

Most Real Estate Squabbles Settled Through Mediation

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Some real estate transactions, like relationships, end badly.

Buyers discover problems with the house they paid a fortune for and become furious with the seller. Name-calling ensues. Phones ring, lawyers answer.

These disputes follow a typical path, though, and the first stop is not a lawyer's office, though the setting may have that feel.

Buyers or sellers upset with their agent first file an ethics complaint with a local Realtors board - in the San Fernando and Santa Clarita valleys, it's the Southland Regional Association of Realtors -- or the California Department of Real Estate.

Dustups between buyers and sellers first go to mediation, which is where a vast majority are settled.

Agents that belong to the association process nearly 20,000 transactions annually and slightly more than 100 end up in the formal dispute process, estimates Jim Link, the group's executive vice president.

"The vast majority of real estate transactions go smoothly. Anything that is potentially contentious is worked out prior to the close of escrow," he said.

But here's what happens when things sour.

Both settle on a mediator and the parties split the costs.

So how impartial are mediators -- who might know one or both of the agents who handled the disputed transaction -- that are selected by the association?

The association's mediators are experienced agents and in most cases real estate lawyers, Link said. All have to pass mediation courses and have to have experience before taking on disputes brought to the association.

Both sides know what they are getting, too.

Mediation differs from arbitration is one critical aspect. It's not binding.

If either party doesn't like the negotiated settlement, they can continue the dispute on up the legal chain.

Lee Jay Berman, a broker and mediator for 10 years, said that goal is keeping disputes from escalating.

"Most of them are solved, written up and signed off in three to four hours. And it can usually be scheduled in a week or two and it doesn't have to take a long time like arbitration," he said.

Berman expects mediation cases to increase, thanks to the hot housing market.

"We're starting now to see cases where buyers had overbid ... and because there were 21 other offers and seven counteroffers, they agreed to waive their inspection and close within three weeks," he said.

Once they take possession of the house they find things that are wrong and the acrimony starts.

"When its frenzied like this, people just want the house, period. Some of it's emotion and some of it's the lack of inventory. But they tend to forget 'Let the buyer beware,'" Berman said.

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