



**Housing Court Department**

**Trial Courts of Massachusetts**

## **The Role of a Housing Specialist** **&** **The Process of Mediation**

### **Mediation**

In the Housing Court, the mediation process is conducted by a Housing Specialist who are trained, and well versed in the areas of Landlord and Tenant law, and the State Sanitary & Building Code.

Mediation is an informal, confidential process where a neutral person called a mediator acts to encourage and facilitate the resolution of a case without prescribing what it should be.

In contrast to a judge (or an arbitrator) who decides for the parties how a dispute will be resolved, a mediator (or conciliator) helps the parties reach their own mutually acceptable and voluntary agreement.

The role of the mediator may include: assisting the parties in identifying the issues, assessing and reviewing the relative strengths and weaknesses of their case, determining common interests, fostering joint problem-solving, exploring settlement alternatives, and finalizing a settlement agreement.

Throughout all Housing Court mediation, the decision-making authority remains with the parties to the case: unless and until an agreement is reached and approved by the judge; or, if no agreement is reached, until one or both parties terminate the mediation process and bring the case to court for determination by a judge.

## **Advantages of mediation**

### **Time**

It almost always takes less time to mediate a dispute than it does to try a case, in question-and-answer form, with objections heard and ruled upon in accordance with the law of evidence, and with much additional time necessary if there is prior discovery, an interpreter, a jury trial, or subsequent appeal. In addition, the parties are free to schedule their own mediation at their early convenience, rather than waiting for trial after service of the summons and complaint.

### **Confidentiality**

All communications in mediation are confidential, and neither the mediator's work product nor the participants' statements made in mediation relating to its subject matter can be later disclosed or admitted into evidence if a trial is held. Private Sessions between a single party and the mediator are particularly confidential, because they are not even shared with the other party without permission. The only record of a mediation is the written agreement reached by the parties.

### **Control**

Mediation is an opportunity for parties to resolve their own dispute rather than turning over control of the decisional process to the judge. And, unlike the judge who is bound to make a decision on the legal evidence in accordance with the legal rules applicable to the case, the parties are free to reach settlement terms tailored to satisfy their own individual interests and needs.

### **Satisfaction**

Studies have shown that mediation generally results in a high level of participant satisfaction. And, parties often find the process useful even if only a partial rather than a complete resolution of the dispute is achieved, even if the parties are able only to "winnow away" the unimportant and undisputed issues from the narrow issues that must be tried.

### **Durability**

Studies have also shown that individuals are more likely to accept and abide by their own decisions rather than decisions imposed on them by others. Therefore, in comparison to adjudicated resolutions, mediated agreements are more durable, and the compliance rate is very high.

### **Binding effect**

Once approved and signed by the judge, a mediated agreement may become a judgment or court order with the same legal effect as if the judge decided the case.

### **Final effect**

Agreements for judgment, unlike court-ordered judgments, cannot be appealed. And like other judgments, agreements for judgment can be vacated or modified only where there is mutual assent, or changed unforeseen circumstances, or other unusual events.

### **Voluntary**

Mediation is a voluntary process, and cases are resolved by mediation only with the mutual assent of the parties. If, after reasonable effort, the parties cannot resolve their dispute through mediation, the right to trial is preserved and the judge will hear and decide the case.

### **Benefits of Mediation in Coded Enforcement cases:**

- , Mediation can help the parties construct a plan and a time line for repairs.
  
- , Housing Specialist can help with referring owners to services, and resources that help with funding.
  
- , Housing Specialist can conduct a view of the property with the parties if an issue is in dispute.
  
- , Housing Specialist can help refer tenants to services and resources that help with relocation expenses or alternative housing.

### **Schedule a Mediation**

After the case has been filed with the court, contact the Chief Housing Specialist in your area to coordinate and schedule an earlier mediation that is at the earliest convenience to both parties:

#### **Northeast Housing Court**

Martha A. Buckley 978-689-7833

#### **Eastern Housing Court**

Alex Valderrama  
617-788-6233

#### **Southeast Housing Court**

Suzette E. Fagan-Clarke 508-677-  
1505

#### **Metro South Housing Court**

Mike Neville  
508-894-4170

#### **Central Housing Court**

Rosemary Rosario 508-831-  
2050

#### **Western Housing Court**

Jenni Pothier  
413-748-7838

