

2023 HAWAII ACCESS TO JUSTICE CONFERENCE
“BUILDING TRUST AND UNDERSTANDING ABOUT CIVIL ACCESS TO JUSTICE”

Friday, June 16, 2023

William S. Richardson School of Law, University of Hawai‘i

2:15 - 3:30 p.m.

“Housing Stability and Mediation: Where We’ve Been and Where We’re Going”

[Tracey Wiltgen (moderator), Julie Mitchell, Diane Petropulos, and Gina Agustin]¹

Over the past two years, mediation played a critical role in helping landlords and tenants negotiate workable solutions before an eviction process was filed. Hawaii’s one-year early eviction mediation program created in response to Act 57 by the five community mediation centers throughout the state, (Kauai Economic Opportunity Mediation Program, Ku‘ikahi Mediation Center in East Hawai‘i, Maui Mediation Services, The Mediation Center of the Pacific on Oahu, and West Hawai‘i Mediation Center) resulted in 1,415 landlords and tenants reaching agreement and staying out of court. In addition to the positive outcomes, many valuable lessons were learned, and important partnerships were formed.

Historically, the community mediation centers throughout the State provided mediation for landlord-tenant and eviction matters. Prior to the pandemic, most of the eviction mediations were conducted on-site at court by the volunteer mediators recruited and trained by each center. Overall, there was about a 50% rate of agreement, with about 30% of the agreements resulting in the tenant moving out of the unit. In contrast, the statistics from the Act 57 mediation program which ran from August 7, 2022 to August 6, 2023, the community mediation centers collectively mediated 1,660 cases, with 1,415 or 85% reaching agreement.

To achieve this successful outcome, there were many lessons learned. First, the program needed to be created quickly and ensure the services were available virtually. Therefore, a sufficient number of mediators needed to be recruited and trained to mediate via zoom. Independent contractor mediators were recruited, as well as volunteer mediators. Additionally, electronic signature programs and filing options were incorporated into the case management process. Dedicated staff were hired to quickly manage and schedule the high volume of cases that were handled through the program. And finally, partnerships with the various rental assistance programs proved

¹ Tracey Wiltgen prepared this summary.

critical in helping tenants and landlords reach agreements that would allow the tenant to remain in the residence.

Partnerships were absolutely crucial to the success of the Program. Legal Aid Society of Hawai'i was a major partner. They created a wide variety of helpful documents, such as Act 57 Eviction Notice Requirements, Tenant Rights and Responsibilities, Landlord Rights and Responsibilities, What to Do if Evicted, plus they regularly updated these helpful documents. They also created educational videos for the public. And Legal Aid attorneys appeared with the mediation centers on countless webinars, radio programs, public access TV programs, and more.

The Legislators who initiated Act 57, Representatives Troy Hashimoto and Nadine Nakamura, also helped get the word out to residents in a variety of ways, including also coordinating and holding webinars, radio, and TV presentations. The numerous Emergency Rental Assistance Program providers such as Catholic Charities Hawaii, Council for Native Hawaiian Advancement, and Hawaiian Community Assets were critical partners in making sure landlords and tenants could access available funds. The rental assistance providers, homeless services providers, housing navigators, financial counselors, and others made cross-referrals, provided warm handoffs, and sometimes were available for consultation during mediations or even participated in mediation sessions. The respective counties and other funders made it possible to quickly ramp up the program with the infrastructure and staffing needed to handle such a massive influx of cases. And last, but certainly not least, the courts and judges communicated regularly with their respective mediation centers.

And while the Act 57 Early Eviction Mediation Program ended, the number of evictions continue to rise, and the mediation centers are only able to offer early mediation on a limited basis as funding permits. To address the continued high volume of evictions, Hawaii Appleseed and the mediation centers introduced HB1439 at the 2023 legislative session to establish another one-year pre-eviction mediation program paired with dedicated rental relief for tenants and landlords who agreed on payment plans. And while the bill did not pass, due to the continued success of early mediation, similar legislation will be proposed again in 2024.