

Why Mediate?

By Regina Lyons

There are many reasons that people decide to mediate: to find a peaceful settlement for a difficult situation, to heal damaged relationships, to create a positive outcome to problem areas. But sometimes, the legal arena looks like the most attractive approach. This story is one we have heard again and again.

Let's say you've decided to sue someone. They built a fence on your property. Or they are a Board member of your Homeowners Association and have created a debt you all must share in paying off. Perhaps their property is so run down that it is affecting your home's value. Or maybe they cut down a tree on your property (they thought it was theirs) so they might enjoy a better view.

You phone us and learn about the mediation services at Bellevue Neighborhood Mediation Program. We explain that with the assistance of a third party neutral, a trained volunteer mediator, you can retain control over the dispute, and in a confidential setting, you and the person you'd like to sue can discuss the issues and decide what will be agreeable to both of you. The solution will address the needs of both parties.

Bunk, you say. My neighbor is wrong! And that is why suing them makes sense: they aren't listening to me now, but they certainly will when they hear from my attorney...

Fast forward several months: you have hired a good attorney, paid the retainer, and they have reviewed your case and identified the strong points, have downplayed the weak areas. You feel you are on firm ground and you feel like this was the right direction and a good decision. You move forward. A trial date is assigned.

Meanwhile, the person you are suing has done the same thing; they have an attorney and are ready to prove you are in the wrong. The trial date looms ever closer, and you both begin to get the taste of satisfaction in your mouth.

You are both quite sure that you will prevail, or you wouldn't be going this far. Besides, there is the principle involved! Unfortunately, one WILL lose, because in court, judges are limited to ruling in one party's favor. Oddly, studies show that even the 'winning' party often leaves court feeling unsatisfied, because they didn't get a chance to say what they wanted to say, or they were awarded an amount much less than what they were seeking, or the areas they were most interested in were disregarded by the court.

So, sometime before trial, the two attorneys talk, and start discussing what it WOULD take to settle this thing. This might even happen in a settlement conference. At this point, your attorney is asking you (and the opposing attorney is asking your opponent) what WOULD it take to settle this thing...what IS most important to you? And in the vast majority of cases, in fact the overwhelming majority of cases, you will settle. Very, very few cases actually go to trial.

What if you could have had that final conversation sooner? What is really at issue? What would you settle for? What is most important to you? And to the other person?

That is the conversation that takes place in the mediation room -- privately and with no other options lost. And that can happen in the beginning, before you have felt insulted and disrespected, and before you might have stepped on someone else's toes, before you have spent your time, money and energy working your way to that final conversation. What if you had that conversation *before* irreparable damage has been done to the relationship you have with this other person?

By mediating, your agreement can reflect the dispute, and is not limited to the yes/no and black/white of the law and courtrooms. But mostly you can move forward knowing it won't be painful the next time you and the other party meet.