

SUMMARY - SUCCESSFUL CONFLICT RESOLUTION:

"**Getting to yes**" - is a method of "principal negotiation" which is often referred to as "Conflict Resolution." It was developed because the authors Roger Fisher and William Ury of the Harvard Negotiation Project recognized there were problems in the traditional way of reaching agreement.

TRADITIONAL NEGOTIATION WORKS THE FOLLOWING WAY:

- a. each side takes a position
- b. each side argues for that position
- c. each side makes concessions to reach a compromise

This traditional way is problematic for a number of reasons:

1. Once you take a position, you are generally wedded to it. If you change it, you appear weak to the other side. So you begin with 2 sides locked into a position.
2. Each side arguing for their position is attempting to win. When one person wins the other loses.
3. To reach an agreement each side has to concede. This is not always a positive result. One or both parties may leave the negotiating table feeling bitter, or feeling that they have "lost."

THE "GETTING TO YES" NEGOTIATION METHOD IS DESIGNED TO:

- ✍ produce as wise an agreement as possible
- ✍ improve, or at least not damage, the relationship between the two parties
- ✍ be efficient

THE FOUR STEPS OF "GETTING TO YES:"

1. SEPARATE THE PEOPLE FROM THE PROBLEM

- ✍ Try to understand where the other person is coming from, and respect their position.
- ✍ Do not blame someone else for your problem; even if it is justified, it will not get you anywhere.
- ✍ Listen actively and acknowledge what is being said. Active listening enables you to really hear and understand what someone is saying.
- ✍ Speak about yourself, not about the party you are in conflict with.

2. FOCUS ON INTERESTS, NOT POSITIONS

- ✍ Behind opposite positions lies **shared** as well as **conflicting** interests.
- ✍ Remember that each side has many interests.
- ✍ Write down each sides interests, and make them concrete.

3. INVENT OPTIONS THAT BOTH PARTIES GAIN FROM

- ✍ Brainstorm about several alternative solutions.
- ✍ Invent different options that are acceptable to you and let the other side choose which they prefer.
- ✍ First, generate alternative solutions; later on, you can agree on which solution is acceptable to both parties.

4. INSIST ON USING OBJECTIVE CRITERIA

- ✍ Develop and use fair standards and procedures.
- ✍ let an outsider (3rd party) play a key role in joint decisions, perhaps to give you advice on which standard to use in settling the dispute.
- ✍ never yield to pressure, only to principle.

SUMMARY- CAUSES AND SOLUTIONS TO CONFLICTS

Conflicts are a natural part of tenant management. In the daily course of collecting rent, doing repairs or renting vacant apartments there are likely to be differences of opinion, even strong disagreements. These kinds of conflicts are common, even healthy, and should be anticipated and dealt with through basic management procedures such as voting, complaint forms, and association policies.

A conflict becomes negative when it continues for an extended period of time, or when it becomes so intense that it interferes with the workings of the association. These types of conflicts usually stem from inaccurate information and poor communication, insensitivity to divisive issues, competing interests, or personal hostility.

COMMON CAUSES OF CONFLICTS

INACCURATE INFORMATION/POOR COMMUNICATION:

Conflicts often develop when tenants jump to mistaken conclusions because they have wrong information, or because they have not been given any information at all. For example, a tenant might believe that his application for a vacant apartment was rejected because the officers do not like him; when actually, it is because he does not qualify, as a single person, for a three bedroom apartment. If the selection criteria and the reason for his rejection are not explained to him, he will persist in the mistaken belief that the officers hold a personal grudge against him.

INSENSITIVITY TO POTENTIALLY DIVISIVE SITUATIONS

Conflicts can develop when officers, committee chairs, and other TA leaders are not sensitive to issues that are potentially divisive, such as language or racial differences. For example, in a building where some tenants do not speak English, it is extremely important that full translation be provided at all meetings. Otherwise, the non-English speaking tenants will come to feel (correctly) that they are being excluded from the decision-making process.

COMPETING INTERESTS:

Two tenants or groups of tenants may come into conflict with each other if they are competing for the same thing. For example, if two tenants in the building are competing for an apartment that has become vacant, one of them will win at the expense of the other.

PERSONAL HOSTILITY:

Sometimes intense conflicts develop between two parties simply because they dislike each other personally. This type of conflict can be destructive to the association, and is often the most difficult type to resolve.

PREVENTING CONFLICTS

MAINTAIN GOOD COMMUNICATION

Strong communication networks in the building can prevent most conflicts that are due to poor communication or inaccurate information. Tenant Association policies should be clear, and in writing, and should be discussed periodically at general meetings. Methods of communicating information to tenants include: discussing issues at TA meetings, posting/distributing minutes of meetings, producing a monthly or bi-monthly newsletter, and maintaining a suggestion box.

BE SENSITIVE TO POTENTIALLY DIVISIVE ISSUES

Make a special effort to overcome racial, language, and other barriers which can cause conflicts.

MAINTAIN CLEAR POLICIES AND DECISION-MAKING PROCEDURES

Most of the "competing interest" type of conflicts can be handled effectively by an association that has clear policies and effective decision-making procedures. In the above example, the tenant selection committee would interview the applicants and judge them based on a previously established set of guidelines. The process should be swift and fair, and the tenants should be aware of the procedure so there is no appearance of favoritism.

ALWAYS MAINTAIN A PROFESSIONAL ATMOSPHERE

Personal conflicts are best minimized maintaining a very professional atmosphere in all association activity. Do not allow personal attacks in meetings—rule them out of order and discuss only relevant information. If tenants have a grievance about another tenant, tell them to bring it to the by-laws and house rules committee or executive committee (officers), which can then hear both sides and suggest solutions.

RESOLVING CONFLICTS

Mediation Within the Building

The best way to resolve existing conflicts is through mediation. Mediation is when the two parties in the conflict meet with a neutral third party, usually an officer, to resolve the issue. Successful mediation by the officers or by-laws/house rules committee can leave everyone feeling good about the association and their roles as members. If you feel capable of mediating a conflict, use the following steps to help guide the process:

1. Find out if each party is willing to participate in mediation.
2. Bring them together in a neutral place with a mediator they trust.
3. Ask each party to state what their grievances and needs are. For example, one side may say they need to go to sleep early to get up for work each day, while the other can only practice the trumpet after returning from work at 9:00PM. Do not let the parties begin to suggest solutions until they have all finished stating their own grievances and needs.
4. Generate alternative solutions. The present situation is not satisfying both sides, so brainstorm for some new solutions—like providing a soundproof space in the basement for playing music, or talking to other trumpet players about how they reduce their noise and avoid angering their neighbors, or establishing a clear schedule when playing is allowed. Be patient; solutions are not always easily found.
5. Evaluate these solutions and pick the one(s) that seem the best. Avoid a solution in which only one side "wins."
6. Decide how the decision will be carried out.
7. Follow-up and revise the decision if necessary.
8. Be sure to provide a written record of the process and any agreements that were reached.

Using Outside Mediation

Some conflicts are too difficult to be handled by the tenants themselves. They require professional assistance. If you feel your building needs the services of a professional mediator, contact UHAB for a referral.

The only requirement for mediation is that all parties share the desire to meet and find a solution to their problem that they can all live with.

Legal Action

Sometimes one party is not interested in resolving a conflict. Perhaps it is a tenant who simply refuses to see the other side's point of view. Or the officers feel a tenant is a danger to the other tenants and they need legal authority to control the situation. Whatever the situation, if one side refuses mediation then legal action is usually the only option.

Taking a tenant to court is often expensive and difficult. It is necessary to document your case, provide proof of the situation, and hire a lawyer. Also, you must accept that one side will usually lose, which means that a continuing relationship between the parties may be difficult. Therefore, make sure that you build a strong case and talk it over with your TIL coordinator before considering legal action.

EFFECTIVE LISTENING

Listening is NOT:

- Being quiet and not talking,
- Looking out the window,
- Drawing designs on note paper, or
- Planning what you are going to say next when the other guy finishes talking.

Effective listening is:

- Listening with attention,
- Allowing the other to finish statements without interruption, and
- Actively trying to understand what the other person is saying.

Active Understanding Listening:

- Re-state - repeat in different words.
- Re-frame in neutral terms.
- Reframe for feelings and interests.
- Re-frame in positive terms
- Ask questions: Who? What? When? Where? Why?
- Clarify: Your concern is....
 - You seem to need....
 - I hear you saying.....

Example of Active Understanding Listening

Angry statement: "The front door has to be replaced. The Super pays no attention. He isn't concerned about this building. He's not doing what he should."

Possible Active Understanding Listening responses:

You are saying the front door needs to be removed and a one installed?

Why does the front door need replacing?

It is important to you for repairs to be made in a timely manner.

It is important to you to have the best building possible.

Something is wrong with the front door?

What does the Super say? Does he have any reason for not replacing the door?

NEGOTIATION STYLES

COOPERATIVE (Collaborative/Principled)

Parties are joint problem-solvers who want to achieve the best agreement for all participants in the most efficient way possible and in a way which would permit them to continue to work together in the future. Techniques used include:

- Active listening.
- Focus on the goals of all parties - interests not positions.
- Separate people from the problem.
- Treat all participants with respect.
- Express one's own needs.
- Share information.
- Invent options for mutual gain.
- Explore alternatives.
- Be flexible.
- Develop standards, objective criteria, for judging results.
- Use reason and listen to reason.

COMPETITIVE (Positional/Hard)

Parties view themselves as adversaries; each wants to win at the expense of the other. Secrecy regarding goals and needs is considered essential as well as tricky, confrontational tactics, such as:

- Make extreme demands.
- Threats and bluffs.
- Hostility.
- Distrust.
- Use of negative information and stereotypes.
- Distort own and other's positions.
- Keep information secret.
- Misrepresent needs and goals.
- Use surprise.
- Treat other parties harshly without regard to feelings.
- Refuse to listen.
- Refuse to consider other positions.

CONCESSIONAL (Subordinative/Soft)

Avoidance of conflict is most important, and one party will make concessions to preserve the relationship. The subordinate party is concerned with meeting the other's needs, and will give up on matters of importance or may not even be aware of his or her own needs.

COOPERATIVE NEGOTIATION FOR POSITIVE RESULTS

SEPARATE PEOPLE FROM PROBLEM

Perceptions

- View other as partner
- Face problem together
- Don't blame for problem
- Involve in decision-making
- Give credit
- Allow and promote face-saving

Emotions

- Acknowledge and accept other's emotions
- Let other let off steam
- Don't react to outbursts
- Don't hesitate to apologise

Communications

- Actively listen and acknowledge
- Pay attention
- Admit legitimacy of other's position
- Understand other's position
- Give "I Messages"
("I feel left out")

FOCUS ON INTERESTS NOT POSITIONS

- Ask Why
- Consider Basic Needs of other
- State problem first - not solutions
- Look forward
- Commit to your interests

INVENT OPTIONS FOR MUTUAL GAIN

BRAINSTORM

- Analysis
- Avoid either/or
 - all or nothing
 - take it or leave it
- Change scope
 - consider procedure instead of substance

Look for shared interests
Make their decision easy

USE OBJECTIVE CRITERIA

Standards
Expert
Agree on principles
Open mind/open to reason

Based on Principled Negotiation as described in "Getting to Yes" by Roger Fisher and William Ury.

What To Do When Negotiating Fails

Sometimes people do not respond positively to negotiation. Many cooperatives seek an outside opinion and contact UHAB for assistance in resolving their building-wide conflict. UHAB's Housing Specialists draw on experience and your building's governing documents like the By-Laws and Proprietary Lease to suggest fair solutions in one or two meetings. Sometimes this is not enough time or the issue may be too specific for a Housing Specialist to work with enough.

In these situations UHAB refers the conflicting parties to a free professional mediation service. Both parties, however, must agree to show up and work toward a solution with the mediator. If you are interested in this service, contact Faith Wiggins, the Self-Help Works Coordinator, and ask her to help set up an appointment. She can be reached at UHAB's number: 226-4119.

Failing that, your corporate By-Laws provide for Removal of Officers and Directors. A majority of all the Board can remove an Officer, that is, the President, Vice-President, Treasurer, and Secretary, since the Board elected them to their positions. Nonetheless, if this person was elected by the Shareholders to serve as a Director, then it would take a majority of all shareholders at a properly called meeting to remove that person from the Board. Review your By-Laws' sections on Meeting Notice, Special Meetings, and Removal of Directors and Officers in order to do this legally.

Occasionally, after going for outside consultation like UHAB or professional mediation, and after a successful election to remove someone from power, this person may still hinder the cooperative's progress. Perhaps this person is holding the Corporate records, seal, or checkbook. In this unfortunate situation, the Corporation is forced to sue this individual in the name of the Corporation.

According to Edward Filemyr, a trial lawyer who is also in the PLAN, this suit happens in State Supreme Court. You will need a lawyer. The index number costs \$170 and the Court costs \$75, plus lawyer's fees. Have your lawyer indicate that this is an emergency situation to try and get an initial hearing quickly. The other party should have to Show Cause and Effect for their actions. The Judge should issue a Temporary Restraining Order (also known as an injunction) stating, for example, "no funds to be spent from the account until an investigation is completed." This part of the legal process can take three to four weeks. A whole trial would be very expensive and time-consuming. Another problem with court is that the cooperative may, for a time, lose control over the corporation, like spending money from an account or taking residents to court. However, if the majority of the shareholders is not in control, then this risk may be worth it to correct a wrong.