

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 the America's property owners.



Mount Rushmore Area
Association of REALTORS®
1230 North Ave Suite #1
Spearfish, SD 57783
(605) 722.0181

**MOUNT
RUSHMORE AREA
ASSOCIATION OF
REALTORS®**

Sellers/Buyers

**DISPUTE
RESOLUTION
SYSTEM**

**MEDIATION
PROGRAM**



MEDIATION

- **General**

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 an opinion or bind the parties to his/her decision, but rather assists the parties in deciding 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 that mediation fails. If mediation succeeds, the parties enter into a written agreement that is enforceable as a legally binding 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.

- **Written Agreement**

Parties who desire to submit future disputes arising out of the sales transaction to mediation may 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 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 possible to invoke the 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 without neglecting thoroughness or fairness.

How do I initiate Mediation?

The mediation process begins with the filing of the Request to Initiate Mediation Transmittal. You can obtain the form from your agent or through the Mount Rushmore Area Association of REALTORS®. **We recommend that you contact your agent first!** The form is filed with the Mount Rushmore Area Association of REALTORS by any party to the Contract. The mediation conference is normally held within forty five days of the initiation of the mediation process.

Upon completion of a successful mediation, All parties will sign a binding Mediation Settlement Agreement.

The following matters are excluded from mediation hereunder: (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. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to mediate under this provision, nor shall it constitute a breach of the duty to mediate.

- **Mediator**

Our DRS mediator is an experienced and qualified mediator who has agreed to participate in the program.

- **Role of Attorney**

Although parties to the mediation have the right to be represented by counsel, attorneys do not have 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. Initial Mediation fees, \$275 each party, are paid in advance to the Mount Rushmore Area Association of REALTORS®. Fees will not be refunded once the conference has commenced. Should the conference last longer than two hours additional fees are paid directly to the Mediator at the same \$275 per hour rate and are divided evenly between parties.

- For more information, please contact:

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