Development of Mediation in Singapore  
APMF Conference  
KL, Malaysia 
16 - 18 June 2008

Presented by: 
Ms Carol Liew  
Assistant Director  
Singapore Mediation Centre

Overview

• Introduction to Mediation  
• Mediation in Singapore  
  • Court Mediation, Community Mediation,  
    Singapore Mediation Centre  
• Cases for Mediation  
• Mediation Process  
• Forming International Alliances

What is Mediation?

Mediation is a voluntary process in which the parties to a dispute engage the assistance of a neutral third party (called the mediator), to facilitate negotiations between them with a view to resolving their differences amicably.

What is Mediation?

• Mediation is akin to a "without prejudice" negotiation session  
• However, the mediator will act as a facilitator to guide and regulate the process, so as to keep the parties from digging into their respective positions  
• The outcome of the mediation is determined by the parties

Adjudicatory Processes

- Decision-maker: Neutral third party  
- Nature: Adversarial  
- Focus: Legal rights and past events
Benefits of Mediation: Disputant Perspective

- Parties have control over outcome of dispute and settlement terms
- Saves costs
- Saves time - resolves disputes faster
- More opportunities to explore options and develop creative and pragmatic solutions

Benefits of Mediation: National Perspective

- Provides foreign investors with another means of dispute resolution
- Frees up economic resources tied up in protracted disputes
- Assists courts in case disposal
- Creates culture of amicable dispute resolution

Mediation in Singapore

- Historically practised by Asian cultures
- Urbanisation and industrialisation
- Focus on legal rights
- Re-introduced into Singapore in the 1990s
- 3 main categories
  - Private commercial mediation
  - Court-based mediation
  - Community mediation
Mediation in Singapore

• Top-down approach
  o Judiciary
  o Singapore Government
• Cross-profession Committee in ADR
• 2 main recommendations:
  o Creation of a commercial mediation centre
  o Network of easily accessible Community Mediation Centres

History

• Court Dispute Resolution (CDR) and the Primary Dispute Resolution Centre (PDRC) introduced on 7 June 1994
• Court connected mediation
  o Mediation held in court or conducted by judicial officer or court official
  o Legal proceedings commenced

Cases for Mediation

• 1994-2000: 48,300 matters have undergone CDR
• 94.6% successfully settled
• Almost all cases undergo mediation
• Mediation applies to
  o Civil cases
  o Assessment of damages
  o Disputes over costs of civil proceedings
  o Maintenance applications
  o Spouses for personal protection orders
  o Magistrates of offences involving neighbourhood/relational disputes
  o Small claims

Mediation Process at PDRC

• Can be held at almost any juncture during the process leading to trial
• Experienced District Judges/Settlement Judges
• Highly evaluative / ‘rights based’
• Merits of the case are candidly and openly discussed
• Previewing the probable outcomes of the case
• Law as its focal point

Mediators

• Judges act as mediators
• Pro-active stance
• Suggests and actively engages in the finding of possible solutions
• Guided by Model Standards of Practice for Court Mediators
Community Mediation Centres (CMC)

History
• CMC established pursuant to recommendations by an inter-agency Committee on ADR
• Set up in 1998
• To provide Singaporeans with affordable and non-adversarial means of resolving social, community and family disputes

Cases for Mediation
• Relational in nature
  o Neighbourhood disputes
  o Family disputes (excluding family violence)
  o Disagreements between friends, stallholders/shop owners

Cases for Mediation
• Parties themselves approach CMC
• Cases referred to CMC by
  o Police
  o Housing Development Board (HDB)
  o Town Council
  o Members of Parliament
  o Legal Aid Bureau
  o Other community-based agencies
  o Court referred cases

Cases for Mediation
• Since 1998 more than 3,400 community disputes resolved
• Success rate of 75%
• Annual mediation caseload steadily risen from 120 mediations in 1998 to 534 in 2007

Mediators
• Majority of CMC’s volunteer mediators are grassroots and community leaders
• From all walks of life
• Most do not have legal training. Generally
  o CMC does not handle case which involve legal issues
  o CMC does not handle commercial cases
Mediation Process at CMC

- Voluntary Mediation
  - Complainant required to pay $5 registration fee
  - CMC officers writes to respondent to set up meeting
  - Officer assigns mediator if both parties agreeable to meet
  - If parties refuse to mediate, CMC not in position to take action
  - Parties encouraged to mediate through “Persuaders Scheme”

- Compulsory Mediation
  - Both parties appear before a Magistrate pursuant to Magistrate’s Complaint filed by complainant
  - Immediately sent to mediation at CMC if case is suitable for mediation
  - No fee required of either party
  - Failure to attend mediation session could amount to contempt of Court

Singapore Mediation Centre

Histroy

- SMC officially launched by the Chief Justice on 16 August 1997
- Non-profit organisation guaranteed by the Singapore Academy of Law

Cases for Mediation (as at 31 March 2008)

- Number of matters referred
  - 1,487 in total
  - 546 (36.72%) by the courts
- Number of matters mediated
  - 1,326 in total
  - 499 (37.63%) of which were referred by the courts
- Success rate (matters settled)
  - 984 in total (74.21%)
  - 361 (66.12%) of 546 matters referred by the courts settled

Cases for Mediation (as at 31 March 2008)

- About S$ 1.5 billion worth of disputes have been mediated at SMC
- The highest quantum of claim is about S$90 million
Mediation Process at SMC

The process of mediation at SMC includes:
- Referring a case
- Fixing date for mediation
- Appointment of mediator(s)
- Exchange of information
- Payment of mediation fee
- Signing of mediation agreement

Mediation Fees

The mediation fees are charged according to the quantum of claim. The table below outlines the fee structure:

<table>
<thead>
<tr>
<th>Quantum of Claim</th>
<th>Mediation Fee (Single Mediator)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $100,000</td>
<td>$900 per party per day</td>
</tr>
<tr>
<td>Above $100,000 up to $250,000</td>
<td>$1,200 per party per day</td>
</tr>
<tr>
<td>Above $250,000 up to $500,000</td>
<td>$1,800 per party per day</td>
</tr>
<tr>
<td>Above $500,000 up to $1,000,000</td>
<td>$2,200 per party per day</td>
</tr>
<tr>
<td>Above $1,000,000 up to $2,500,000</td>
<td>$2,600 per party per day</td>
</tr>
<tr>
<td>Above $2,500,000 up to $5,000,000</td>
<td>$2,800 per party per day</td>
</tr>
<tr>
<td>Above $5,000,000 up to $10,000,000</td>
<td>$2,900 per party per day plus pro-rated portion of 0.05% of the quantum above $5m</td>
</tr>
</tbody>
</table>

A Sample Mediation Clause

"All disputes, controversies or differences arising out of or in connection with this agreement shall first be submitted to the Singapore Mediation Centre for resolution. The disputes, controversies or differences shall be referred within 14 days from the time they arose, in accordance with the Mediation Procedure for the time being in force, unless any of the parties serves a written notice on all the other parties and the Singapore Mediation Centre stating that it does not agree to submit the dispute for mediation, or that it will be submitting the dispute for arbitration or litigation. The parties agree to participate in mediation in good faith and undertake to abide by the terms of any settlement reached."

A Sample Med-Arb Clause

"All disputes, controversies or differences arising out of or in connection with this agreement shall be submitted to the Singapore Mediation Centre and the Singapore International Arbitration Centre for resolution by med-arb in accordance with the SMC-SIAC Med-Arb Procedure for the time being in force, which procedure is deemed to be incorporated by reference into this clause."

Mediators

- 113 Principal Mediators, majority of Principal Mediators nominated by their peers, various professional backgrounds
- Formal mediation training and strict evaluation
- Co-mediation – 2 mediators are appointed
- Mediator has to subscribe to SMC’s Code of Conduct
- International Panel
Forming International Alliances

International Mediation Institute

- Established as a non-profit foundation in 2007 in the Netherlands.
- Founding institutions include, the Netherlands Mediation Institute, the American Arbitration Association, the International Centre for Dispute Resolution, the Singapore International Arbitration Centre and the Singapore Mediation Centre.

International Mediation Institute

- IMI aims to develop global mediator competency standards. IMI will also be an international resource and connectivity centre for Certified Mediators and leading mediation bodies around the world.
- IMI has convened an Independent Standards Commission to determine the international competency standards, criteria and guidelines for Mediators wishing to be IMI Certified.

International Mediation Institute

- The Independent Standards Commission is chaired by Professor Tommy Koh, Ambassador-at-Large at the Singapore Ministry of Foreign Affairs, and a panellist on the SMC Panel of International Mediators.
- IMI website is at http://www.imimediation.org/

Asian Mediation Association

- The AMA is currently made up of 5 member mediation organisations in Asia, namely the Hong Kong Mediation Centre, The Indonesian Mediation Centre, the Malaysian Mediation Centre, the Philippine Mediation Center and the Singapore Mediation Centre.
- AMA was launched in August 2007.

Asian Mediation Association

- AMA provides a platform for the promotion of mediation in Asia, sharing of resources, best practices and local knowledge.
- AMA will also aim to provide a regional dispute resolution infrastructure that will support cross-border investment and trade activities in Asia.
Asian Mediation Association

- AMA Secretariat and Chairmanship currently with SMC for a 2 year term.
- 2 new member organisations will be joining the AMA from India and China.
- Inaugural AMA Conference in 2009 to be held in Singapore.

Enquiries

Address: Singapore Mediation Centre
1 Supreme Court Lane
Level 4
Singapore 178879

Telephone: (65) 6332 4366
Facsimile: (65) 6333 5085
E-mail: enquiries@mediation.com.sg
Website: http://www.mediation.com.sg