

HOUSING MEDIATION PROGRAM

TRAINED MEDIATORS CAN HELP
LANDLORDS AND THEIR TENANTS FIND A
WORKABLE SOLUTION FOR EVERYONE

WHO IS MOPC? - WWW.UMB.EDU/MOPC

- The MA Office of Public Collaboration, formerly the MA Office of Dispute Resolution, is the statutory state dispute resolution agency and applied research Center based at UMass Boston
- Provides services to the three branches of government through expedited procurement using inter-departmental service agreements
- Serves as a neutral forum for conflict resolution, public decision-making and consensus building on contentious public issues, and builds capacity within public agencies.
- Builds and administers evidence-based public mediation programs

WHAT IS STATE SPONSORED COMMUNITY MEDIATION

- A statutory program sponsored since 2013 by the State (GL ch.75, §47)
- Operates as a performance-based grant program administered by MOPC
- Provides operational funding to 12 long established non-profit community mediation centers covering all 14 counties and serving 72 court divisions

WHAT DEFINES MA COMMUNITY MEDIATION

AS DISTINCT FROM PRIVATE ADR PROVIDERS

Comply with a 12-point model of standards developed with MOPC focused on service, access, quality and diversity

Are embedded as local conflict resolution resources in their local communities

Offer free and low-cost sliding fee services

Provide services through well trained volunteers who meet continuing education requirements in
*facilitative mediation

All are approved providers for the Trial Court under the SJC Uniform Rules on Dispute Resolution

* Facilitative mediators act as neutrals to help parties have a conversation about what is important to them and guide the process but not the outcome of the mediation

WHAT IS MEDIATION?

Mediation is a voluntary and confidential process facilitated by a neutral third party (the mediator) who prioritizes self determination and informed consent of the parties to reach a mutually agreeable outcome or progress towards one.

WHAT MEDIATION IS NOT

It is not:

- Adjudicatory – the mediator does not take sides, make recommendations or direct the parties
- A reluctant compromise – parties find out what is most important to them and how best to achieve it
- Limited by the framing of a specific legal action
- Time limited, and can break or reconvene as needed to allow participants to seek additional information
- A way to solve a purely legal rights-based dispute (though a mediator would say there was no such thing!)
- Giving up rights – you can still go to court to enforce an agreement or return to mediation to ensure compliance
- Dispute intervention service available in Housing Court

HOUSING MEDIATION PROGRAM

HMP PROGRAM GOALS

With funding appropriated by the legislature in FY21 and FY22 budgets the program was launched with the following goals:

To mitigate the harmful economic impact of COVID-19 and promote housing stability and the prevention of homelessness by:

- Assisting tenants and landlords at the earliest possible stage in the resolution of a wide range of destabilizing tenancy conflicts or concerns, including the nonpayment of rent.
- Assisting tenants and landlords in developing a plan through mediated dialogue to access and utilize community resources to resolve their housing crisis.
- Addressing other related housing matters, such as foreclosure.
- Promoting collaboration between other Eviction Diversion Initiative stakeholders.



COMMUNITY MEDIATION'S CONTINUED ROLE



Initially established as part of the Governor's comprehensive cross agency Eviction Diversion Initiative's (EDI) to support tenants and landlords during the financial challenges caused by the pandemic.

The challenges continue and building on the relationships formed during the EDI we continue to target free services to support housing stability for the most vulnerable and their landlords in collaboration with DHCD.

SUPPORT FOR UPSTREAM MEDIATION

Legislators and DHCD see **systemic housing benefits** in early intervention because it:

- Is part of rapid response to critical need, accessing resource network of providers
- Supports stable housing efforts and paves way for “softer” landings if eviction pursued
- Avoids cost to landlord of seeking legal remedy at time of economic uncertainty
- Avoids long term implications for tenants of court judgments
- Targets and empowers vulnerable underserved communities
- Builds lasting increased understanding of mediation amongst agencies and public

BENEFITS OF HOUSING MEDIATION

Gives the parties a sense of control over the outcome of their dispute

Outcomes reached collaboratively are more lasting/more adhered to

Gives parties a chance to speak and be listened to – which often has not happened before

It allows for creative, flexible outcomes beyond any legal action

It can happen preventatively as well as reactively

It helps build or retain relationships, especially important to ongoing ones

Demonstrates willingness to work things out



WHY CHOOSE HOUSING MEDIATION?

Free and faster
alternative to court
action (95% happy with
process)

High rate of success
(80% of cases settled)

No income eligibility
limit for services

100% thought outcome
fair

Experienced housing
mediators and case
managers
(441 cases in last 6
months)

WHEN TO ACCESS MEDIATION?

Short answer – anytime!



As soon as there is a problem – before people get too escalated, entrenched, fearful



Prior to filing a NTQ - avoids costs and implications of going to court



After filing an NTQ but before hearing – final chance to build in flexible outcomes and access other resources that may not be available on day of trial



Day of trial – final chance to have a say on the outcome that works for everyone rather than a win/lose of a court judgment



After trial if other outstanding matters may still affect the tenancy – issues like communication, behavior that also need to be resolved

INTRODUCING MEDIATION

Rather than asking if people want to mediate (as they may not know what that is) say:

- You would like to make a referral to a CMC so they can learn more about mediation
- Mediation is a way to work things out that can help everyone

This will provide people the opportunity to talk to a case coordinator and decide if mediation is right for them short of going to court. Mediation Centers remain the best at explaining mediation and screening cases for suitability.

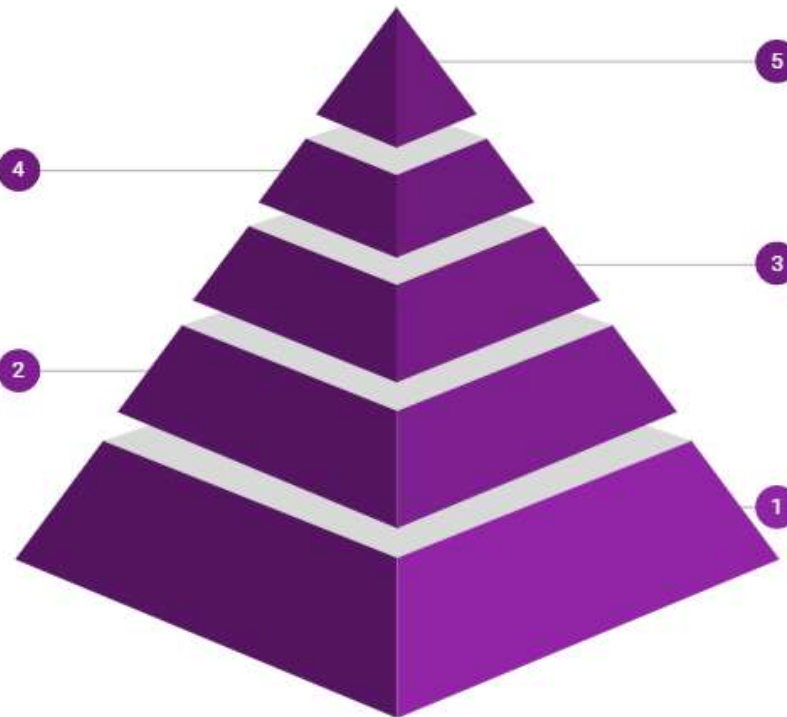
COMMUNITY MEDIATION SERVICES

Mediation(s) Held

All issues important to parties are discussed during this process. Parties may be directed back to the Coordinator to connect to additional resources after or in between mediations.

Mediation Intake

Once parties have accessed the necessary resources and are ready for mediation, the Coordinator conducts an intake to identify core issues and screens for informed consent and appropriateness for mediation.



Mediation Follow-Up

Coordinator writes up the agreement (if applicable online) and sends to parties for signature and administres evaluation and data gathering tools.

Mediation Scheduled

Coordinator works with parties to identify their availability for the mediation. They also identify where the mediation will take place, who will mediate, access any interpreter services and send any necessary forms beforehand and set up technology for online mediation.

Mediation Screening & Resource Connection

Coordinator speaks with parties to educate them about the process and determine their needs, connecting them with the necessary EDI partner resources, e.g. accessing RAFT/ERAP/ERMA and acting as a conduit where necessary.

Apparently intractable dispute with high level of conflict aside from arrearage

There is a complex range of other issues beyond non-payment, such as property condition or landlord/tenant behavior

Miscommunication or lack of communication is the primary barrier to agreement

Repair to the relationship is needed in order to reach agreement/sustain the tenancy

Landlord and tenant are collaborative and willing to come to agreement but need further help working out details or a plan

Person does not qualify for legal aid or tenant for available subsidy programs, but landlord and tenant are willing to explore other options such as repayment plan

Tenancy is ending by agreement, but a “softer landing” (extra time) may be possible through mediated agreement

Examples of types of housing cases that benefit from mediation:

Case Study #1 Broken relationship or no relationship

In a non-payment eviction case, a landlord was alleging the tenants (consisting of a couple and their young child) were **\$11,000 in arrears**. One of them had to stop working to care for their child during the pandemic and thus fell behind on rent. The landlord lived out of state and managed things usually through a property manager. He had his attorney file for an eviction and **had never spoken with the tenants**.

The tenants were also keen to leave because their landlord had abandoned repairs and always had other people deal with them, including passing the case to the attorney without contacting them first. They felt **they needed a good reference from the landlord to help them move** and as a result felt like they couldn't negotiate with the landlord.

Mediation?

CASE STUDY #1 BROKEN OR NO RELATIONSHIP

YES

The mediators were able to help with the power imbalance and the landlord agreed to waive half the arrears and extra time was given for the tenants to find another place to live with which they were happy with.

The landlord also agreed to provide a positive reference which was important because they lived in a small town where word travels fast.

CASE STUDY #2 THE DEVIL IS IN THE DETAILS

In a non-payment case, the tenant had become **injured during the pandemic and could not work**. Her roommate, who was not on the lease, had stopped paying her share, resulting in **\$7,000 in arrears**.

The tenant had reached out for RAFT assistance but there was some **confusion over back rent** and how much rental assistance the landlord had already received. Also, the landlord seemed **uncooperative**. Both parties, tenant and landlord, **thought each other were lying** about the circumstances and the situation had become very tense.

Mediation?

CASE STUDY #2 THE DEVIL IS IN THE DETAILS

YES

At mediation, they were able to iron out the different version of events and get clarity on the facts that led to the arrears being paid. Other issues relating to the tenant's behavior were also raised by the landlord which had been part of the cause of the hostility between them, and they were able to work out a mutually agreeable solution.

As a result of the agreements reached, the tenant continued to live in the property and the communication between them improved.

WHO AND WHERE ARE THE CENTERS?

- BCRHA – Berkshire County Regional Housing Authority - Pittsfield
- Cape Mediation - Orleans
- CDSC – Community Dispute Settlement Center - Cambridge
- CRG – Collaborative Resolutions Group – Greenfield
- FSCM – Family Services of Central MA – Worcester
- GBCDR – Greater Brockton Center for Dispute Resolution - Brockton
- MCC – Middlesex Community College Mediation Program – Lowell
- MMS – Metropolitan Mediation Services – Brookline
- MSI – Mediation Services of North Central MA - Leominster
- MVMP – Martha's Vineyard Mediation Program – Vineyard Haven
- MWMS – MetroWest Mediation Services - Framingham
- NSCMC – North Shore Community Mediation Center - Beverly

HOW TO ACCESS THE HOUSING MEDIATION PROGRAM

www.resolutionma.org/housing

Mediations can be held by phone,
online via Zoom or in-person at
Centers across the State

