

# **JOINT SISV-CMC MEDIATION SCHEME – EXPERIMENT IN CO-MEDIATION**

## **Abstract**

The Joint SISV-CMC Mediation Scheme has been in operation since 1 November 2003. This Scheme is in fact an experiment in co-mediation as mediators from two organisations work together to jointly conduct mediations to help parties to resolve their disputes. The two organisations are the Singapore Institute of Surveyors and Valuers (SISV), a professional body of quantity surveyors, valuers, property managers and land surveyors, and the Community Mediation Unit of the Ministry of Law which oversees the operation of Community Mediation Centres (CMC) in Singapore. Co-mediation has several benefits, one of which is to take advantage of the different skills and expertise of the two mediators. However, in order for the Scheme to work well, the two mediators will need to co-ordinate their approach and establish proper understanding of each other. The purpose of this paper is to examine the possible benefits and problems encountered in this experiment in co-mediation.

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# **JOINT SISV-CMC MEDIATION SCHEME – EXPERIMENT IN CO-MEDIATION**

By Lim Lan Yuan and Gloria Lim

## **Introduction**

The mediation movement in Singapore has gone through some eight years of development and changes. Mediation may be said to have officially started with the launch of the Court Mediation Centre in 1995 (Lim, 1997). Since then community mediation was introduced in 1997 with the passing of the Community Mediation Centres Act in 1998. At the same time, commercial mediation began with both the private sector and public sector setting up mediation centres to promote mediation. The Singapore Institute of Surveyors and Valuers (SISV) established its Mediation Centre in 1997 to provide members with an opportunity to resolve conflicts relating to real estate and construction issues through mediation.

Conflicts occur in communities whether in the Housing and Development Board (HDB) public housing estates or in private estates and condominiums. However, it is important that we take steps to handle these conflicts at source before they grow and escalate into nasty disputes which have to be resolved in courts.

The purpose of this paper is to describe a joint mediation scheme launched recently by Prof Ho Peng Kee, Senior Minister of State for Law and Home Affairs on 9 October 2003. This is an experiment in co-mediation as mediators from two organizations jointly conduct mediation to help parties resolve their disputes. The benefits and the problems likely to be encountered in this mode of mediation will be discussed in this paper. Recommendations on how these problems can be handled are also discussed.

## **Joint SISV-CMC Mediation Scheme**

Under the Joint Mediation Scheme which is in operation since 1st Nov 2003, residents and occupants in condominiums and private estates have another avenue to help them resolve their neighbourhood and relational conflicts. The Scheme involves trained mediators from both the Community Mediation Centre (CMC) of the Ministry of Law, and the Singapore Institute of Surveyors and Valuers (SISV) Mediation Centre co-mediating disputes arising in condominiums and private estates. Community mediators who are mainly grassroots leaders currently deal with community and social conflicts in public housing estates. SISV mediators handle technical conflicts relating to real estate and construction disputes. This Scheme takes advantage of the skills and expertise of these mediators to better resolve conflicts in management corporations and private estates jointly.

Under the Scheme, community and other relational problems may be referred to the Community Mediation Centre for resolution. Managing agents who are members of the SISV will also refer such conflicts occurring in the condominiums which they manage to the Community Mediation Centre. This Scheme allows disputes occurring in private estates and neighbourhoods to be resolved in an amicable manner rather than resorting to courts for resolution. It will benefit residents and occupants in these private developments and help to promote good neighbourliness and community cohesion.

In condominiums as in public housing estates, many unnecessary conflicts do occur. A number of these conflicts relate to problems such as obstructions at the common corridors, neighbour quarrels over the use of common facilities or noise pollution, and disagreements with Council's decisions and so on. Such conflicts are not much different from those occurring in public housing estates. While the managing agents try their best to help resolve such conflicts between residents, very often they are embroiled in the conflicts themselves when they need to provide advice to Council and the Council itself is involved in conflict with residents. There is a need to provide independent avenues for such conflicts to be resolved.

It is hoped that with the Scheme, common conflicts in the condominiums and private estates could be resolved in a peaceful manner and help maintain the community bonding among the residents and occupants in these strata titled developments.

### **Co-mediation**

The Joint Scheme takes advantage of the concept of co-mediation. Co-mediation basically is the use of more than one mediator, commonly two mediators, in a particular mediation session in order to facilitate the interaction with the disputing parties. It is not necessary to always mediate with a co-mediator. A skilled mediator can mediate conflicts successfully on his or her own. This is particularly so when there is no serious impediment such as differences in the disputing parties in terms of culture, race or even gender or age. Even if the parties come from a different background, the sole mediator can still perform his or her task successfully if the mediator is mindful of the sensitivities present. For instance, there are several examples of a Chinese mediator successfully mediating a conflict between a Chinese woman and a Malay man and of a male mediator helping to resolve the conflict between a female and a male disputants.

However, a useful benefit of co-mediation is to take advantage of the varied skills and expertise of the two mediators. In addition, the use of a female and a male co-mediator can sometimes provide the so-called “soft” and “hard” approach. Some parties are more prepared to listen to one mediator and not the other either because of the gender or age difference or the particular stance taken by the mediator.

### **Survey of co-mediation**

It is therefore interesting to examine the possible benefits and disadvantages using co-mediation in the Joint SISV-CMC Mediation Scheme. For this purpose, a survey on co-mediation was recently conducted to determine the likely problems encountered in co-mediation. Thirty five experienced mediators were interviewed for their views on co-

mediation. This survey was part of a larger investigation on mediation practice. The two relevant research questions posed are the problems encountered in co-mediation and the benefits of co-mediation. The questions are open-ended. Several views were expressed and these were grouped into different broad categories. The results of the respondents' views on these two matters are tabulated in Table 1 and Table 2 respectively.

**Table 1 Problems Encountered in Co-mediation**

<i>Category</i>	<i>Number</i>	<i>Percentage</i>
a) Lack of empathy	20	26
Insufficient co-ordination	8	
Untimely intervention	7	
Disagreements	5	
b) Incompatible skills/experience	17	22
Different skill sets	6	
Different levels of experience	7	
Varying knowledge and competence	4	
c) Different personalities	16	21
Competing characters	6	
Different attitude	5	
Incompatible personalities	5	
d) Different approaches	14	18
Proactive/reactive approach	6	
Patient and slow/quick and fast approach	5	
Directive/facilitative	3	
e) Different styles	10	13
Focus on complicated/simple issues	4	
Focus on joint/private meetings	4	
Probe details/focus on bigger picture	2	

**Table 2 Benefits of Co-mediation**

<i>Category</i>	<i>Number</i>	<i>Percentage</i>
a) Take advantage of different skills	26	30
Counseling/technical skill	10	
Legal/other skills	10	
Able to look at different perspectives	6	
b) Improve quality of mediation	21	25
Quick resolution of dispute	8	
Lasting resolution	5	
Produce satisfaction for parties	8	
c) Useful for complicated disputes	15	18
Many issues	5	
Difficult disputes	6	
Different issues and concerns	4	
d) Useful for more disputing parties	13	15
More than two parties	5	
Outside party involvement	4	
Presence of advisors	4	
e) Balance gender/racial difference	10	12
Female/male parties	3	
Language differences	3	
Cultural/racial differences	4	

## **Discussion**

The analysis of the results revealed that the most common problem encountered in co-mediation is lack of empathy (26%). This can be due to insufficient co-ordination

between the co-mediators, untimely intervention by one of the co-mediators, and disagreements and lack of understanding between the two co-mediators. The next common problem is incompatible skills and experience between the co-mediators (22%). This could arise because of the different skill sets of both mediators, as one might have more experience and knowledge as compared to the other. In view of this, the co-ordination between the two mediators is likely to be affected. Another problem encountered is the different personalities of the two mediators (21%). The character, attitude and personality of the mediators can have an important influence in the way they approach the mediation and help parties to settle their dispute. Two other problems highlighted are the different approaches (18%) and styles (13%) adopted by the two mediators.

On the survey of the benefits of co-mediation, it was found that taking advantage of the different skills of the two mediators was regarded as the most important benefit of co-mediation (30%). This is particularly useful when the dispute deals with both monetary and emotional issues where the mediators with different skill sets can assist the parties much better in resolving their problems. Another useful benefit is the improvement in the quality of mediation (25%). This can arise from the quick resolution of the dispute and producing satisfaction to the parties. Other advantages of co-mediation are that it is useful for resolving complicated disputes (18%), when there are more disputing parties involved (15%) and for balancing parties' differences due to gender or race (12%).

The results of the study are consistent with those found by other authors of mediation texts (Folberg, & Taylor, 1984; Moore, 1986). An interesting finding of the survey is that while the greatest benefit of co-mediation is the advantage of having mediators with different skill sets, the greatest problem encountered in co-mediation is the lack of empathy as well as different level of skills and experience of the mediators. This contradiction highlights the importance of training the mediators in conducting mediation jointly and for the mediators to co-ordinate their approach properly in the mediation session.

## **Implications of study**

The findings of the study have interesting implications on the Joint SISV-CMC Mediation Scheme. First, the Scheme involves mediators with different backgrounds and perhaps different mediation training. For co-mediation to work properly, the two mediators will need to establish good rapport and understanding. Hence, the two mediators from SISV and CMC will need to work hard to understand each other well and to learn about each other's strengths and weaknesses.

On the other hand, because of the different training and skills of the two mediators, it will help to get the two mediators to work together even closer. This is because of the different knowledge and competency displayed by each of them. While the CMC mediators have tremendous experience and skills in handling relational issues, the SISV mediators are more adapt to handling technical issues. Therefore, both mediators are likely to respect each other because of their respective skills and competence.

Second, because the issues which are handled by both mediators tend to be different, this may give rise to conflict. The CMC mediators tend to deal with emotional conflicts and relational issues commonly present in family and community context. However, the SISV mediators tend to handle commercial conflicts which deal with monetary compensation and technical matters. The approaches adopted may be different for these mediators. However, despite the differences, there are advantages. The contrasting approaches adopted by the two mediators may in fact help the disputing parties to resolve their problem because they are now able to see different perspectives of the problem.

## **Handling co-mediation problems**

Problems in co-mediation arise because of the need for two persons with different personalities and perhaps skills and experience to co-ordinate well in order to help disputing parties to resolve their disputes. The following three problems are commonly encountered in practice, and the approaches to handling these situations are suggested.

a) What happens if the co-mediator oversteps his/her function?

In situations when the co-mediator oversteps his or her duties such as telling the parties how to settle or pushing the parties to agree on the settlement, the other mediator may want to take the following actions: take a pause to speak to the co-mediator or interject politely by reframing the co-mediator's intentions such as "What we are saying is that we want you to consider these alternatives..."

b) What to do when the co-mediator dominates the situation?

The following actions can be taken: let the co-mediator dominate the situation as there is no need to compete or challenge the co-mediator. He or she may be able to resolve the matter without any help. Alternatively, speak to the co-mediator at the next opportunity available during the mediation session or after the session or take over from the co-mediator if he or she is not achieving any movement.

c) What to do when the co-mediator pursues the wrong track?

The following actions can be taken:

- i) Take a pause to speak to the co-mediator.
- ii) Interject politely and discreetly by steering the discussion away by saying "In addition to what has been said, we can also look at the matter in another way..."
- iii) Unless it is critical to interrupt, allow the co-mediator to pursue his or her approach until it has been realised that it is not leading to any resolution. Sometimes, the co-mediator's approach may be useful and a correct one but it is not obvious to the other mediator at the outset.

## **Conclusion**

The use of co-mediation is required under certain circumstances, for instance, when dealing with parties from a different race or culture and for training new mediators. Although there are several benefits in using co-mediation, the conduct of mediation by two mediators can give rise to problems. The most serious of the problems is the lack of empathy and co-ordination between the two mediators. However, with proper training and selection of appropriate co-mediators, many of the problems can be avoided. In a situation where the two mediators have different skills and experience, the co-mediation may be conducted smoothly if the mediators have established good rapport between themselves. The joint SISV-CMC mediation scheme is therefore an interesting experiment in co-mediation. As the Scheme has just started, the usefulness of this scheme will be known in due course.

## **References**

Folberg, J & Taylor A (1984) **Mediation: A Comprehensive Guide to Resolving Conflict Without Litigation**, Jossey-Bass Publishers, San Francisco.

Lim, LY (1997) **The Theory and Practice of Mediation**, FT Law & Tax Asia Pacific

Moore, CW (1986) **The Mediation Process –Practical Strategies for Resolving Conflicts**, Jossey-Bass Publishers, San Francisco