

OMBUDSMAN PROCEDURES SOUTHWEST RIVERSIDE COUNTY ASSOCIATION OF REALTORS®

Introduction

The Southwest Riverside County Associations of REALTORS® (Association) is charged by the National Association of REALTORS® (NAR) with the responsibility of receiving and resolving ethics complaints. This obligation is carried out through the Association's Grievance Committee and Professional Standards Committee.

These Ombudsman procedures, which have been adopted by the Association are intended to provide enhanced communications and initial problem solving for ethics complaints at the Association level.

Many complaints received by the Association do not expressly allege violations of specific Articles of the REALTOR® Code of Ethics, and many do not detail conduct related to the Code. Some complaints are actually transactional, technical, or procedural questions that could be readily responded to.

Many ethics complaints or inquiries might be averted with enhanced communications and initial problem-solving capacity. These Ombudsman Procedures are intended to provide that capacity.

Role of Ombudsmen

The Ombudsman's role is primarily one of communication and conciliation, not adjudication. Ombudsmen do not determine whether ethics violations have occurred; rather, they anticipate, identify, and resolve misunderstandings and disagreements before matters ripen into larger disputes and possible charges of more serious unethical conduct.

Qualification and criteria for Ombudsmen

Ombudsmen will be familiar with the REALTOR® Code of Ethics, basic California real estate regulations, and current real estate practice. Ombudsmen will be experienced REALTOR® members acting on behalf of Association.

Scope of Ombudsman Services:

The Association has considerable latitude in determining how and when Ombudsmen will be utilized. For example, Ombudsmen can field and respond to a wide variety of inquiries and complaints, including general questions about real estate practice, transaction details, ethical practice and enforcement issues. Ombudsmen can also receive and respond to questions and complaints about members, can contact members to inform them that a client or customer has raised a question or issue, and can contact members to obtain information necessary to provide an informed response.

When a request for Ombudsman Service is made by agents within the same firm or between agents of different firms in regards to commission disputes, the Responsible Broker and/or designated office manager shall be notified and shall approve the use of an Ombudsman.

In cases where an Ombudsman believes that a failure of communication is the basis for a questions or complaint, the Ombudsman can arrange a meeting of the parties to facilitate a mutually acceptable resolution. Where a written ethics complaint in the appropriate form is received, it can be initially referred to the Ombudsman who will attempt to resolve the matter, except that complaints alleging violations of the public trust (as defined in Article IV, Section 2 of the NAR Bylaws) may not be referred to an ombudsman.

In the event the Ombudsman concludes that a potential violation of the public trust may have occurred, the Ombudsman Process shall be immediately terminated, and the parties shall be advised of this right to pursue a formal complaint; to pursue a complaint with any appropriate governmental or regulatory body; to pursue litigation; or to pursue any other available remedy.

Confidentiality of written or oral communications

The Ombudsman Process is a form of “mediation” under California law, and accordingly all comments, conversations and written documents made to the Ombudsman or the Association under the Program, whether written or oral, shall be confidential and may not be disclosed to any other person for any reason, except as expressly required by law.

Right to decline Ombudsman services

Persons making or filing a complaint, or inquiring about the process for filing an ethics complaint will be advised that Ombudsman services are available to attempt to informally resolve their complaint. Such persons will also be advised that they may decline Ombudsman services and may have their complaint considered by the Grievance Committee, and at a formal ethics hearing when appropriate.

Resolution of complaints

If a matter complained of is resolved to the satisfaction of the complainant through the efforts of an Ombudsman, the formal ethics complaint brought initially (if any) will be dismissed by the Association.

Failure to comply with agreed upon resolution

Failure or refusal of a member to comply with the terms of a mutually agreed on resolution shall entitle the complaining party to resubmit the original complaint or, where a formal complaint in the appropriate form had not been filed, to file an ethics complaint.

The time the matter was originally brought to the Association's attention will be considered the filing date for purposes of determining whether an ethics complaint is timely filed.

For additional information regarding this program, please contact Linda M. Conaway, Professional Standards Coordinator at (800) 446-3646.