

AIR Waves

The Newsletter of AIR Commercial Real Estate Association

By Brokers, For Brokers since 1960

June 17, 2010

Arbitration Officials Provide Valuable Checklist

In its continuing effort to provide education and service to its members, the AIR is underlining that the Arbitration process is a value added benefit of Association membership. The foundation of this process is AIR's respected "Rules of Professional Conduct", which outlines how brokers should go about treating one another in an ethical fashion throughout transactions.

In today's tight real estate market, however, AIR reports an increasing number of calls from Brokers who feel they have been mistreated in transactions. This frequently occurs even before Brokers consult their managers, according to Jim Sullivan and Dan Weil, co-chairs of the AIR's Arbitration Committee.

To help ease this situation, advance the idea of Brokers being treated fairly, while heading off illegitimate claims and expediting legitimate ones, Sullivan and Weil have provided a valuable checklist of steps. "These steps represent an orderly, professional process designed for Brokers to be treated fairly and avoid spending unnecessary time before making claims," Sullivan said. The steps, to be taken prior to contacting the AIR office or the Arbitration chairmen, follow:

1. The Broker should first review and research the "Rules" to determine which ones apply to his or her circumstances.
2. After reviewing the "Rules", the Broker should discuss the circumstances with his or her manager and determine whether the case has merit.
3. The Broker/Manager may contact Sullivan or Weil to review their findings and get a preliminary opinion on their case. Keep in mind that such an opinion will reflect just one side of the issue.
4. The Broker advancing the claim is strongly urged to contact the other Broker to discuss the issues directly and attempt to reach resolution. This action may or may not include the respective managers.
5. If the direct broker-to-broker discussion is unsuccessful, include the Managers and have a face-to-face meeting to attempt resolution of the matter again. It should be emphasized that face-to-face discussion is preferable to a conference call, and encourages a more moderate approach, while making it more difficult to take a rigid, argumentative position.
6. If the various avenues of discussion are unsuccessful, then it becomes appropriate to involve Sullivan or Weil to seek early Mediation. They advise, however, that it is typically difficult to mediate at this point because neither party has submitted their complaint or response in writing, which requires careful review of supporting documents, and filters out unfounded claims and statements.
7. If success is still not achieved, the next step is filing for Arbitration. This puts both sides of the story down on paper so the Mediator can review both perspectives and again attempt Mediation. The Mediator can now attempt to persuade the parties to compromise and settle.

If the process remains unsuccessful, it then moves to a formal Arbitration, and the Mediator's job is complete. "We have developed this checklist for our fellow AIR members with the aim of saving Brokers time and getting to the bottom line quickly. We're here to see if there is a compromise that can be reached that satisfies both parties before going to Arbitration," Weil said. "It comes down to the Golden Rule of treating fellow Brokers as you would like to be treated. And it's all underpinned by AIR's Rules of Professional Conduct".