMENTS TO AVOID HAVING YOUR COMPLAINT AND ALL COPIES RETURNED TO YOU FOR CORRECTION.

- Fully completed Mediation Request forms (pages 4 through 7) below.
- You **MUST** list a Respondent (other party) name AND address – we cannot process your request without this information.

PLEASE NOTE:

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- All complaint materials must be submitted on 8½ x 11 paper.
- Documentation must be legible.
- Check, money order, or credit card in the amount of \$100.00 payable to GLVAR.
- Statute of limitations is 180 days from discovery or date transaction concluded, whichever is later.
- Disputes of at least \$500.00 and up to and including \$25,000.00 are eligible for mediation services.

Failure to adhere to the above guidelines will result in the complaint package being returned to you.

If you have any questions, please call the Greater Las Vegas Association of REALTORS® Professional Standards Department at (702) 784-5052.

Mediation complaint package notice (8/02)(2/03)(8/04)

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MEDIATION REQUEST

**PAGES 5, 6, 7, AND 8 MUST BE COMPLETED, SIGNED AND SUBMITTED
WITH A SUMMARY AND SUPPORTING DOCUMENTS
OR YOUR COMPLAINT WILL BE RETURNED TO YOU.**

DATE: _____ CASE # _____ (to be assigned by GLVAR® Staff)

COMPLAINANT(S):

RESPONDENT(S):

**YOU MUST PROVIDE A NAME AND ADDRESS
FOR THE RESPONDENT OR YOUR REQUEST
WILL BE RETURNED TO YOU.**

Name

Name

Address:

v.

Address:

Email address: _____

Email address: _____

Phone: () _____

Phone: () _____

Involved Agent and Company:

Involved Agent and Company:

Please list any days/dates that you are NOT available: _____

Mediation is hereby requested regarding the following:

1. Date of transaction: _____

2. Amount in dispute: \$ _____

3. Property address: _____

4. **WITNESS(S):** Please list any witness(s) that will attend the Mediation.

Please note that you are responsible for notifying your witnesses of the hearing date.

Name: _____

Name: _____

Name: _____

Name: _____

5. **Brief summary of facts (attach legible narrative if needed):**

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DESIGNATION OF COUNSEL
(MEDIATION)

Date: _____

CASE NUMBER: _____

COMPLAINANT(S):

I do not wish to designate counsel at this time

OR

I, _____, do hereby designate the following legal counsel or REALTOR®
counsel* for representation in all aspects of these proceedings:

Counsel Name: who is (*please check one*):

_____ an attorney; or _____ a fellow REALTOR®.

Firm/Company Name: _____

Address: _____

Phone: _____ (____) _____

The Greater Las Vegas Association of REALTORS® is requested to send copies of any and all future notices and other documents pertaining to this case to the above and the undersigned does hereby designate said counsel as his/her agent and spokesman in these proceedings.

Date: _____ Signature: _____

Name (please print): _____

Date: _____ Signature: _____

Name (please print): _____

**REALTOR® counsel (a fellow REALTOR® who may offer guidance or advice) may be used in Mediation hearings and Ethics hearings only, not in arbitration hearings.*

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NOTICE OF RIGHT TO CHALLENGE MEDIATORS

DATE: _____

CASE NUMBER: _____

COMPLAINANT(S):

Parties have the right to challenge qualifications of individuals who may be appointed as a Mediator. A list of such individuals is provided below.

If your reason is deemed sufficient to support your challenge, the individual(s) will not be appointed to the Panel. (Unsupported challenges may be disregarded.) No Committee member affiliated with a company party to the action will be appointed and therefore need not be challenged. **UNDER NO CIRCUMSTANCES SHOULD ANY PARTY CONTACT ANY MEMBER OF THE PROFESSIONAL STANDARDS COMMITTEE REGARDING THIS MATTER PRIOR TO HEARING.**

Indicate objections to possible mediators:

- | | | | | |
|-------------------|----------------|---------------------|-----------------|-------------------|
| Adrienne Atwood | Forrest Barbee | Roger Barkell | Lee Barrett | Honey Borla |
| Kathryn Bovard | Charles Doty | Dennis Feldman | Barbara Fenster | Deb Gugino |
| Ken Hopkins | Barry Karant | Irene Kent | Jean Kesterson | Melisa Towbin |
| Barbara Kinkade | Joan Kuptz | Larry Lermusiaux | Alan Lyford | John Martie |
| Tim McCoy | Pam Meza | Curtis Mills | Evan Needham | Shirley Rappaport |
| Linda Rheinberger | Ellen Ross | Paula Smith | Jim Snow | Tamra Trainer |
| Kellie Rubin | Red Wallin | LaShelle Washington | Krystal Sherry | Kevin Child |
| Roger Stein | | | | |

Challenge is hereby made to (use additional sheets if necessary, per GLVAR Policy 400-9 - if more than three (3) challenges are made, cause for challenge must be shown):

Name: _____

Name: _____

Challenged by: _____
(Print Name)

(Signature)

OR

I do not have challenges: _____
(Print Name)

(Signature)

I do not have challenges: _____
(Print Name)

(Signature)

(RETURN FORM TO "ATTN: PROFESSIONAL STANDARDS")