



We Can Work It Out.

SUGGESTED HEADLINE:

Tips from MV Mediation

Avoid Costly Disputes: Homeowners and Construction Professionals

by Eric Turner, Community Advisory and Board Member, and Roland Miller, President of MV Mediation

Homeowner: “I could not believe the final bill. The contractor overcharged me!”

or

Construction Professional: “The clients changed their mind and asked me to order more expensive fixtures. Then they didn’t want to pay the increased invoice.”

or

Homeowner: “It was not a quality job. Why should I pay for mediocre work?”

or

Construction Professional: “Most of my costs have increased significantly, so the price goes up. Clients often don’t understand that.”

Do any of these scenarios sound familiar? Here at Martha’s Vineyard Mediation, we have handled many similar disputes during our 40 years as a nonprofit community mediation center. Many contractors and clients develop positive working relationships—clients are happy with the work and pay their bills without question. But over the decades we have learned that there are many times when the relationship goes sour with disputes over cost, work quality, timely completion of work, change orders, expectations, and misunderstandings.

While the majority of our construction professional/homeowner client cases are referred to us by the Edgartown District Court, MV Mediation’s goal is for parties to contact us prior to filing with the court. This saves the parties from having to pay the court filing fee. If both parties agree to try mediation, they then schedule a confidential session with us. Sessions can be via Zoom or in person. As one of a dozen community mediation centers across the state, MV Mediation’s Small Claims services are available free of charge, as we are supported by the Commonwealth through the MA Office of Public Collaboration, the Attorney General’s Office, and the Trial Court.

There is a long list of construction/homeowner dispute cases in which we have provided dispute resolution services. Our organization has a very high success rate in helping participants come to a self-determined outcome that they can live with. *Mediation works.*

This article is not about our mediation work, however. Our purpose here is to offer contractors and clients tips based on the types of disputes we see as mediators, so that you can avoid difficult conflicts that require our services or the help of legal professionals.

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Here are some top tips from experienced mediators who have helped with construction dispute cases:

Plan and Document

- Clarify expectations up front and negotiate the work before the job starts. Develop clear written agreements defining the scope of work, quality of materials, standards of work, work schedule, cost of the job, payment schedule, etc. Include drawings if relevant.
- Even if it's a small job with a handshake agreement, it's still a good idea to send the other party a note outlining what you understand to be the price and scope of the work.
- Define how change orders will be initiated and approved.
- Documentation is key, so consider keeping job notes, taking pictures, writing up summaries of meetings, noting issues with subcontractors, etc.

Stay in Touch

- Communicate early and often. Clients should inform contractors of any workmanship concerns, owner-caused delays, and changes in specifications and ask about the cost of these changes. Contractors should provide progress reports, report unanticipated delays, supply shortages, and note potential change orders and their costs.

Island Awareness

- Be aware that construction on Martha's Vineyard differs from that in other locations. Materials cost considerably more due to transport, and there may be delays. Work crews may come from off island and their day may be shorter than that of a local tradesperson. Seasonality issues mean that many companies are managing similar demands from many customers during a short window to accommodate clients' desire to be here during the summer months.

Send Bills Promptly/Pay Bills Promptly

- Contractors are urged to send bills as soon as possible, and clients should pay bills promptly. Address conflicts and misunderstandings as soon as they arise. If parties wait until emotions are high and positions harden, it increases the challenge of negotiating a settlement.

Kindness Counts

- On an island with year-round and seasonal residents, tension between these groups is common. Islanders who are providing services are not on vacation and are often juggling many stressful matters. Seasonal visitors/residents see the Vineyard as their happy place and may have been waiting all year to arrive and relax. Imagine what is happening for each other and add in a big dose of kindness, and there's a good chance you can resolve any matter.

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Disputes between construction professionals and homeowner clients are inevitable. As mediators, our advice is to keep in touch with each other even though it may be uncomfortable and share your concerns and proposals for resolution. These disputes, if not addressed promptly, can be costly and time-consuming, and can have a negative impact on reputations. On a small island, reputation is a big deal.

If conflicts arise and can't be resolved between the parties, do remember that MV Mediation is available to help. For 40 years, MV Mediation has been offering conflict resolution services which are confidential, voluntary, and based on self-determination with the help of a trained impartial mediator.

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