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Dispute Resolution An Art-Form

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We all have disagreements sometimes and, when it is between two parties in a Real Estate transaction, it can become tense, or even threaten the entire purchase and sale.

Your Realtor is your number one advocate and emissary in sorting out differences. While the contract itself specifies most of the terms and conditions of a transaction it does not relieve you of the need to resolve issues that can arise outside of those terms, or even in their specific interpretation.

If the point of disagreement cannot be resolved, you have three options and these procedures are sometimes necessary. Paragraph 21 of the standard MLS Purchase and Sale Agreement deals with dispute resolution. The parties agree to **Mediate** first, but they also have the right to **Arbitrate** or **Litigate**. If the dispute is about who gets the Earnest Money there is an entirely separate Paragraph 20 and you should study this carefully before agreeing to that as it gives Brokers a

serious power to make the decision if the buyer and seller cannot agree.

The lowest level of dispute resolution, and often the best, is mediation. In mediation, a neutral third party simply helps the disputing parties to talk calmly to each other and, in effect, resolve their own dispute with suggestions from the mediator. It is the least expensive way to solve the problem but, if it doesn't, then you will need to escalate to the next level.

Arbitration involves an agreed-upon Arbitrator hearing the points of view of each party, and handing down a legally binding decision. The Arbitrator will charge a fee for his or her time and usually is someone with a legal background, such as a retired Judge.

Litigation is when you go to court, with or without an Attorney. The court hears the case, makes a decision and, after the exhaustion of the Appeals process if chosen by either party, the dispute is resolved by Law. Lawsuits

generally are expensive and can easily exceed \$30,000 in cost.

Should you have questions about these dispute resolution systems when buying or selling your home, you should obtain legal advice from an Attorney before committing to the terms of the standard MLS contract.

I am pleased to say that, in over 30 years of representing buyers and sellers of real estate, none of these 3 remedies have ever been necessary for my clients. All arguments, from domestic to international crises, are an opportunity for diplomacy and this is an art-form. It almost always requires compromise from both parties but your real estate representative is a key player in advocating your side of the equation and bringing about a successful conclusion.

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