



Ombudsman Program

This program, which was prepared by the Greater Lehigh Valley REALTORS® utilizing information from the National Association of REALTORS® as well as various local and state associations who graciously shared their information, was adopted by the GLVR Board of Directors on 2/5/15.



GLVR Ombudsman Procedures

Introduction

Boards and associations of REALTORS® are charged by the National Association of Realtors® with the responsibility of receiving and resolving ethics complaints. This obligation is carried out by local, regional and state Grievance Committees and Professional Standards Committees. *Every local and state association of REALTORS® is required to offer, either directly or as part of a cooperative enforcement agreement (consistent with Professional Standards Statement #40, Cooperative Enforcement Agreements), ombudsman services to members, clients, and consumers on or before January 1, 2016.*

Complaints and concerns received by the Greater Lehigh Valley REALTORS® come in many different forms (phone, letter, e mail, fax). Some complaints received by the board do not allege violation of specific provisions of the Code of Ethics nor relate specifically to conduct governed by the Code of Ethics. Some concerns or questions relate to transactional, real estate practices, technical or procedural matters that could easily be responded to.

It seems that many members of the public are reluctant to file a written ethics complaint for several reasons. Some have said the process is too cumbersome and the paperwork is too hard to understand. There is also the perception that since the hearing panel is made up of members of the board that the board is trying to protect its own.

Many ethics complaints might be averted with enhanced communications and initial problem-solving capacity at the local level. These ombudsman procedures are intended to provide that capacity.

Definition of Ombudsman for Realtors®

An ombudsman is an individual appointed to receive and resolve disputes through constructive communication and advocating for consensus and understanding. The ombudsman is informal telephone mediation. In some cases it can address and solve minor complaints from the public and can also solve inter-Realtor® conflicts before they become serious problems. An ombudsman is not an adjudicator, and therefore does not make decisions. Like a mediator, an ombudsman helps parties find solutions.

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 disputes and possible charges of unethical conduct.

Qualification and criteria for Ombudsmen

At a minimum, Ombudsmen should be thoroughly familiar with the Realtor® Code of Ethics, state real estate regulations, and current real estate practice. Ombudsmen are experienced Realtor® members in good standing acting primarily on behalf of GLVR with a minimum of ten years' experience as a Realtor®, and a minimum of three years' experience on a committee of Professional Standards or Grievance Committee within the past five years. An application and interview process shall be conducted by the Professional Standards and Grievance Chairs in conjunction with the Professional Standards Administrator. The Board of Directors shall make appointment of GLVR Ombudsmen, who serve without compensation for an annual term. Prior to serving as an Ombudsman for GLVR, the Ombudsman will attend mandatory training.

Involving the Ombudsman

There is 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.

In cases where an Ombudsman believes that a failure of communication is the basis for a question or complaint, the Ombudsman can arrange a teleconference meeting of the parties and assist in facilitating a mutually acceptable resolution.

Where a written ethics complaint in the appropriate form is received by GLVR, 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 their right to pursue a formal ethics complaint; to pursue a complaint with any appropriate governmental or regulatory body; to pursue litigation; and/or to pursue any other available remedy.

Confidentiality of written or oral communications

All communications made to the Ombudsman or the GLVR whether written or oral, shall be confidential and may not be disclosed (other than communicating information and results between staff and the Ombudsman) to any other person for any reason. The ombudsman opening statement shall confirm the parties understanding of this prior to discussing the issue.

Statements, memoranda, work product, documents and other materials, otherwise subject to discovery in any legal action, mediation, or arbitration, that was prepared for, or during participation in the Program, shall be absolutely confidential and may not be disclosed to any other person through subpoena, deposition, or other such judicial or quasi-judicial or administrative proceeding.

Nothing contained in these procedures shall be construed to prohibit the parties from jointly agreeing to the disclosure or admissibility of documents or information that is otherwise deemed confidential. Additionally, any party, Realtor® or the company with which they are associated, the Ombudsman, or GLVR, may use

confidential information in any adjudicatory proceeding, whether in court, arbitration, administrative and regulatory, including but not limited to any arbitration or ethics hearings administered by GLVR or any Pennsylvania Real Estate Agency proceeding, in defending of any action or claim brought against them that relates to any of the services, functions, or other events arising during the Program, to the extent necessary to defend themselves.

Right to decline Ombudsman services

The GLVR Professional Standards Administrator shall determine whether a complaint may be appropriate for the Program. If so determined, the person 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 GLVR.

Failure to comply with agreed upon resolution

Failure or refusal of a member to resolve or 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 GLVR's attention will be tracked by the board's professional standards administrator and the 180 day filing deadline shall be suspended from the date of the complainant's (or potential complainant's) request for informal dispute resolution service or assistance and shall resume when the informal dispute resolution procedures are concluded or terminated. This information shall be provided to the Grievance Committee for purposes of determining whether an ethics complaint is timely filed.

Referrals to the Grievance Committee or to state regulatory bodies

Ombudsmen cannot refer concerns they have regarding the conduct of any party utilizing their services to the Grievance Committee, to the Pennsylvania Real Estate Commission or to any other regulatory body. The prohibition is intended to ensure impartiality and avoid the possible appearance of bias. Ombudsmen are, however, authorized to refer concerns that the public trust may have been violated to the Grievance Committee.

Based on NAR document: <http://realtor.org/mempolweb.nsf/pages/ombudsmen>



Ombudsman Request

Name of Complainant: _____

Firm (if any): _____

Address: _____

Phone: _____ Email: _____

Role in Transaction: _____

Name of Respondent: _____

Firm: _____

Address: _____

Phone: _____ Email: _____

Role in Transaction: _____

What issue would you like the Ombudsman to resolve? (Attach additional form in necessary)

Return to: Greater Lehigh Valley REALTORS®, 10 S. Commerce Way, Bethlehem, PA 18017 or

E-mail to: Director of Professional Development: dirprofdev@glvr.org

All information on this form is confidential. The Greater Lehigh Valley REALTORS® will destroy this form and any other documents and materials pertaining to this matter at the conclusion of the ombudsman services.