

Beyond the Settlement Table: Resolving Post-Purchase Buyer/Seller Disputes

Making it to the settlement table doesn't necessarily mean the negotiation process between a home buyer and seller is complete. Occasionally, disputes involving negligent repairs, failure to disclose repairs or the condition of the property or appliances can arise in the months following a real estate transaction which necessitates additional negotiation. To help resolve these types of disputes, home buyers and sellers are encouraged to participate in the Dispute Resolution System (DRS), a valuable mediation service offered through the Montgomery County Association of REALTORS® (MCAR).

"DRS mediation provides a collaborative and balanced way of reaching a mutually agreed upon resolution to a dispute," says MCAR mediator Henry P. Jacquelin, of Coldwell Banker Diamond REALTORS® in Willow Grove. "It involves a face-to-face discussion between the buyer and seller, with a trained and certified mediator like myself serving as an impartial liaison to supervise the communication and help generate resolution options."

Since the National Association of REALTORS® developed the program in 1988, DRS Mediation has become one of the most valuable tools home buyers have to ensure their recently-bought property reflects what was originally described by the seller. Mediating a dispute has numerous benefits for buyers and sellers.

- ◆ It is less expensive and faster than filing a lawsuit and litigating.
- ◆ It discourages frivolous claims from reaching the courts.
- ◆ The parties actively participate in the mediation process and the outcomes.
- ◆ The parties retain their legal rights to arbitrate or litigate the dispute if mediation is unsuccessful.
- ◆ It is not a judicial proceeding, and does not require sworn testimony or involve a judge.
- ◆ It is not unusual for the courts to direct parties to attempt mediation prior to court proceedings even if the parties waived mediation on the Agreement of Sale.



"DRS mediation is successful the majority of the time," says MCAR President Kathy Opperman, of CENTURY 21 Alliance. "Since DRS Mediation offers a mutually-agreed upon resolution to a dispute, there really is no benefit to waiving DRS Mediation in Section 32 of the Agreement of Sale."

The best way for home buyers and sellers to protect themselves against potential disputes that may arise following a transaction is to be observant, diligent and honest before the sale. Home buyers should ensure all real estate contracts and forms are completed in their entirety and request as much support documentation as possible. They should also carefully inspect a property for visible flaws and consult with their REALTOR® to ensure all are properly noted on the Seller's Property Disclosure Statement. Likewise, it is also beneficial for buyers to request documentation relating to any repair and remediation efforts that may serve to substantiate the seller's claims. From a seller's perspective, being forthcoming and honest with the REALTORS® and buyer is of utmost importance and will help prevent disputes that might otherwise arise after the sale.

Detailed information about DRS Mediation, the process and the form to request DRS Mediation, is available in the "Professional Principles of Conduct" section of www.mcarealtors.org.