Tips for Mediation
At Boston Housing Court

Mediation is Voluntary

When you go to Boston Housing Court staff will ask you if you want to **"go Upstairs"** to try to make an agreement with your landlord in a process call *mediation*

In mediation a housing court employee sits down with you and your landlord (or your landlord's attorney) and tries to come up with an agreement.

Remember –

- Mediation is voluntary.

- You can choose to go to mediation or go to a trial before a judge.

- If you feel pressured <u>at any time</u> to sign a bad agreement, ask to see a judge.

Know What You Want

When you go to court, think about what you want and what the strengths of you case are. Things happen very quickly in court. Don't get caught making a rushed decision. Think about what you want before you get into mediation.

- Do you want to stay in your apartment?

- Do you want repairs made?

- Do you want to be compensated for having live with bad conditions?

Don't Be Afraid to Speak Up

The fact is-almost everyone is nervous in court. Don't let your nerves prevent you from telling your side of the story.

Too many times tenants Give up things that they Could get because they Don't speak up in mediation or trial. Don't let this happen to you. Don't be rushed. Make sure the mediator know your side of the story.

Make sure you Understand the Agreement

Before you sign any agreement, make sure you understand exactly what it says. If you do not understand any words, ask the mediator what they mean.

Also, instead of signing an *Agreement for Judgment* (which is a final judgment), you can try to make an agreement either:

- Postpones (continues) your case until a later date to make sure both sides have done what they promised, or

- Allows a final judgment to happen (enter) only if either side does not do what it has promised. Note: You can include in this agreement that the party requesting a final judgment be allowed to come into court on *short-notice*.

Know What You Are Giving Up

If you decide not to go to trial, you may be giving up:

- Your right to challenge (appeal) your case.
- Your right to ask for more time to stay in you apartment, if you are being evicted for a *reason that is not you fault.*
  Note: A judge can give you 6 extra month to look for an apartment (up to a year if you are elderly or disabled).

If the agreement gives up such rights, try to get something in the agreement in return.

Be Careful with Move-Out Agreements

Do not agree to move if you do not have another place to live. If you live in public or Section 8 housing and you sign a move-out agreement, you will not be eligible for family shelter through welfare if you were evicted for non-payment of rent or criminal activity. If you really do want to and can move, you can ask to include in the agreement:

- Time to find another place
- Moving expenses
- First month's rent and security deposit
- Refund of your security deposit
- Good reference

Mediators are not there to protect your rights. Their job is to help parties make an agreement. For this reason, you need to know the strengths and weakness of your case so that you can protect yourself and figure out where you bargaining power is.

One way to think about the strengths of your case is to understand how strong your case would be if you went before a judge. For example:

Are you being evicted for non-payment of rent or for a reason that is not your fault?

You can bring a strong case if:

1. <u>**Your landlord knew of illegal and unsafe housing conditions.**</u> ⟶

- Pictures and inspection reports make your case stronger.
- Tell a mediator or judge how long the conditions existed and how they affected you.
- In a strong case before a judge, the judge could find that your apartment was not worth all the rent the landlord says you owe.
- In a "no fault" eviction with bad conditions, a judge could find that your landlord cannot evict you.

> Your landlord knew about bad conditions if:
> - The problem existed when you move in, or
> - Your landlord actually saw the problem, or
> - There is a critical inspection report, or
> - You told or wrote to your landlord about the problem

2. <u>**Your landlord violated the security deposit law by:**</u>

- Not depositing your security deposit in a special account.
- Not paying you interest each year on your deposit or last month's rent.
- In a strong case before a judge, your landlord could owe you 3 months rent.

3. <u>**You have paid for heat or hot water without any written agreement with your landlord making you responsible for these costs.**</u>

- The judge could order the landlord to pay you back for some or all of the bills you paid, or at least you could win the right to stay if you could pay back what the judge says you still owe.

Are you being evicted for certain behavior?

You can build a strong case and try to prevent your eviction if you can show that:
- The behavior was the fault of someone you could not control.
- You have a disability that caused the behavior and the landlord should allow you a *reasonable accommodation* to help solve the problem (for example, you need different medication or social worker to help you).
- You are a victim of domestic violence and have gotten or will get a restraining order against the abuser.

Option in mediation: You could sign an agreement that would solve the problem and postpone (continue) the trial date for 6 months so the landlord feels protected. If you take this option, the agreement should also say that the landlord will dismiss the case if there are no further problems.

Are you being evicted for non-payment of rent and do NOT have a strong case?

- If you have all or some of the rent money owed, you can offer to pay the landlord.
- You may be able to apply for Emergency Assistance at the welfare department for up to 4 months' back rent.
- If you are receiving welfare (TAFDC) the welfare department could pay the landlord directly from you check (and even add some Emergency Assistance to the payments).

Remember : Do not set yourself up for failure. Agree only to a payment plan that us realistic and will work.