

5 Examples of How Online Mediation Can Work

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The concept of online mediation has been around for some time; however, those who have yet to take part in an online mediation session often offer questions about how it works and to which situations it can apply.



What follows are 5 benefits with examples of how online mediation could help address condominium conflict:

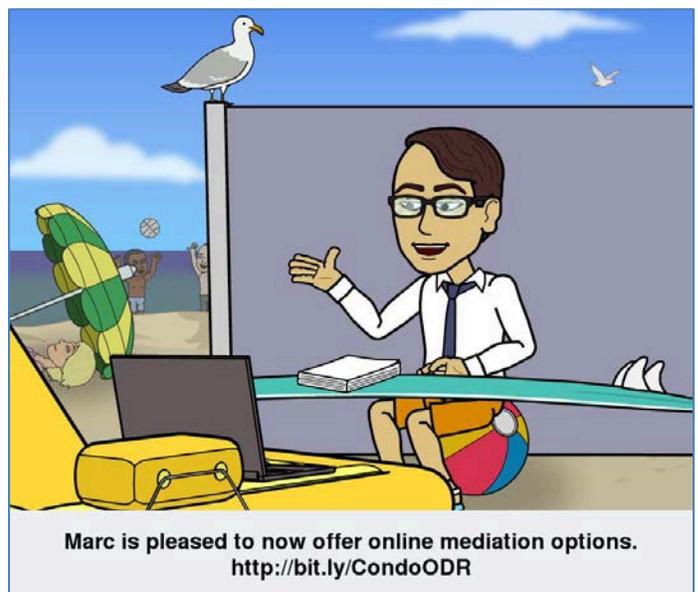
1. **Greater Flexibility.** Traditional, in person mediation takes place in the course of a meeting scheduled for a particular duration of time – usually half a day (3-4 hours) or a full day (6-8 hours). This can often pose challenges in respect of scheduling as it can be difficult for all participants to attend at a particular location at the same time, for so long. Online mediation overcomes these challenges and allows for greater scheduling flexibility. Participants need not all travel to the same physical location which also makes it easier to divide the mediation into multiple sessions, when desired.

Example: A busy condominium resident is not available during the business day to take part in a mediation session. She appreciates having her weekends to herself and would prefer not to give up an entire evening for a 3 hour mediation after a long day of work. By mediating online, a “half day” mediation is broken up into three, 1 hour long sessions. This makes it much easier for the busy condominium resident to address her conflict without impacting her work life or placing too much of a burden upon her personal time.

2. **Greater Access.** It is often the case that discussions in the course of a mediation turn to considerations that had not previously been anticipated or for which further information is required. Parties will often tentatively agree to an outcome subject to their assumptions about unavailable information proving accurate or to re-connect once they have obtained the information desired. When mediating online, particularly, in the comfort of your own home or office, additional information is more readily accessible. Also, the “Greater Flexibility” example above could be applied to more easily allow parties to reconvene once the additional information needed has been collected (i.e. such could be obtained in between mediation sessions).

Example: In the course of negotiations, participants in an online mediation find themselves disagreeing as to the current state of a damaged carpet for which some repair work had already been carried out. As one of the participants is taking part from the comfort of her own unit, she is able to use her tablet to take and share pictures of the current state of the carpet during the mediation. This would not have been possible had the mediation taken place in person at the lawyer’s office.

3. **Greater Control.** While there is much good that can come about with real time, in person interaction, including the cues which are not as detectable via computer, tablet or smart phone, the injection of technology into the dispute resolution process, in turn, provides advantages that cannot be as easily realized in person. Particularly as people increasingly participate in other elements of their lives online – from shopping to dating to keeping in touch with friends – online mediation can capture what is convenient and apply it to the dispute resolution process.



Example: An unrepresented unit owner is concerned about being able to keep his emotions in check at the outset of mediation as the conflict pertains to something he holds near and dear to his heart. Despite rehearsing what he would like to say in his opening statement, he is concerned that he will lose focus on what he is hoping to accomplish and “shoot himself in the foot” by letting his feelings get the better of him as the process gets underway. By mediating online, the owner is able to pre-record his opening statement and have the recording played at the beginning of the mediation when it is his turn to speak. The difference in presentation as between a live and pre-recorded delivery is marginal with the online platform and does little to impact the process for all participating in it.

4. Greater Comfort. When people get together in person, there is certain etiquette expected to promote collective comfort. For example, it is increasingly becoming less socially acceptable to smoke in front of non-smokers, particularly indoors. Food allergies and odour sensitivities are among other considerations that can significantly influence someone’s comfort level based upon who they are. Online mediation minimizes the degree of collective comfort needed to get together, allowing each individual participant greater freedom to ensure that they are comfortable taking part in the process.

Example: A smoker smokes during his online mediation session without having to worry about disturbing other participants as they are not impacted by the smoke in the course of interacting via computer screens. No break in the mediation session is needed and the momentum being built through the course of discussions continues uninterrupted. [This example assumes that the conflict does not pertain to concerns about the smoker smoking!]

5. Greater Participation. When mediating in person, consideration is usually given to the number of bodies that will be on each “side” of the table. For example, when a condominium Board of Directors is directly involved in a dispute, it is often encouraged to select only one or two representatives to take part in the process, to ease scheduling challenges and to prevent others participating in the process from feeling outnumbered in the room. This can present difficulties for the Board members who miss out on directly participating in the process, including when it comes to any post-mediation Board ratification requirements, as the road to resolution can be lost on those who were not along for the ride. Online mediation can allow more people to participate while managing the concerns that discourage increased participation when mediating in person and offer plenty of flexibility surrounding how such can be structured to allow for greatest comfort amongst participants.

Example: A Board of Directors gathers in their Board Room with a computer to participate in online mediation with a unit owner to address a conflict between them. The unit owner, participating elsewhere through the comfort of his own computer, contributes equally to the discussion as the Board, avoiding the discomfort that would have emerged if he was sitting across from many people in person, intimidated by their collective presence.¹

Online mediation has its limitations and does not apply well to every condominium conflict. However, it can offer a convenient, cost effective and comfortable way for those involved in condominium disputes to more easily and efficiently address them and is certainly a worthwhile consideration.

¹ The actual structure of participation by multiple participants, such as a Board of Directors, in online mediation can vary based upon the preferences of those involved in the process. When there are concerns about the number of screens participating on behalf of each party, people can get together and collectively participate through a single screen. In the example provided, a representative of the Board could be appointed as the primary speaker on behalf of the condominium corporation, with other directors participating by contributing their thoughts during caucus and taking in what the owner says first hand. Alternatively, the person speaking on behalf of the Board could alternate through the course of the mediation, with only one director speaking at a time in front of the camera and microphone. Conversely, online mediation can easily allow multiple people to participate in the process from a variety of locations. The key is flexibility in structure and process through the removal of the challenges posed in coordinating in person gatherings with multiple people.