

Are You Working with a Real Estate Broker or a REALTOR®?

Not every person engaged in the real estate business is a REALTOR®. The term REALTOR® is a federally registered trademark that refers only to real estate professionals who are members of the National Association of REALTORS® and subscribe to the National Association's strict Code of Ethics. In addition, members of the National Association of REALTORS® can earn designations as specialists in property management, real estate counseling, real estate securities and syndication, and residential, commercial and farm brokerage.

So remember, whether you are buying or selling a home, office, farm, vacation hideaway, or investment property, choose a REALTOR®. They are more than just a real estate broker. They are committed to their profession and America's property owners.

**BLACK HILLS
ASSOCIATION OF
REALTORS®**

Sellers/Buyers

**DISPUTE
RESOLUTION
SYSTEM**

MEDIATION



Black Hills Association of REALTORS®
1836 W. Kansas City St.
Rapid City, SD 57702
(605) 341-2580

MEDIATION

❑ What is Mediation?

Mediation is promoted as a dispute resolution alternative that has been found to be an effective means of resolving disputes. In the interest of promoting this positive method of dispute resolution, the Black Hills Association of REALTORS® facilitates it by coordinating mediation efforts for the parties. The Association is not a party to any contract and cannot force parties into mediation, but fosters it through this mediation effort.

Mediation is a method of resolving disputes by which the disputing parties try to reach a mutual agreement with the aid of an impartial, trained professional mediator. The mediator has no authority to render a decision or force the parties to an agreement, but rather assists the parties in defining the matters in dispute and in reaching an ultimate, mutually agreeable solution.

Historically, a large percentage of disputes submitted to mediation have been successfully resolved. The settlement of disputes through mediation is less costly and less time consuming than the traditional mode of resolving disputes through litigation in the courts. Long delays and complicated procedures commonly found in litigation are not present in the mediation process.

If the parties involved in mediation do not arrive at a mutually agreeable settlement, they may pursue any other recourse legally available to them, including binding arbitration and litigation. In other words, parties who submit their dispute to mediation do not waive any rights to go to court in the event mediation fails. If mediation succeeds, the parties enter into a written agreement, which may be enforceable in the same manner as enforcing any lawful contract.

A significant advantage to mediation over litigation is that mediation, unlike litigation, is non-adversarial and the parties, after reaching an agreement, usually remain on good terms and can continue their business relationship.

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

DISPUTE RESOLUTION SYSTEM

❑ Written Agreement

Parties who desire to submit future disputes arising out of the sales transaction to mediation have signed a sales contract that contains a mediation clause. The clause states, in part, that the parties agree to submit any dispute or claim arising out of the transaction, other than earnest money or escrow matters, to mediation pursuant to the Dispute Resolution System Mediation Rules and Procedures.

If parties to a dispute did not sign a sales contract containing a mediation clause, it is still possible to invoke Dispute Resolution System after the contract has been signed by a separate written agreement, committing the parties to mediate future or existing disputes.

❑ Rules and Procedures

The mediation conference(s) will be conducted in accordance with the Sellers/Buyers Dispute Resolution System Mediation Rules and Procedures. These Rules and Procedures enable the mediation process to proceed in an orderly fashion and to be completed in the shortest possible period of time without neglecting thoroughness or fairness.

The mediation process begins with the filing of Dispute Resolution Form. The form is filed with the Black Hills Association of REALTORS® by any party. The mediation conference will be scheduled at a mutually convenient time. Any mediated settlement must be signed by all parties agreeing to its terms.

The following matters are excluded from mediation under this dispute resolution system: (a) judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or land contract; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; or (d) any matter which is within the jurisdiction of a probate court.

❑ Mediator

DRS mediators are experienced and 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. Parties should consult an attorney if they have any questions or concerns about mediation or the DRS mediation service.

❑ Mediation Fees

The fee for Mediation services is split equally between parties payable at the initiation of the conference. Fees will not be refunded once the conference has commenced.

❑ Role of the Black Hills Association of REALTORS®

The Black Hills Association of REALTORS® only distributes paperwork, collects responses and mediation deposit fees, and submits all to the DRS mediator. The Black Hills Association of REALTORS® has no other role in the mediation process.

❑ For more information, please contact the:

Black Hills Association of REALTORS®
1836 W. Kansas City St.
Rapid City, SD 57702
(605) 341-2580