

## **ARBITRATION RIGHTS FOR THE COMMERCIAL PRACTITIONER**

One of the most valuable benefits of joining your local REALTOR® board is the availability of arbitration to hear disputes between REALTORS®. Article 17 of the REALTOR® Code of Ethics requires REALTORS® to arbitrate certain contractual disputes, including disputes over co-brokerage and referral arrangements.

While no one likes disputes, it is a fact of life that they do occur, and when they occur, somebody must adjudicate the disputes. Obviously, parties go to court to adjudicate disputes of many different stripes. Unfortunately, court is expensive and time consuming. Docket and marshal fees will generally run approximately \$400 to \$500, and that is before paying the attorneys. It is impossible for any sort of entity to go to court without an attorney. For solo practitioners, there is a reason for the old adage “a person who represents him or herself has a fool for a client.” Once in court, the court system has a very formal set of procedures. It costs more money with the attorneys to resolve disputes over motions and discovery. Finally, since the courts hear

disputes of many different stripes, it will take several years to have the matter heard and the judge overseeing the matter may know little about real estate or commercial real estate brokerage.

Arbitration is an attractive alternative. Arbitration before your local board does not have all of the procedural requirements and arguments over procedures that are present in court. The case is filed with your local board. There are few formalities and hearings are generally held within a matter of weeks and not years.

Some commercial practitioners object to arbitration on the grounds that they do not wish to have their disputes heard by residential practitioners. This opinion is misinformed. Commercial practitioners have an absolute right to have their matters heard by commercial practitioners, and to ensure this right, CAR has trained approximately 30 experienced commercial real estate practitioners who are available to sit on arbitration panels in local boards.

Other commercial practitioners object to having matters heard in arbitration because they feel it constrains their freedom. These practitioners pretend that disputes never occur. It is a fact of life, however, that these disputes do happen and when they do, court is a very expensive way to resolve the dispute even when you win. As a wit once declared “I was never ruined but twice;

once when I lost a lawsuit and once when I won one.” Arbitration resolves these disputes for a small fraction of the cost of resolving these same disputes in court.

Other commercial practitioners do not see the need for arbitration if they are not participants in a multiple listing service. Arbitration is not limited to multiple listing service disputes or disputes caused by the offer of cooperation and compensation in the multiple listing service although this is the typical situation with residential practitioners. Arbitration is used to adjudicate any contractual dispute between REALTORS®, including disputes resulting from co-brokerage and referral agreements.

In addition to arbitration, your local board also offers mediation services as part of the arbitration process. The purpose of mediation is to attempt to have the parties reach an agreement with the assistance and guidance of a mediator. There is no additional cost for this member benefit.

Arbitration and mediation are valuable member services offered by your local board. These services offer members a much faster dispute resolution alternative at a small fraction of the cost of going to court. CAR and the local boards have trained commercial practitioners to bring

their expertise to these disputes. Please take advantage of these member benefits and urge those who are not REALTORS® to join so that they may also take advantage of these benefits. Think about this: if you have one arbitration in your REALTOR® career, you will have saved many years' worth of board dues over going to court.

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## **Arbitration Rights for the Commercial Practitioner**

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