

Elder Decisions in Elder Mediation

by John Dugan and Arline Kardasis



When does one make the decision to move out of a home that's been the center of a person's life for decades? How does a senior couple plan financially for an unknown period of time in the future? In what ways is help needed with daily activities that have been done independently for a lifetime? These are some of the questions seniors and their families' address in elder mediation.

Aging is a transition that poses physical, legal, financial, and emotional challenges for individuals, families, and professionals. Meeting these challenges can put a tremendous strain on all, as they try to plan for and adapt to the changes. Thus it is not surprising that families frequently avoid making decisions when they are faced with hardened disagreements and/or lack of information. Unfortunately, this avoidance can result in significant financial and emotional costs.

Elder mediation brings family members and professionals together to address the major life changes inherent in this the aging process. As in divorce, families need to make financial, legal, and emotional decisions in order to work through this transition. Making it through the senior years requires addressing questions such as: How should money be allocated? What type of trust should I create? and Who should help with caretaking? All too often these decisions are made in the face of disagreement, difficulty, and geographical distance. The formalized yet fluid decision-making process of mediation helps individuals to make the necessary decisions to meet aging challenges. The specialty of elder mediation focuses on developing quality elder care, minimizing family conflict, and increasing wise financial planning.

The major life changes that are most frequently addressed in our elder mediation practice stem from three main issues: 1) housing changes, 2) loss of financial control, and 3) new conversations with adult children about family finances. We find that a family mediation can generate the careful and productive dialogue between aging parents and their adult children which is required to successfully address these challenges.

Changes in housing bring up numerous issues. For many individuals, the decision between living at home versus moving to an assisted living facility can become immobilizing. For one woman and her family, the initial decision was made for her to remain at home and hire a part time home health aide. Eventually, this became more expensive due to her changing physical needs and her greater dependence on the aide. While meeting with her financial planner, she shared the question of remaining in her home or moving. He laid out some of the options and costs, and it became clear that her financial needs would be better served by selling her home and moving to an assisted living facility. Despite this, she made the choice to stay in her home. Meanwhile, her family was growing increasingly concerned about her

medical and financial needs. Each time they tried to speak with her about her moving to an assisted living facility, a disagreement would ensue and again the decision would be put off.

Eventually, the family became so concerned that they sought the help of an elder mediator in order to convene a family meeting. The mediator suggested that a geriatric care manager join their discussion in order to advise the family about community resources and housing options. At the meeting, the mother and her adult children were finally able to have a productive, comprehensive and creative conversation. As a family, they crafted a successful plan for her to transition to a nearby assisted living facility which satisfied everyone's needs and concerns.

In another family, the parents and their adult children began to have informal "family business" conversations regarding estate planning and inheritance matters. Together, they reviewed their major assets, including a second home, stocks, and considerable savings. The children disagreed with each other and their parents on how to divide the assets and decided to contact their parents' lawyer. The lawyer then informed his clients, the parents, that their children had contacted him and that they had questioned the soundness of their parents' decisions. This hurt and angered the parents, causing them to terminate all discussions without creating any estate plan. From here, other costly conflicts and delays arose until one of the children contacted a mediator. With the help of a skilled mediator, trained to deal with such disputes, this family was able to have several important conversations about their individual needs. They were ultimately able to mend their relationships and put into place a sound financial plan that satisfactorily addressed everyone's interests.

A third major issue that families bring to mediation is a perceived or actual loss of financial control. In one case, a financial planner received the wrong check from her elderly client. The planner then contacted her client and discovered that he had misdirected several other checks. Through further inquiry, she learned that her client's daughter had been worried about her father's ability to manage his own finances and had suggested check writing assistance for him. He had refused help in managing his finances since this was something he has done independently for his entire life and he had concerns about security and privacy regarding his financial accounts. Fortunately, the financial planner was familiar with elder mediation and recommended it to her client and his family. During the mediation, the financial planner provided professional advice to her client. As options for financial assistance were explored, her advocacy supported his ability to participate in the mediation as a fully informed party.

Issues regarding elder care are as varied as families themselves. Despite this uniqueness, there are similar financial, legal, and medical decisions that need to be made. These include, but are not limited to trusts, wills, health care proxies, and housing choices. Too often these issues are avoided, disagreed upon, and/or ignored, resulting in fewer choices, financial loss, and emotional turmoil for the individual and family. While by no means easy, working through these challenges with an elder mediator can be a real opportunity for families to preserve financial and familial well being.

As in the above examples, when families and their professional advisors bring their interests to the mediation process, the mediator can facilitate a discussion of these interests and possible solutions. Starting and finishing a comprehensive conversation with all of the decision-makers present transforms family conflict into prudent planning. Through skillful mediation, seniors and their families can gain control of what's important to them and protect family relationships in the process.

Biography

John Dugan is a mediator, a licensed independent clinical social worker, and a founding partner of Elder Decisions. He specializes in family mediation and has received advanced training certificates in elder mediation from The Center for Social Gerontology and divorce mediation from the Hale and Dorr Legal Services Center. He received his mediation certificate from the Harvard Mediation Program (HMP) of the Harvard Law School. While at Harvard, he was employed as the program's case coordinator, mediator, and advanced mediation trainer. He has also been a trainer for the Metropolitan Mediation Services, Brookline, MA. His specialty is in helping families through major life changes such as divorce, post-divorce, CHINS, and elder care. John joined Howell-Larsen Associates in Lexington, MA, to become Director of Elder Care Mediation and maintains a private practice in Cambridge, MA. He is a former board member of the Massachusetts Association of Mediation Programs and Practitioners. He received his undergraduate degree from Connecticut College and his graduate degree from Smith College School for Social Work.

Arline Kardasis is a mediator, trainer and founding partner of Elder Decisions. She has received advanced elder mediation training from The Center for Social Gerontology in Ann Arbor, MI and the Community Dispute Settlement Center (CDSC) in Cambridge, MA. She has also received advanced training in divorce, housing/eviction, parent/child mediation, employment mediation, issues of racism and homophobia, and Train the Trainer through CDSC, Mediation Works Incorporated (MWI), The New Law Center, and the Harvard Law School Program on Negotiation. Arline is a principal at Agreement Resources; she is on the mediation panel of the Boston Bar Association Boston Municipal Court Pilot Program and is on the divorce mediation panels of MWI and CDSC. She is also on the mediation panel of the Middlesex Multi-Door Courthouse where she mediates prisoner cases through the Suffolk Superior Court and Middlesex Superior Court. Arline has worked as a volunteer creating and teaching a citizenship-training program for elders from Eastern Europe. She is a member of the Massachusetts Council on Family Mediation and is on the Board of Directors of the New England Chapter of the Association for Conflict Resolution (NE-ACR) where she serves as editor of the NE-ACR Newsletter. Arline received her BA in Political Science and Urban Studies from Boston University and her MAT in Secondary Education from Simmons College.

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