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# 7 WAYS ALTERNATIVE DISPUTE RESOLUTION CAN SAVE YOU FROM COURT WHEN INVOLVED IN REAL ESTATE DISPUTE

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# WELCOME

My experience and training as a mediator, arbitrator, and real estate broker continues to serve me well as I offer my services to assist disputants in resolving their differences.

As part of our everyday lives, we sometimes find ourselves involved in a dispute which may escalate to a point at which we find no alternative but to seek litigation. However, there is an alternative, Alternative Dispute Resolution, generally referred to as ADR. In my practice, I specialize in two areas of civil ADR, mediation and binding arbitration. The method of resolving the dispute is significantly different in arbitration as opposed to mediation.

For binding arbitration proceedings, the arbitrator (who is a neutral third party) reaches a decision which is enforceable in court. Each party in the dispute will submit an evidence package to the arbitrator and to each other before the actual hearing. Each party will explain their evidence to the arbitrator and to each other. The other party and the arbitrator may ask questions to the presenting party. It is very important that each party present clear and understandable information to the arbitrator.

For mediation, a neutral third party acting as the mediator acts more as a facilitator to assist the parties with effective communications. The goal is for the parties to reach a mutually acceptable agreement—keeping in mind that this process is very much about negotiating and it is very likely that both parties will not “get” everything they wanted in the beginning. If an agreement is reached, the agreement will be written and is enforceable in court.

Some, but not all, of the advantages of mediation are as follows:

- Typically is less expensive than litigation
- Typically saves you time
- Permits parties to maintain long term relationships
- Resolving the issues sooner rather than later removes stress and tension
- AND BEST OF ALL—you are in control, not a judge and jury

I look forward to the opportunity to assist in you in the resolution of your differences whether by mediation or arbitration.

*Roger L. Burrow*

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Broker Associate - Fathom Realty  
Independent Arbitrator and Mediator



# 7 Ways Alternative Dispute Resolution Can Save You from Court when Involved in Real Estate Dispute



Alternative dispute resolution, sometimes called ADR, can be helpful for resolving a variety of legal disputes. This is especially true in the real estate industry. Using mediation or arbitration in real estate is a great way to resolve a problem, as opposed to making it worse – often the case when disputing parties take their case to court.

What are seven of the most important ways ADR can save you from court when you are

involved in a real estate dispute?

## **Can Be Built into Contracts So Court is Never an Option**

The real estate industry is governed by contracts. Every transaction begins and ends with a contract, so everyone has guidelines and rules laid out in advance for them. It is possible to include alternative dispute resolution clauses in these contracts, ensuring everyone agrees to resolve disputes with ADR, should any arise.

This serves two purposes. First and foremost, it limits the options available to resolve disputes. If the contract says any disputes will be mediated or arbitrated, that's what will happen. It also removes the threat of a trial. When both parties know that going to court is not an option, it could affect how they act throughout the process. The sheer fact nobody can say "I'm going to take you to court!" if a dispute arises lifts a burden from the situation and helps everyone feels more at ease.

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## **Can Be Used to Negotiate New Contracts**

Sometimes the contract itself is the matter in the dispute. If parties are having a difficult time coming to an agreement and moving the real estate process forward, ADR can be used to settle the issue. Using ADR to negotiate new contracts gets everything off on a good foot and ensures there are fewer disputes

down the line. ADR can even be used to negotiate changes or updates to existing contracts.

## **Can Include All Parties Involved**

ADR is flexible and involves fewer legal restrictions than trials in a courtroom. One of the benefits of this flexibility means more than two parties can be involved in the settling of a dispute. Real estate disputes often include multiple parties. Working with this many people in a trial can be nearly impossible and might not even be an option depending on the circumstances. In ADR, if several parties are involved, they all attend the mediation or arbitration sessions and all participate in the process of resolving the dispute. This hastens the process and ensures that all issues are addressed in one go, instead of a long, drawn-out process that could potentially include more than one trial.

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## Can Resolve Emotional Aspects and “Hard Feelings” Involved in a Dispute

One of the best things about ADR is it allows everyone involved in a dispute to speak openly and honestly. In court, everyone has an opportunity to state his or her case, but this rarely involves emotion.

ADR provides an opportunity to resolve the emotional aspects of a dispute, which can be very therapeutic and can make a long-lasting resolution more likely. Even in arbitration, when the resolution is in the hands of a third-party arbitrator, everyone has a chance to share their feelings and explain why they believe something should be a certain way.

## Can Provide a Solution Everyone is Happy to Abide By

ADR brings disputing parties directly into resolving a matter, making it more likely everyone will abide by the resolution in the long run. In mediation, disputing parties actually design the resolution, so there is no excuse for anyone to not follow through in the end.

## Can Be Binding to Avoid Appeals

Disputing parties can agree in advance that whatever resolution is reached during the ADR process is binding. This means there will be no chance of appeals once a resolution is determined. This is not always the case with mediation, but it can be. And the power to make it so is in the hands of those most affected – the disputing parties. If the goal is to resolve a dispute and move on as quickly as possible – especially when time and money are of the essence – ADR is the best tool to make it so.

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## Can Preserve Relationships Long-term

Finally, ADR helps to preserve long-term relationships – something that can be extremely important in real estate. The real estate community in most areas is relatively small and reputations are important. When a dispute can be resolved amicably and individuals and companies feel willing to continue business with one another, it can eliminate a great deal of grief. ADR is the best way to get through a dispute and come out with a stronger, more valuable relationship.

One of the most important aspects of using ADR to settle a real estate dispute is to find a mediator or arbitrator familiar with the real estate industry. Not only must the person be a skilled third-party facilitator, he or she must also understand regional real estate laws. If you are involved in a real estate dispute and looking for an experienced ADR professional, Roger Burrow can help.

Roger has focused, over the last eight plus years, on arbitration and mediation primarily in the areas of real estate, contracts, business, landlord/tenant, and construction matters. Prior to that, he spent nearly twenty years of full time practice in real estate coupled with an education and background in accounting. To learn more or to schedule a consultation with Roger, contact him at 214.549.9198 or by email at [rlburrow@verizon.net](mailto:rlburrow@verizon.net).

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