

# **MEDIATION INFORMATION**

## **Definition**

Mediation is a process in which a neutral third person, called a mediator, acts to encourage and to assist in the resolution of a dispute between two or more parties. This is an informal, voluntary and non-adversarial process. The objective is to help the disputing parties reach a mutually acceptable agreement between or among themselves on all or any part of the issues in dispute. Decision making authority rests with the parties, not the mediator. Parties and their representatives are required to mediate in good faith, but are not compelled to reach an agreement. The mediator's role is to assist the parties in identifying issues, fostering joint problem-solving, and exploring settlement alternatives. For commission disputes, the principal broker or his designee (who has the authority to act on behalf of the principal broker) constitute the parties.

## **Filing Deadlines**

Please note that the filing deadline for both mediation and arbitration is one hundred eighty (180) days after the closing of the transaction, if any, or within one hundred eighty (180) days after the facts constituting the arbitrable matter could have been known in the exercise of reasonable diligence, whichever is later. If mediation is requested absent a request for arbitration, the time limits for requesting arbitration remain unchanged. Parties may want to consider filing an arbitration request at the same time if they are close to the 180 day deadline.

## **Initiating the Mediation**

Simply complete the Petition For Mediation form and fax or mail it to the MIBOR Professional Standards Department, 1912 N. Meridian St., Indianapolis, IN, 46202 (fax 317/956-5050). Upon receipt, staff will fax the Petition For Mediation to the party named along with the Notification of a Petition For Mediation form which will ask for a response within 5 days. If the named party agrees to the mediation, the Notification of a Petition For Mediation is signed and returned to MIBOR. The Mediator selection process then begins.

## **Selection of a Mediator**

Upon agreement of the parties to mediate, selection of a mediator begins. MIBOR will select names from our list of trained mediators. The Mediator Strike list will be faxed to both parties to initial the name(s) they would like removed. If none of the names are acceptable to the parties, more names will be added and the process begins again. If no names from the approved mediator list are acceptable, MIBOR will cancel the mediation process and will be unable to provide the mediation service. MIBOR reserves the right to strike or remove a mediator from the selection process.

## **Scheduling the Mediation Session**

Once a mediator is selected, the mediator will contact both parties and schedule the mediation appointment. Mediations will be held at the offices of the Metropolitan Indianapolis Board of REALTORS®, unless all parties agree to another location. In any event, the location must be a private, neutral setting. It is not necessary for the parties involved to submit any documentation prior to the mediation. However, at their option, they may submit a confidential statement of case to the mediator.

**Successful Mediation**

If a mediation is successful, the parties will execute a Mediation Resolution Agreement which will detail the terms of the resolution. This agreement then becomes enforceable in a court of law. If an arbitration has been filed, this agreement will be sufficient in order to cancel the arbitration.

**Unsuccessful Mediation**

Because mediation is a voluntary procedure, a resolution may or may not be reached in the mediation session. If no agreement is reached and the parties should arbitrate the dispute, the mediation is not admissible as evidence in a hearing. In addition, the mediation process does not interfere with the time frame for filing an arbitration, i.e. requests for arbitration must be filed within 180 days of closing of the property involved in the dispute. Therefore, time is of the essence when processing mediations.

**Record-keeping**

Once a mediation is completed, no records will be kept other than the Mediation Resolution Agreement, if a settlement is reached.

## PETITION FOR MEDIATION

Date: \_\_\_\_\_

I, \_\_\_\_\_ with \_\_\_\_\_  
(principal broker) (firm)

wish to initiate the mediation of a dispute resulting from the commission earned on

\_\_\_\_\_  
(property address)

I request that \_\_\_\_\_  
(principal broker)

\_\_\_\_\_  
(firm)

join with me in this mediation process.

I agree to mediate in good faith, and understand that I am not compelled to reach an agreement. I also understand that if no agreement is reached and any further remedies are considered, the Code of Ethics obligates members to arbitrate rather than litigate.

I, the undersigned, represent and warrant that I possess all necessary authority to execute this Agreement and any agreement that may be reached during the mediation process.

Principal of Firm \_\_\_\_\_ Title \_\_\_\_\_

Name of Firm \_\_\_\_\_ Date \_\_\_\_\_

Send completed form to: MIBOR, 1912 N. Meridian St., Indianapolis, IN 46202; FAX 317/956-5050